

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

**FILED**

**OCT 18 1993**

*Terri A. Lorenzon, Attorney  
Environmental Quality Council*

IN THE MATTER OF THE NOTICE OF )  
VIOLATION AND ORDER ISSUED TO: )  
Pennant Well Service )  
2140 N. Seven Mile Road )  
P. O. Drawer 969 )  
Mills, WY 82644 )  
and )  
C. Richard Stevenson )  
1710 Security Life Building )  
1616 Glenarm Place )  
Denver, CO 80202 )

DOCKET NO. 2369-92

**ORDER**

**THIS MATTER** came before the Environmental Quality Council (the Council) on the filing of an appeal by C. Richard Stevenson and Pennant Well Service, contesting Notice of Violation and Order No. 2369-92, issued by the Department of Environmental Quality (the DEQ). A hearing was held and evidence was taken on April 21, 1993. Kim D. Cannon, a member of the Council served as hearing examiner. Also present were John C. Darrington, Fred H. Carr, Vincent R. Lee, and John C. Schiffer members of the Council, and Terri A. Lorenzon, the attorney for the Council. The Department of Environmental Quality, Water Quality Division was represented by Keith Burron, Assistant Attorney General. C.R. Stevenson, the Protestant, appeared pro se. At the conclusion of the hearing, the Hearing Examiner, provided an opportunity for the parties to submit post-hearing briefs by September 1, 1993. The DEQ submitted a timely brief on questions raised at the hearing, the Protestant did not file a brief. Based on the evidence adduced at the hearing and the brief submitted by the DEQ, the Council finds as follows:

## FINDINGS OF FACT

1. On March 18, 1992, the DEQ issued Notice of Violation and Order No. 2369-92 to Pennant Well Service and C. Richard Stevenson.
2. On March 23, 1992, C. Richard Stevenson on behalf of Pennant Well Service Company, filed an appeal from the Notice of Violation and Order issued by the DEQ.
3. The DEQ's Notice of Violation and Order was issued after a water quality sample was taken on August 5, 1991 by Water Quality Division personnel at 2140 North Seven Mile Road, the Pennant Well Service site. Analysis of the sample showed that levels of specified pollutants were in excess of standard set for groundwater quality.
4. The evidence offered by the DEQ at the hearing, demonstrated that discharges from the industrial drainfield at the Pennant Well Service site pose a threat to groundwater of the state.
5. The Protestant offered no evidence to suggest that groundwater is not threatened by operation of the industrial drainfield at the Pennant site. The Protestant did offer an additional water quality sampling analysis, however, that analysis also demonstrated that a threat to groundwater exists.
6. The actions the Protestants are required to take under the Notice of Violation and Order are narrowly tailored and reasonably necessary to determine whether the operation of the Pennant Well Service industrial drainfield has caused violations of state groundwater standards.
7. The monitoring and reporting ordered by the DEQ in the Notice of Violation and Order No. 2369-92, is within the agency's statutory authority. W.S. 35-11-109(a)(iv) and W.S. 35-11-110(a)(vii)(C) and (D).

## CONCLUSIONS OF LAW

1. The Environmental Quality Council has jurisdiction over the parties to and the subject matter of this proceeding;
2. The DEQ met its burden of demonstrating that a threat to groundwater of the state exists, and further investigation of the status of the groundwater is necessary to protect the public health and welfare.

## ORDER

IT IS THEREFORE ORDERED THAT:

The Notice of Violation and Order, Docket No. 2369-92 is hereby affirmed in its entirety and incorporated herein by reference, subject to the following:

1. The timetables and compliance schedules for the completion of all tasks required by the Notice of Violation and Order shall be the same as those timetables and schedules set forth in the Notice of Violation and Order, except that the commencement date for all activities shall be the date of the filing of this Order instead of the date of the receipt of the Notice of Violation and Order.

2. In the event that C. Richard Stevenson and Pennant Well Service are unable to comply with any provision of this order, due to bad weather or other technical circumstances beyond their control they shall, within 5 days of such inability to comply, notify the DEQ in writing. Such notification shall set forth in specific terms the nature of the problem, the reason for the problem and the estimated length of delay expected. Failure to so notify the DEQ in the event of such an occurrence shall

constitute a violation of this Order, and the Protestants shall not subsequently use bad weather or technical problems as a defense to any claim of noncompliance with this Order made by the DEQ, unless such notification is made.

DONE THIS 8 day of October, 1993.



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KIM D. CANNON, Hearing Examiner

CERTIFICATE OF SERVICE

I, Terri A. Lorenzon, certify that at Cheyenne, Wyoming, on the 18<sup>th</sup> day of October, 1993, I served a copy of the foregoing ORDER by depositing copies of the same in the United States mail, postage prepaid, duly enveloped and addressed to:

Mr. C. R. Stevenson  
Pennant Service Company  
600 17th Street  
Suite 1615N  
Denver, CO 80202-5416

and also to the following persons via interoffice mail:

Dennis Hemmer, Director  
Department of Environmental Quality  
122 W. 25th Street, Herschler Building  
Cheyenne, WY 82002

William Garland, Administrator  
Department of Environmental Quality  
Water Quality Division  
122 W. 25th Street, Herschler Bldg.  
Cheyenne, WY 82002

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Assistant Attorney General  
Attorney General's Office  
123 Capitol Building  
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