

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

FEB 05 2009

Jim Ruby, Executive Secretary
Environmental Quality Council

IN THE MATTER OF THE NOTICE OF)
VIOLATION AND ORDER ISSUED TO:)
)
Dale Ruby and JM Land & Developing)
Company, 2901 Four J Road, Gillette,)
Wyoming 82718)
)

Docket No. 4388-08

RESPONSE TO REQUESTS FOR ADMISSION

Dale Ruby and JM Land & Developing Company, Petitioners, herewith respond to the REQUESTS FOR ADMISSION served by the Department of Environmental Quality.

REQUESTED ADMISSIONS

1. The EPA issued JM Land an Emergency Administrative Order (EAO) in the Matter of "PWS ID#: WY5601602 Ridgeway Community Well" in 2008.

RESPONSE: Admit.

2. The 2008 EAO for the Ridgeway Community Well (p.1) includes a "Finding" that JM Land owns and/or operates the Ridgeway Community Well "water system" in Gillette that provides water to the public for human consumption.

RESPONSE: Admit the contents of the EAO. However, these "Findings" were not the result of any type of adversarial or due process proceeding; these are just unilateral conclusions by EPA.

3. The 2008 EAO for the Ridgeway Community Well (p.1) includes a "Finding" that the Ridgeway Community Well water system in Gillette serves an average of 60 persons daily through 17 service connections.

RESPONSE: Admit the contents of the EAO. However, these "Findings" were not the result of any type of adversarial or due process proceeding; these are just unilateral conclusions by EPA.

4. The 2008 EAO for the Ridgeway Community Well (p.1) includes a "Finding" that the Ridgeway Community Well water system is a "public water system."

RESPONSE: Admit the contents of the EAO. However, these "Findings" were not the result of any type of adversarial or due process proceeding; these are just unilateral conclusions by EPA.

5. The Ridgeway Community Well system does provide water to the public for human consumption.

RESPONSE: Deny. Approximately 15 to 17 specific homes obtain water from the system through a pipeline network, pursuant to agreements.

6. The Ridgeway Community Well system does have at least 15 service connections or regularly serves an average of at least 25 persons daily.

RESPONSE: Admit.

7. The EPA has not issued JM Land a written notice stating that JM Land's Ridgeway Community Well is now in compliance with all requirements of the 2008 EAO for the Ridgeway Community Well.

RESPONSE: Admit.

8. The EPA has not issued JM Land any statement representing that the EPA has pre-empted DEQ regulation of JM Land's Ridgeway Community Well water system.

RESPONSE: Respondents are not aware of any at this time.

9. The EPA has not issued JM Land any statement representing that EPA actions pertaining to the Ridgeway Community Well water system relieve JM Land from having to comply with DEQ requirements pertaining to the Ridgeway Community Well water system.

RESPONSE: Respondents are not aware of any at this time.

10. The 2008 EAO for the Ridgeway Community Well (¶12), which requires EPA's prior approval for a particular plan and schedule, states that EPA's approval of such plan and schedule "does not substitute for any State of Wyoming approval of plans and specifications (engineering plans), which may also be required before modifications can be made to the System."

RESPONSE: Admit.

DATED this 4th day of February, 2009.



Randall T. Cox
400 South Kendrick St., Suite 101
Gillette, WY 82716
307-682-2500
307-685-0527 FAX

CERTIFICATE OF SERVICE

I, Randall T. Cox, hereby certify that on the 4th day of February, 2009, I did cause a true and correct copy of the foregoing to be deposited in the U.S. Mail, postage prepaid, addressed to each of the following:

Mike Barrash, Esq.
Attorney General's Office
123 Capitol Bldg.
Cheyenne, WY 82002

(also served by email on February 4, 2009)

John V. Corra, Director
Department of Environmental Quality
122 West 25th St., Herschler Bldg. 4th Flr. W.
Cheyenne, WY 82002

Chairman of Environmental Quality Council
Rm. 1714, Herschler Building, 1st Flr. W.
122 West 25th Street
Cheyenne, WY 82002

A handwritten signature in black ink, appearing to read "R. Cox", written in a cursive style.

Randall T. Cox