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50.1 EQC - NOV and Order
KAIA, LLC
DEQ Docket No. 3828-05
EQC Docket No. 06-3806

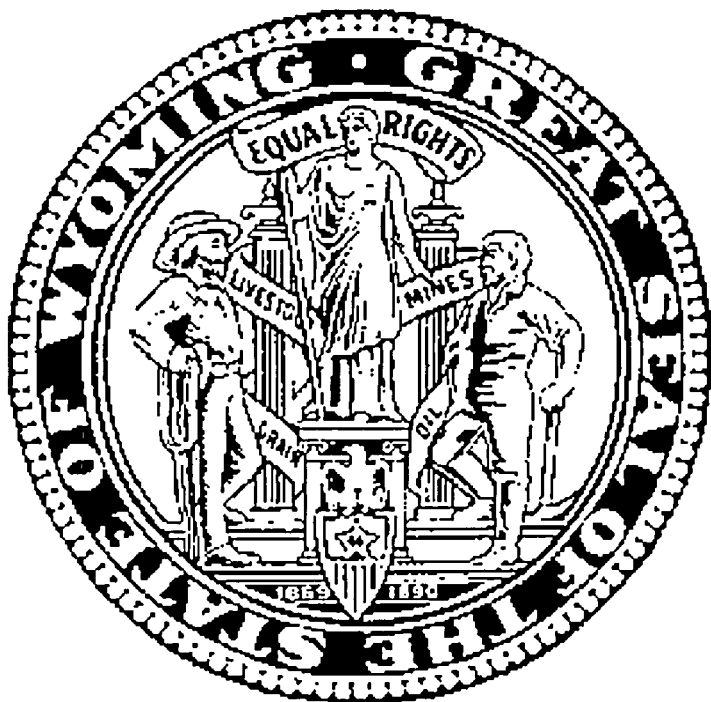
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CASE INFORMATION SHEET

Name JOHN G. SUTHERLAND

Docket/Permit No. DL-3806

KATA, LLC

Permit No. _____

BATES CREEK STORE @ CLARKES

TFN No. _____

Address 15750 W. HWY 220 CORNER
CASPER, WY 82404

Division WATER

Date of Request of Hearing _____

Date NOV/CD issued 12-2-05

Place of Hearing _____

Hearing Examiner: _____

Council Members Present at the Hearing: _____

Others Present _____

Attorneys for Parties:

Name: _____

Tel. No. _____

Fax No. _____

Name: _____

Tel No. _____

Fax No. _____

Attorney for Division: _____

BACRASH

Type of Case: _____

NOV & ORDER

NPDES: RECUSED FROM CASE

Date of Notice of Hearing and Order _____

Due Date for Prehearing Memos _____

Due Date for Findings, Conclusions, & Briefs _____

Responsible for Draft Copy _____

Decision _____

Notes Failure to pay above ground storage tank

fees and failed to register the above ground

storage tanks @ facility. Also failure

to provide financial responsibility for the

tanks since the fees have not been paid.

RECEIVED JUN 14 2006



Environmental Quality Council
HERSCHLER BUILDING, ROOM 1714
122 WEST 25TH STREET
CHEYENNE, WY 82002

TO:

John G. Sutherland
KAIA, LLC
Bates Creek Store at Clarkes Cor.
15750 W. Hwy. 220
Casper, WY 82604



02 1A
0004317222 JUN 06 2006
MAIL RETURNED TO ZIP CODE 82001



HCR 31

- Insufficient Address
- Unclaimed Refused
- Attempted - Not Known
- No Such Street Vacant
- No Such Number
- No Receptacle
- Not Deliverable As Addressed
- Unable To Forward

SUTH750 826042006 1N 06 06/08/06
UNABLE TO FORWARD

NO FORWARD ORDER ON FILE

RETURN TO POSTMASTER
OF ADDRESSEE FOR REVIEW

B2604+B762-30 H033

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING
EQC DOCKET NO. 06-3806

FILED

JUN 06 2006

Terri A. Lorenzon, Director
Environmental Quality Council

IN THE MATTER OF THE NOTICE OF)
VIOLATION AND ORDER ISSUED TO:)
John G. Sutherland)
KAIA, LLC)
Bates Creek Store at Clarkes Corner)
15750 West Hwy 220)
Casper, WY 82604)
DEQ DOCKET NO. 3828-05)

ORDER APPROVING
ORDER

The above-referenced matter having been considered by the Environmental Quality Council pursuant to the provisions of W.S. 35-11-112(a)(ii), and it appearing to the Council that the time has expired for the filing of an appeal before this body from this order of the Department of Environmental Quality entered herein, and the Council being fully advised in the premises;

IT IS HEREBY ORDERED THAT the order of the Department of Environmental Quality entered herein be and the same hereby is approved.

DATED this 20 day of May, 2006.



