Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

March 22, 2007

CERTIFIED #7005 1820 0005 1467 5395

Bryan Hinze
Hinze, Inc.
P.O. Box 2468
Cody, WY 82414

Dear Mr. Hinze:

Enclosed you will find a Notice of Violation and Order, Docket Number 4045-07 issued under the provisions of W.S. 35-11-701(c).

You are operating two (2) tanks registered as temporarily out of use (TOU) located at Ralston Food Mart, 557 Main Street, Ralston, Wyoming. These tanks are registered as storage tank facility number 0-000352. You were informed of the general requirements to comply with Chapter 17, Wyoming Water Quality Rules and Regulations with regard to TOU tanks in a letter from the Department of Environmental Quality dated December 22, 2005. The tanks at this facility have been TOU since August 14, 2001. To date, the Department has not received proof of: 1) passing cathodic protection readings on the tanks as required every three years in accordance with Section 11; 2) minimum site assessment as required when tanks are TOU for three years or more in accordance with Section 29; and 3) an operators annual inspection for the entire facility, which was due June 24, 2005; or, 4) notification of a change of service or removal of the tanks in accordance with Section 29.

Please be aware that the attached Notice of Violation contains instructions stating the steps that must be taken 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 Procedures sets forth the requirements for the initiation of appeal proceedings. You are urged to review all 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 Thomas Dunn, 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

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

Enclosure: Notice of Violation and Order, Rules of Practice and Procedure
LMM
70770.DOC revised date 01-29-2007

BEFORE THE

ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION AND ORDER ISSUED TO:	)	
Bryan Hinze Hinze, Inc. P.O. Box 2468 Cody, WY 82414	)	DOCKET NUMBER 4045-07

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Facility number 0-000352 (Ralston Food Mart) is located at 557 Main Street, Ralston, Wyoming. There are two (2) underground storage tank systems registered as temporarily out of use (TOU) since August 14, 2001, at this facility.

2. Bryan Hinze has failed to provide: 1) passing cathodic protection readings for the tanks and lines providing insurance that the impressed current system is operating correctly; 2) a minimum site assessment; and 3) an operator's annual inspection for the entire facility; or 4) notification of a change of service or removal of the tanks.

3. Wyoming Water Quality Rules & Regulations (WWQR&R) Chapter 17, Section 11, states: "**Operation and Maintenance of Corrosion Protection (CP).** All owners and/or operators of steel storage tank systems with CP shall comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the storage tank system is used to store regulated substances: (b) Periodic *Inspections:* All storage tank systems equipped with CP systems shall be inspected for proper operation by a qualified CP tester in accordance with the following requirements: (i) All CP systems shall be tested within six (6) months of installation and at least once every three (3) years thereafter. (ii) The criteria that are used to determine that CP is adequate shall be in accordance with the NACE Standard RP0285-2002, "Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems."(c) *Impressed Current Systems:* Storage tank systems with impressed current CP systems shall also be inspected by the owner and/or operator every sixty (60) days to ensure the equipment is running properly. The owner and/or operator shall make a record of these inspections, including the date of the inspection, the voltage reading on the rectifier, the amperage reading on the rectifier, and the hour reading on a properly connected hour meter showing how long the system has operated since the last inspection. The owner and/or operator shall compare those readings to the readings determined to be correct during the last inspection required under paragraph (b) of this section. Large changes in the voltage or amperage readings, or zero readings, shall be investigated by the owner and/or operator.

   WWQR&R, Chapter 17, Section 30(c), states: "**Temporary Closure.** (a) *General Requirement:* When a storage tank system is temporarily closed, owners and/or operators shall continue operation and maintenance of CP systems in accordance with Section 11. Owners and/or operators shall continue release detection in accordance with Part D as long as the tank contains more than one inch of regulated substance at the measuring point directly under the fill tube. (c)*Three years or more.* When a storage tank system is temporarily closed for more than three (3) years, the owner and/or operator shall complete a minimum site assessment in accordance with Section 29.

WWQR&R, Chapter 17, Section 13(e), states: **Inspection and Right of Entry, Reporting, and Recordkeeping** (e) *Operator's Annual Inspection*. Storage tank system owners and/or operators shall provide an annual report of inspection for the entire facility. An annual inspection is to be conducted either by the owner, the operator, or a qualified consultant. The inspector shall meet all of the qualifications as a CP tester if he or she inspects a CP system."

4. By failing to properly operate and test the cathodic protection system, Bryan Hinze has violated WWQR&R Chapter 17, Section 11(b)(i) and (c). By failing to submit a minimum site assessment, Bryan Hinze has violated WWQR&R Chapter 17, Section 30(c). By not submitting documentation of an operator's annual inspection, Mr. Hinze has violated WWQR&R Chapter 17, Section 13(e).

5. 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 BRYAN HINZE SHALL:

1. Within ninety (90) days of the receipt of this notice, submit a passing cathodic protection test performed by a qualified cathodic protection tester.
2. Within ninety (90) days of the receipt of this notice, complete a Minimum Site Assessment of the facility.
3. Within ninety (90) days of the receipt of this notice, submit an operator's annual inspection of the entire facility.
4. Within ninety (90) days of receipt of this Notice and Order, submit to this department a written description of policies that have been implemented to insure future compliance.

OR

5. Within ninety (90) days of the receipt of this notice, remove the tanks, decommission them at a licensed facility, and notify the department thirty (30) days in advance so that a department inspector can witness the removals.

THIS ORDER is final unless, not later than ten (10) days after the date this notice is received, it is appealed by filing a written petition for a hearing before the Environmental Quality Council. If a hearing is requested, the petition shall be mailed to Thomas Dunn, 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 26th day of March, 2007.

John V. Corra
Director
Department of Environmental Quality

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

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

LMM
70774.DOC revised date 01-29-2007