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 29, 2010

CERTIFIED 7007 0710 000 3817 3440

Paul E. McDowell
Wamsutter Sinclair
P.O. Box 346
Wamsutter, WY 82336

Dear Mr. McDowell:

Enclosed you will find a Notice of Violation, Docket Number 4652-10, issued under the provisions of W.S. 35-11-701(c). You own the underground storage tanks (USTs) located at the Wamsutter Sinclair at 311 Kelly Road, Wamsutter, Wyoming.

By failing to conduct an operator's annual inspection when it was due, you have violated Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Section 13(e). By failing to pay the annual tank fees by January 1, you have violated W.S. 35-11-1425.

Please be aware that the attached Notice of Violation contains an Order detailing what must be done to eliminate and rectify these violations. This order prohibits the delivery of fuels to the USTs located at the Wamsutter Sinclair until this matter is resolved.

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 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 Floor 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

Carl Anderson, PhD
Administrator
Solid and Hazardous Waste Division

JVC/CA/KH/OG/

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

BEFORE THE

ENVIRONMENTAL QUALITYCOUNCIL

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION ISSUED TO:	)	
Paul E. McDowell Wamsutter Sinclair 311 Kelly Road P.O. Box 346 Wamsutter, WY 82336	)	DOCKET NUMBER: 4652-10

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Paul E. McDowell is the registered owner and operator of the Wamsutter Sinclair station located at 311 Kelly Road in Wamsutter, Wyoming. Wamsutter Sinclair has three underground storage tanks (USTs) and is registered as storage tank facility 0-004323.

2. The last operator's annual inspection (OAI) was performed at the Wamsutter Sinclair on December 9, 2007. The next OAI was due to be performed by December 9, 2008.

   Tank fees for calendar years 2009 and 2010 have not been peen paid for Wamsutter Sinclair.

3. Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Section 13(e), states: "(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. This inspection shall: (i) test all of the CP systems on site which are due for testing in accordance with Section 11; (ii) provide for pressure tests of pressurized piping or U.S. Suction piping in accordance with Section 14(g); (iii) provide for tests of all Automatic Line Leak Detectors as follows; (A) provide a simulated leak test for Mechanical Line Leak Detectors which will demonstrate that the leak detector meets the requirements of Section 14 (g). (B) for Electronic Line Leak Detectors a simulated leak is required which demonstrates that the leak detector meets the requirements of Section 14 (g). An internal electrical test of the system is not sufficient to meet this requirement. (C) When sump sensors are used to meet the requirement for an Automatic Line Leak Detector, they shall be configured to meet the requirements of Section 14 (g) and the annual inspection shall include a manual tripping of each sump sensor. The automatic device used to monitor sump sensors shall be triggered by the manual tripping of the sensors, and a record shall be made showing the date when the test was done, the facility number, and recording the fact that the sensor operated as required. (iv) document that all Automatic Tank Gauges (ATG), interstitial monitoring systems, vapor monitoring systems, or other automatic systems are properly calibrated and functioning. This includes a check to determine if probes are clean and are the proper ones for the regulated substance being stored. (v) provide an annual summary for all inventory control calculations, statistical inventory reconciliation reports, or other leak detection methods which shows compliance for each month of the preceding year. Records of the operation of all leak detection systems for the past three years are required to be kept. (vi) include a physical inspection of all sumps, manholes, dispensers, and other openings provided on the storage tank system. Any leaks found shall be immediately eliminated."

   WS 35-11-1425 states: **"Tank fee; deposit into corrective action account; late fee.** (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."

4. By failing to conduct an OAI by December 9, 2008, Paul E. McDowell has violated WWQRR, Chapter 17, Section 13(e). By failing to pay annual tank fees and assessed late fees, Paul E. McDowell has violated WS 35-11-1425.

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:

1. This is a Red Tagging Order. Immediately after receiving this Notice and Order, Paul E. McDowell is prohibited from purchasing any fuel for delivery to the registered USTs at facility 0-004323, located at 311 Kelly Road in Wamsutter, Wyoming. All fuel suppliers are ordered not to deliver any fuel to this facility until notified by the department that this order has been lifted.

2. The order will be lifted when:

    1. Paul E. McDowell has performed an OAI at the Wamsutter Sinclair.

    2. Paul E. McDowell has paid the department $1,500.

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 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 31 day of March, 2010.

John V. Corra
Director
Department of Environmental Quality

Carl Anderson, PhD
Administrator
Solid and Hazardous Waste Management Division

PLEASE DIRECT ALL INQUIRES TO: Oma Gilbreth, Storage Tank Program Compliance Supervisor at 122 West 25th Street, Fourth Floor, West Wing, Cheyenne, WY 82002, (307) 777-7097 or (307) 777-5973 FAX for technical matters.

cc. J. H. Kaspar Oil

JVC/CA/KH/OG