Mark Gordon, Chairman
Environmental Quality Council
Room 1714, Herschler Building, 1st Floor West
122 W. 25th Street
Cheyenne, WY 82002
Phone: 307-777-7170
Fax: 307-777-6134

CERTIFICATE OF SERVICE

I, Kim McGee, certify that at Cheyenne, Wyoming, on the 6th day of June, 2006, I served a copy of the foregoing ORDER APPROVING ORDER by depositing copies of the same in the United States mail, postage prepaid, duly enveloped and addressed to:

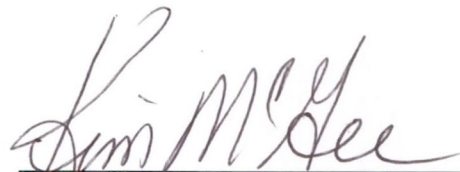
John G. Sutherland
KAIA, LLC
Bates Creek Store at Clarkes Corner
15750 West Hwy. 220
Casper, WY 82604

also to the following persons via interoffice mail:

John Corra, Director
Department of Environmental Quality
Herschler Building, 4th West
Cheyenne, WY 82002

John Wagner, Administrator
Water Quality Division
Department of Environmental Quality
Herschler Building, 4th West
Cheyenne, WY 82002

Mike Barrash
Senior Assistant Attorney General
Attorney General's Office
123 Capitol Building
Cheyenne, WY 82002



Kim McGee, Executive Assistant
Environmental Quality Council
122 W. 25th Street
Herschler Building, Rm. 1714
Cheyenne, WY 82002
Tel: 307-777-7170
Fax: 307-777-6134

FILED

APR 11 2006

**Terri A. Lorenzon, Director
Environmental Quality Council**

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF)
VIOLATION AND ORDER ISSUED TO:)

John G. Sutherland)
KAIA, LLC)
15750 West Hwy 220)
Casper, WY 82604)

DOCKET NUMBER **3828-05**

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Bates Creek Store at Clarkes Corner, facility number 0-001428, is owned and operated by KAIA, LLC and is located at 15750 West Hwy 220, Casper, Wyoming. John G. Sutherland is the owner of KAIA, LLC. There are two active above ground storage tanks on this facility, both 15,000 gallon steel tanks containing gasoline and diesel. On May 11, 2005, KAIA, LLC, was invoiced for above ground storage tank fees and provided with an annual registration form filled out for the facility. On August 24, 2005 and September 27, 2005, KAIA, LLC, was again invoiced for above ground storage tank fees. The responsibility for above ground storage tank fees rests with either the owner or the operator. KAIA, LLC, is registered as both the owner and the operator of the Bates Creek Store at Clarkes Corner. Above ground storage tank fees have not been paid for fiscal year 2006. Presently Four Hundred Dollars (\$400.00) in storage tank fees remain unpaid, and the fiscal year 2006 registration has not been submitted;

2. KAIA, LLC has failed to pay above ground storage tank fees, which are mandatory under W.S. 35-11-1425, and has failed to register the tanks at the Bates Creek Store at Clarkes Corner, as required by W.S. 35-11-1419 and Chapter 17, Section 7(b), Wyoming Water Quality Rules and Regulations;

3. Since the above ground storage tank fees have not been paid for fiscal year 2006 and those fees were due July 1, 2005, Bates Creek Store at Clarkes Corner/John G. Sutherland is required to provide financial responsibility under Chapter 19, Wyoming Water Quality Rules and Regulations;

4. W.S. 35-11-1419 states: "On or before July 1 of each year the owner or operator of a tank shall register the tank with the department on forms developed and furnished by the department."

W.S. 35-11-1425 states: "On or before July 1 of each year either the owner or operator of a tank shall pay a fee to the department of two hundred dollars (\$200.00) per tank owned or operated, except that the owner or operator of an aboveground storage tank subject to this section that holds five thousand (5,000) gallons or less shall pay a fee of fifty dollars (\$50.00) per tank owned or operated. This fee shall be deposited in the corrective action account."

Wyoming Water Quality Rules and Regulations, Chapter 17, Section 7(b), states: "On or before July 1 of each year either the owner and/or operator of an above ground storage tank system shall register the system with the department on forms developed and furnished by the department. The registration form shall be submitted under oath or affirmation."

Wyoming Water Quality Rules and Regulations, Chapter 17, Section 7(e)(iii), states: "(e) All owners and/or operators of new above ground storage tank systems must certify on the notification or certification of compliance form conformance with the following requirements: (iii) Financial responsibility under Chapter 19, Water Quality Rules and Regulations, Above ground Storage Tank Program Financial Responsibility."

5. By failing to pay above ground storage tank fees for facility 0-001428, KAIA, LLC, has violated W.S. 35-11-1425. By failing to register the tanks on facility 0-001428, KAIA, LLC, has violated W.S. 35-11-1419 and Chapter 17, Section 7(b), Wyoming Water Quality Rules and Regulations. By failing to provide financial responsibility for facility 0-001428, KAIA, LLC, has violated Chapter 17, Section 7(e)(iii), and Chapter 19, Wyoming Water Quality Rules and Regulations;

6. This Notice is being sent to you pursuant to W.S. 35-11-701(c)(i), which requires that in any case of the failure to correct or remedy an alleged violation, the director of the Department of Environmental Quality shall cause a written notice to be issued and served upon the person alleged to be responsible.

