BEFORE THE

ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION AND ORDER ISSUED TO:	)	
M. J. Shaughnessy 350 N. Kimball Casper, WY 82601	)	DOCKET NUMBER: 3972-06

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. M. J. Shaughnessy is the registered owner of a contaminated site, Number 0-001443, located at 327 N. Kimball, Casper, Wyoming. The tanks were removed from the ground on July 1, 1989, with a DEQ inspector on site. The site was found to be contaminated. The responsibility for Contaminated Site Fees rests with the present landowner. Contaminated Site Fees have not been paid for fiscal year 2007.

   On May 8, 2006, and again on August 17, 2006, M. J. Shaughnessy was invoiced for Contaminated Site Fees for this site. Contaminated Site Fees for fiscal year 2007 in the amount of two hundred dollars ($200.00) remain unpaid. While the Contaminated Site Fees are voluntary, failure to pay these fees makes the site ineligible for the Corrective Action Account.

2. M. J. Shaughnessy has failed to pay voluntary Contaminated Site Fees.

3. M. J. Shaughnessy has not performed the remediation actions required under Chapter 17, Section 24. Failing to perform the required remediation actions leaves a very definite threat to the public health and safety and groundwater contamination. M. J. Shaughnessy is required to clean up this site since he has, through failure to pay Contaminated Site Fees, made contaminated site 0-001443 ineligible for cleanup under the Corrective Action Account. On October 19, 2006 the department finished remediation on this site and issued a clean closure letter.

4. W.S. 35-11-1424(f), states: "If, after due diligence, no owner or operator can be found, a contaminated site shall be placed on the priority list in appropriate rank with other sites. If an owner or operator which is not in compliance and the owner or operator refuses to comply with subsection (d) of this section is discovered, that site shall be considered ineligible for use of corrective action account monies and shall be treated as defined in subsection (g) of this section."

   W.S. 35-11-1424(g), states: "The department may, by an action brought by the attorney general against an owner or operator, recover reasonable and necessary expenses incurred by the department in taking corrective action. These recoverable expenses include but are not limited to the costs of investigating a release, administrative costs and reasonable attorney fees. The department's certification of expenses is prima facie evidence the expenses are reasonable and necessary. Expenses recovered under this section shall be deposited in the corrective action account unless otherwise required by state or federal law. The department may sue for recovery of expenses only if: (i) The owner or operator has failed to take the actions required for that site under subsection (d) of this section; or (ii) The owner or operator had tank insurance for that site at the time of the release. However, no such recovery under this subsection may exceed the limits or coverage of the insurance policy in question."

5. By failing to pay Contaminated Site Fees, M. J. Shaughnessy has made the contaminated site, Number 0-001443, ineligible for the Corrective Action Account. By failing to pay the contaminated site fees, M. J. Shaughnessy is liable for cost recovery under W.S. 35-11-1424(g).

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 M. J. SHAUGHNESSY SHALL:

1. Within 30 days of the receipt of this notice, pay Contaminated Site Fees in the amount of two hundred dollars ($200.00) to make site number 0-001443 eligible for participation in the state's corrective action program.

-OR-

2. If Item 1 is not complied with:

   a. Within 30 days of the receipt of this notice, submit a written request to the department for a complete cost accounting of all costs incurred in cleaning up contaminated site 0-001443.

   b. Within 30 days of the receipt of the department's reply to the request made under 2(a) of this order, submit a check for the full cleanup cost of contaminated site 0-001443.

THIS ORDER is final unless, not later than 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 7th day of November 2006.

John V. Corra
Director
Department of Environmental Quality

LeRoy C. Feusner, PE, BCEE
Administrator
Solid and Hazardous Waste Management Division

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

JVC/LCF/KH/RFL/lm/