



In the Matter of:)	
Lebarge LLC)	Case Number: 2022-0331-1085
10909 E. Hwy 39)	
Parcel # 21-013-0002)	Notice of Violation
Mailing Address: 4645 S Midland Dr Ste. 1)	and
West Haven, UT 84401)	Order For Compliance
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This Notice of Violation and Order of Compliance is issued by the Weber-Morgan Health Department (hereinafter the Department) pursuant to the authority contained in UCA §§ 26A-1-114, 26A-1-123, and R317-4 Onsite Systems Regulation as adopted by the Weber-Morgan Board of Health. Furthermore, based on the authority contained in UCA §§ 26A-1-114, 26A-1-121, and 19-5-115, the Health Department has the authority to enforce state laws, local ordinances, department rules and local health department standards and regulations necessary for the promotion of public health.

STATEMENT OF LAW

Weber-Morgan Health Department Onsite Wastewater Treatments Systems Regulation

Section 3.3. It shall be unlawful to use or maintain any wastewater treatment system that is not adequately functioning. Wastewater treatment systems shall be maintained in good working order.

Section 4.0. The requirements as found in the Utah Department of Environmental Quality, Onsite Wastewater Systems Rule, R317-4, are adopted and incorporated by reference.

R317-4.3.10. Effluent from any onsite wastewater system may not be discharged to surface waters or upon the surface of the ground.

R317-4-3.11. Repair of a Malfunctioning or Unapproved System. Upon determination by the regulatory authority that a malfunctioning or unapproved onsite wastewater system creates or contributes to any dangerous or unsanitary condition that may involve a public health hazard, or noncompliance with this rule, the regulatory authority shall order the owner to take the necessary action to cause the condition to be corrected, eliminated or otherwise come into compliance.

R317-4-3.11.A. For malfunctioning systems, the local health department shall require and order:

1. all necessary steps, such as maintenance, servicing, repairs, and replacement of system components to correct the malfunctioning system, to meet all rule requirements to the extent possible and may not create any new risk to the environment or public health;

R317-4-2 "Department" means the Weber-Morgan Health Department, Division of Environmental Health

R317-4-2 "Unapproved system" means any onsite wastewater system that is deemed by the regulatory authority to be any:

- A. installation without the required regulatory oversight, permits, or inspections;
- B. repairs to an existing system without the required regulatory oversight, permits, or inspections; or
- C. alteration to an existing system without the required regulatory oversight, permits, or inspections.

R317-4-2.59 "Malfunctioning or failing system" means an onsite wastewater system that is not functioning in compliance with the requirements of this regulation and may include:

- A. absorption systems that seep or flow to the surface of the ground or into waters of the state;
- D. systems discharging effluent that does not comply with applicable effluent discharge standards;

R317-4-2.82 "Regulatory authority" means either the Utah Division of Water Quality or the local health department having jurisdiction.

R392-301-5. Water Supply

(1) Potable water supply systems for use by recreational vehicle park occupants shall be designed, installed, and operated according to the requirements set forth by:

- (a) Plumbing Code;
- (b) The Utah Department of Environmental Quality, Division of Drinking Water under Title R309; and
- (c) Local health department regulations.

(2) The operator shall provide potable water to each site designed and intended for recreational vehicle use.

(a) This provision may be modified with approval by the local health officer if a service building is provided as in Subsection

R392-301-13. Closing or Restricting Use of Recreational Vehicle Parks or Sites.

(1) If a local health officer deems a recreational vehicle park, site, space, or portion thereof to be an imminent health hazard, the park, site, or space may be closed or its use may be restricted, as determined by the local health officer.

(2) The operator shall restrict public access to the impacted area of any recreational vehicle park, site, or space closed or restricted to use by a local health officer within a reasonable time as ordered by the local health officer.

(3) It shall be unlawful for an operator to allow the public to utilize any recreational vehicle park, unit, space, or portion thereof that has been deemed unfit for use until written approval of the local health officer is given.

Utah Code Ann. § 26-23-3(1). It shall be unlawful for any person, association, or corporation, and the officers thereof to willfully violate, disobey, or disregard the provisions of the public health laws or the terms of any lawful notice, order, standard, rule, or regulation issued thereunder.

Utah Code Ann. § 26-23-6(2)(a). Any association, or corporation, or the officers of any of them, who violate any provision of this title or lawful orders of the department or a local health department, or rules adopted under this title by the department may be assessed a penalty not to exceed the sum of \$5,000 per violation.