ORDER

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL-STATE OF WYOMING

WHEREFORE IT IS HEREBY ORDERED THAT KAIA, LLC SHALL:

1. Within thirty (30) days of the receipt of this notice, pay all above ground storage tank fees for facility 0-001428. The above ground storage tank fees for this site total Four Hundred Dollars (\$400.00);

2. Within thirty (30) days of the receipt of this notice, file the registration form for the above ground storage tanks at facility 0-001428, as required by W.S. 35-11-1419;

3. If items 1 and 2 are complied with, this will constitute full compliance with this Administrative Order. The remaining items on this Order shall be complied with if items 1, 2 and 3 are not complied with within thirty (30) days:

OR

4. Within thirty (30) days of the receipt of this notice, place the tanks at facility 0-001428 in temporarily out of use condition and empty the tanks within one inch of the bottom. The tanks shall be registered with the department at that time as "temporarily out of service" tanks. Disconnect all above ground piping from the tanks until such time as they can be placed back in service;

5. Enter into a written agreement with the department as to when the above ground storage tank fees will be paid;

6. If these tanks have not been placed back in service within one (1) year of the date when they were placed in temporarily out of use condition, then Bates Creek Store at Clarkes Corner shall, at its own expense remove the tanks, decommission them in a licensed facility, and notify the department in advance so that a department inspector can witness the removal.

THIS ORDER is final unless, not later than ten (10) days after the date this notice is received, it is appealed by filing two written petitions for a hearing before the Environmental Quality Council. If a hearing is requested, the first petition shall be mailed to the Chairman, Wyoming Environmental Quality Council, Room 1714 Herschler Building, 1st Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. The second petition shall be mailed to the Director, Wyoming Department of Environmental Quality, Herschler Building, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail, return receipt requested.

NOTHING IN THIS ORDER shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this Order be interpreted as being a condition precedent to any other enforcement action.

ORDERED this _____ day of _____, 2005.

John V. Corra
Director
Department of Environmental Quality

John F. Wagner
Administrator
Water Quality Division

PLEASE DIRECT ALL INQUIRES TO: Robert Lucht, P.E. & P.G. Storage Tank Program Principal at 122 West 25th Street, Fourth Floor, West Wing, Cheyenne, WY 82002, (307) 777-7095 or (307) 777-5973 FAX for technical matters.

JVC/JFW/RFL/bb/5-1151.ltr

FILED

APR 11 2006

Terri A. Lorenzon, Director
Environmental Quality Council

October 25, 2005

CERTIFIED

John G. Sutherland
KAIA, LLC
Bates Creek Store at Clarkes Corner
15750 West Hwy 220
Casper, WY 82604

Dear Mr. Sutherland:

Enclosed you will find a Notice of Violation and Order, Docket Number **3812-05**, issued under the provisions of W.S. 35-11-701(c). On May 11, 2005, KAIA, LLC, was invoiced for above ground storage tank fees and provided with an annual registration form filled out for the facility. On August 24, 2005 and September 27, 2005, KAIA, LLC was again invoiced for above ground storage tank fees. The responsibility for above ground storage tank fees rests with either the owner or the operator. KAIA, LLC, is registered as both the owner and the operator of the Bates Creek Store at Clarkes Corner. Since the date of that last invoice, you have failed to pay the above ground storage tank fees and have failed to register the above ground storage tanks at facility 0-001428. You have also failed to provide financial responsibility for these tanks since the fees have not been paid. This site is located at 15750 West Hwy 220, Casper, Wyoming.

Please be aware that the attached Notice of Violation contains an Order detailing what must be done to eliminate and rectify the violation.

ANY APPEALS TO THE ENVIRONMENTAL QUALITY COUNCIL FROM THE ATTACHED ORDER MUST BE MADE IN WRITING WITHIN THE TEN (10) DAY TIME LIMIT PRESCRIBED BY W.S. 35-11-701(c). Chapter I, Section 3 of the enclosed Department of Environmental Quality Rules of Practice and Procedure sets forth the requirements for the initiation of appeal proceedings. You are urged to review all of the provisions of the attached Rules of Practice and Procedures as they relate to this action.

If you appeal this order and request a hearing, please file two (2) copies of your written petition. One copy of the petition should go to the Chairman of the Environmental Quality Council at Room 1714, Herschler Building, 1st Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. The second petition should be sent to John V. Corra, Director, Wyoming Department of Environmental Quality, Herschler Building, 4th West, 122 West 25th Street, Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail, return receipt requested.

John V. Corra
Director
Department of Environmental Quality

John F. Wagner
Administrator
Water Quality Division

JVC/JFW/RFL/bb/5-1151.LTR

Enclosure: Notice of Violation and Order, Rules of Practice and Procedure