

July 31, 2017

Poverty Hill North, LLC  
Dba Lava Mountain Lodge  
PO Box 658  
Dubois, WY 82513

Chairman of the Environmental Quality Council

Rm. 1714

Herschler Building, 1<sup>st</sup> Floor West

122 West 25<sup>th</sup> Street

Cheyenne, WY 82002

RE: Notice of Violation and Order, Docket Number 5728-17

Dear Mr. Chairman

Poverty Hill North, LLC dba Lava Mountain Lodge received a certified letter with an enclosed Notice of Violation on July 31, 2017 from Wyoming DEQ offices stating Poverty Hill North, LLC dba Lava Mountain Lodge is in Violation for Injecting Domestic Waste into a Cesspool.

To be surprised is an understatement as we were expecting to receive recommendations for an eventual replacement waste water system in the area of the "tan house" and "the old cabin" as discussed when Mr. Derek Lichtner was present on September 21, 2016. During his visit Mr. Lichtner and myself walked the property and found "no ground saturation" at Lava Mountain Lodge. Previous to his visit Mr. Lichtner informed us in a phone conversation that we had an assumed domestic waste water system that had been outlawed and not grandfathered. We assumed that over the years engineer drawings and/or septic tank and leach field maps with locations had been known. Poverty Hill North, LLC purchased the property with all waste water systems in place with the exception of the new restaurant and waste water system built in 2006. Poverty Hill North, LLC built the new restaurant and new waste water system to replace an existing and outdated restaurant and existing waste water system that had also been in place when Poverty Hill North, LLC purchased the property.

During Mr. Lichtner's inspection he had asked several questions including if treatment was located between the "tan house and old cabin". The answer was no as there is no treatment that we know of located between the "tan house and the old cabin". As a waste water pipe goes through the area where we were looking my thought was it is a possible location for a replacement septic tank and the adjacent yard was discussed as a possible location for a replacement leach field. That is what I understood and our conversation ended with "we will have some recommendations in the future" or something to that effect.

During Mr. Lichtner's inspection we also discussed taking the "old cabin" off line.

The "old Cabin" as discussed has been taken off line as our own assessment has deemed it uninhabitable due to its age.

I do not recall the term "Cesspool" being mentioned in any conversations with Mr. Lichtner or in previous correspondence with DEQ. The first mention of "Cesspool" was in a letter from DEQ dated February 15, 2017. This led us to believe our concrete block cistern style leach system was considered a Cesspool. That letter also stated that our General Permit was to be reinstated for other areas of the property. Also in the letter dated February 15, 2017 from DEQ it was stated that "The required closure of this facility will be addressed in future correspondence from the UIC Program".

The most recent and only correspondence received by Poverty Hill North, LLC pertaining to the "old cabin and tan house" waste water system since the letter dated February 15, 2017 from DEQ is the letter in reference dated July 17, 2017, post dated July 26, 2017, received at Dubois, Wyoming Post Office July 28, 2017 and finally to Lava Mountain Lodge on July 31, 2017. The letter in reference dated July 17, 2017 contains the Notice of Violation and Order- Docket # 5728-17.

After receiving the DEQ letter dated February 15, 2017 and the first use of the term "cesspool" we contacted a former owner of the property. The former owner informed us of the approximate location of the waste water system for the "old cabin and the tan house" located where Mr. Lichtner and myself had been during the inspection performed by Mr. Lichtner on September 21, 2016. We also contacted a former employee who informed us that the system had been cleaned out about five or six years prior. With a metal detector we located the "old cabin and tan house" system's exact location in May 2017 after the snow had melted.

The system stated to be in violation does have a concrete block type leach system and concrete tank. The concrete septic tank was pumped by WYCO Services of Dubois, Wyoming in May of 2017 as per our waste water system maintenance schedule.

We have No "Cesspool" waste water system as defined on the property. All waste water systems are currently functioning as designed and are located as mapped. No evidence of a "cesspool" was seen on the surface, photographed nor any ground saturation witnessed during Mr. Lichtner's inspection and therefore should never have been documented as such. No maps

were seen in Mr. Lichtner's possession nor requested during Mr. Lichtner's inspection. We did not see that Mr. Lichtner had any tools such as a probe or metal detector at the time of the inspection.

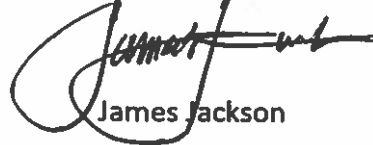
As stated above and in previous correspondence all waste water systems existed with the exception of the "replacement" waste water system for a "replacement" restaurant when Poverty Hill North, LLC purchased the property. The maps we have provided to DEQ in the past are to the best of our knowledge at the time they were submitted to DEQ.

Our Public Water System is tested as newly required every month and has had no contamination violations.

We are not engineers or geologists and perhaps have some deficiencies in understanding and therefor answering technical questions.

Again, there is No Cesspool as defined by Wyoming DEQ or the United States EPA on our property. All Waste Water Systems on the property have tank and leach systems as required or as required at the time they were installed.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "James Jackson", written over a circular stamp or mark.

James Jackson

Poverty Hill North, LLC

dba Lava Mountain Lodge