

IN THE DISTRICT COURT OF THE THIRD JUDICIAL DISTRICT
IN AND FOR SWEETWATER COUNTY, STATE OF WYOMING

Docket No. _____

FILED

DEC 07 1983

Terri A. Lorenzon, Adm. Aide
Environmental Quality Council

PEOPLE OF THE STATE OF WYOMING,)
)
Plaintiffs,)
)
vs.)
)
AVELINO GUTIERREZ,)
)
Defendant.)

COMPLAINT

COME NOW the Plaintiffs by A. G. McClintock, Attorney General of the State of Wyoming, and through Steve Jones, Assistant Attorney General, pursuant to W.S. 35-11-901, and state and allege as follows:

1. The Defendant is a resident of Sweetwater County, Wyoming.

2. Jurisdiction is properly in this Court and venue is properly in Sweetwater County, pursuant to W.S. 35-11-901. This is a civil action.

3. The Defendant is the owner of a mobile home court located in Rock Springs, Wyoming, which is known as A & K Trailer Court.

4. On October 14, 1982, the Department of Environmental Quality issued its Order against the Defendant pursuant to the provisions of W.S. 35-11-701(c)(i). The Order is contained in Environmental Quality Council Docket No. 1155-82. The Department of Environmental Quality also set forth facts in a Notice of Violation that accompanied the Order.

5. The Notice of Violation, Docket No. 1155-82, stated that the Defendant had constructed or modified a sewage system without a permit, in violation of W.S. 35-11-301(a)(iii) and (v). The Notice further stated that the Defendant's property was within the designated service area for the Rock Springs sewage treatment plant, and that the sewer hook-ups at A & K Trailer Court should be connected to the Rock Springs sewer lines for service by the Rock Springs sewage treatment plant.

6. The Order of the Department of Environmental Quality, Docket No. 1155-82, required the Defendant to:

a. Submit to the Department of Environmental Quality within thirty (30) days complete "as-built" plans and specifications for describing modifications (already constructed) of its wastewater facilities at A & K Trailer Court.

b. Construct necessary connecting lines from A & K Trailer Court to the Rock Springs sewage lines nearest to the Court, and obtain the necessary permits from the City of Rock Springs to allow A & K Trailer Court to be served by the Rock Springs sewage treatment plant.

c. Submit within thirty (30) days to the Department of Environmental Quality, a permit application for a permit to construct the necessary additional lines from A & K Trailer Court to Rock

Springs sewer lines.

d. Connect the additional sewer lines to the Rock Springs sewer lines by July 1, 1983. If the Defendant did not complete construction of the said sewer lines by that date, he was required to cease further operations of A & K Trailer Court.

7. As of the date of this Complaint, the Defendant has not complied with any provisions of the above-referenced Order, Docket No. 1155-82, as set forth in paragraph 6 above.

8. The Defendant did not appeal the said Order of the Department of Environmental Quality. It became final and binding upon the Defendant ten days after receipt of the Order, pursuant to the provisions of W.S. 35-11-701(c)(ii). W.S. 35-11-112(c)(i) provides that the Environmental Quality Council may "approve, disapprove, repeal, modify, or suspend any . . . order of the director or any division administrator." On November 17, 1982, the Environmental Quality Council approved the issuance of the above-referenced order at its regular meeting held in Torrington, Wyoming.

9. W.S. 35-11-901(a) provides that any person who violates any provision of the Environmental Quality Act, or who violates any determination or order of the Environmental Quality Council pursuant to the Environmental Quality Act, is liable to a penalty not to exceed ten thousand dollars (\$10,000) for each day during which the violation continues.

10. The Defendant has not been in compliance with the said Order of the Department of Environmental Quality since

July 1, 1983. The Defendant is thus liable for a penalty of up to ten thousand dollars (\$10,000) per day for every day of violation since July 1, 1983.

11. On December 20, 1982, personnel of Sweetwater County Health Services conducted an on-site inspection of the sewage treatment lagoon serving A & K Trailer Court. At the time of the inspection, a discharge of wastewater was occurring.

12. The sewage lagoon at A & K Trailer Court has, to the best of Plaintiffs' knowledge and belief, been drained periodically by the Defendant by discharging wastewater from the lagoon.

13. W.S. 35-11-301(a)(i) provides that no person shall cause, threaten, or allow the discharge of pollution into waters of the state. The discharges referred to in paragraphs 11 and 12 were conducted without a permit, and entered or threatened to enter waters of the state. As such, those discharges constitute violations of W.S. 35-11-301(a)(i).

WHEREFORE, Plaintiffs pray that:

A. Judgment in this matter be awarded in favor of the Plaintiffs and against the Defendant.

B. The Court assess the Defendant a penalty of ten thousand dollars (\$10,000) for each day and every day of violation alleged in this Complaint, pursuant to W.S. 35-11-901.

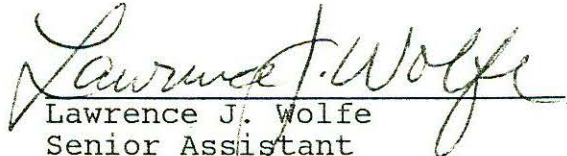
C. The Defendant be enjoined from further violation of the Environmental Quality Act (W.S. 35-11-101 to 35-11-1207).

D. The Defendant be required to connect all sewer hook-ups of A & K Trailer Court to the Rock Springs sewer lines

immediately, or in the alternative, to cease all further operations of A & K Trailer Court.

E. The Court grant such other and further relief as it may deem just and equitable.

Dated this 6th day of December, 1983.


Lawrence J. Wolfe
Senior Assistant
Attorney General


Steve Jones
Assistant Attorney General

State of Wyoming
123 Capitol Building
Cheyenne, Wyoming 82002