BEFORE THE

ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION AND ORDER ISSUED TO:	)	
James & Shannon Peterson Yellowstone RV and Auto Repair 124 West Yellowstone Cody, WY 82414	)	DOCKET NUMBER: 4473-09

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Yellowstone RV and Auto Repair owns and operates two (2) underground storage tanks (UST) located at 124 West Yellowstone, Cody, Wyoming. Yellowstone RV and Auto Repair has registered this tank as facility 0-002058. Yellowstone RV and Auto Repair has not paid the fees required by the Wyoming Water Quality Rules and Regulations, Chapter 17, Section 9(c), which requires the payment of an annual fee to be paid by January 1 of each year. The fees begin on the date when the tank is first filled with a regulated substance and end on the date when the tank is placed permanently out of service or converted to a non-regulated use under these regulations. The most recent fee transaction was on July 10, 2007, when Yellowstone RV and Auto Repair paid $200.00. Since then, $800.00 in tank fees for calendar years 2008 and 2009, plus $400.00 in late fees have accrued, for a total of $1,200.00.

2. Yellowstone RV and Auto Repair has not tested their impressed current cathodic protection system since April 9, 2005. Yellowstone RV and Auto Repair does not have an active fuel supplier.

3. Wyoming Water Quality Rules and Regulations, Chapter 17, Section 11(b)(i), states: "Section 11. 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"." The cathodic protection system should have been tested again by April 9, 2008, but was not. Yellowstone RV and Auto Repair has been reminded several times about this requirement, most recently on April 3, 2009.

4. W.S. 35-11-1425 states: "(a) On or before January 1 of each year the owner of a tank shall pay a fee to the department of two hundred dollars ($200.00) per tank owned, except the owner 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. This fee shall be deposited in the corrective action account. (b) On April 1 of each year the department may assess a late payment fee of one hundred dollars ($100.00) per tank or contaminated site against any owner who has not paid the annual fee required pursuant to subsection (a) of this section. This late fee shall be paid by the owner and shall be in addition to the annual fee required pursuant to subsection (a) of this section and shall be deposited in the department's corrective action account."

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:

This is a Red-Tagging Order. Immediately after receiving this Notice and Order, Yellowstone RV and Auto Repair is prohibited from purchasing any fuel for delivery to any of the tanks registered under facility 0-002058, located at 124 West Yellowstone, Cody, WY 82414. All fuel suppliers are ordered not to deliver any fuel to this location until notified by the department that this order has been lifted.

1. When Yellowstone RV and Auto Repair has paid the department $1,200.00, plus any additional late fees, the Red-Tag will be lifted and fuel may be purchased again.

2. Within thirty (30) days of receipt of this Notice and Order, Yellowstone RV and Auto Repair shall perform a cathodic protection test of the tanks at 124 West Yellowstone, Cody, Wyoming, or notify the department of a date when these tanks will be removed.

3. Within thirty (30) days of receipt of this Notice and Order, the recipient shall submit to this department a written description of actions that have or will be taken to implement the items above.

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 18th day of May, 2009.

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.

JVC/LCF/KH/RFL