FINDINGS OF FACT

On May 4, 2022 a follow up inspection was conducted by three Licensed Environmental Health Scientists (LEHS) from the Department to ensure compliance with the Notice of Violation and Order for Compliance issued by the Department on April 13, 2022.

The following violations were documented:

1. At least 4 RV's and all the buildings were still using the unapproved drinking water source.
2. The Department met with Heather Swenson, the tenant of the house on the south side of the river. She stated that she had not been notified by Lebarge to stop using the drinking water source and that her and her family were still using the water. A water sample was taken by the Department and it tested positive for Total Coliform.
3. Heather also stated that she notified Lebarge that her septic system wasn't working properly. Heather allowed the Department to put dye into the system to identify a failure. Staff determined that there was no flow going to the septic tank. Staff proceeded to walk around the house and witnessed a direct effluent discharge onto the surface of the ground coming from the house. The effluent being discharged onto the ground was approximately 25 feet from the South Fork of the Ogden River and was witnessed flowing to the river.
4. Trailer, UT license plate 3N3VV, was connected to an unapproved system. A corrugated pipe attached to the sewer outline was ran under a White Chevy S1500
5. Trailer, Missouri temp plate 05L41F, was connected to an unapproved system. A corrugated pipe was attached to a clear and orange connection.
6. Aerolite Trailer, no license plate visible, was connected to an unapproved system with a corrugated pipe attached to a clear and orange connection.
7. Trailer, no visible plate, directly south of UT plate U62 8AP. Still evidence of effluent on the ground. Violation previously documented on April 4, 2022.

DETERMINATION OF VIOLATIONS

Lebarga LLC, as the owner of Parcel # 21-013-0002 located at 10909 E. Hwy 39, is found to be in violation of the Weber-Morgan Health Department Onsite Treatment Systems Regulation section 3.3, R317-4, R392-301, & Utah Code Ann. § 26-23.

ORDER

Based on the foregoing Findings of Fact and Determination of Violations, Lebarga LLC is hereby assessed a penalty of **\$5000.00 for violating R317-4 and \$5000 for violating R392-301-5**. Lebarga LLC shall pay the penalty within 30 days of the delivery of this Notice of Violation and Order for Compliance. Payment shall be made to the Weber-Morgan Health Department, Division of Environmental Health, 477 23rd Street Ogden, UT 84401.

Lebarga LLC is also ordered to:

1. Immediately close due to imminent health hazards. Remove all RV's from the property as well as all tenants, residents, guests, and employees from all structures by May 16, 2022.
2. Failure to comply by May 16, 2022 will result in additional \$5000 penalties per violation per day.
3. Provide bottled water and porta potty's until everyone is removed.
4. Immediately stop discharging effluent onto the ground surface.
5. Immediately remediate the effluent onto the ground surface.
6. Immediately stop discharging any wastewater into the three known malfunctioning and/or unapproved septic systems on the property.
7. Immediately stop discharging effluent at any other location on the property
8. Immediately stop using the drinking water source until written approval is granted from the Department and/or Utah Division of Environmental Quality.
9. Obtain a valid permit to construct and/or repair all onsite wastewater treatment systems from the Department and/or the Utah Department of Environmental Quality. Plans must be drafted by a state certified designer.
10. Install and/or repair code compliant onsite wastewater systems based on the approved, permitted plans within 30 days of issuance of the permit.
11. Come into compliance with R392-301-5 & R309-100-5.

COMPLIANCE, OPPORTUNITY FOR HEARING

This Order shall become final without further notice unless you request a departmental conference or departmental appeal within ten (10) calendar days from receipt of the Notice of Violation and Order for Compliance. The request for a conference or hearing must be filed in writing with the Division of Environmental Health, 477 E. 23rd Street, Ogden, Utah 84401. If a conference or hearing is not requested in writing and received within ten (10) calendar days from the date of receipt of this Notice of Violation, the forgoing Findings of Fact and Determination of Violations will be deemed true and not subject to challenge and any right to proceed with an administrative or judicial appeal will be forfeited. Failure to comply with this Order may result in civil action, penalties, and criminal sanctions as provided by law.

Dated this 6th day of May, 2022

By



(Scott Braeden)

Licensed Environmental Health Scientist

Director of Environmental Health

(801) 399-7160