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

April 20, 2010

Ronald James Abernathy
P. O. Box 329
Hudson, WY 82515

Certified No. 7007 0710 0000 3817 3778
Return Receipt Requested

Dear Mr. Abernathy:

Enclosed you will find a Notice of Violation and Order, Docket Number 4669-10, issued under the provisions of W.S. 35-11-701(c). You have been reminded on multiple occasions that compliance testing was past due.

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 retail USTs located at Hudson Gas, Grill and Goods 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

DEPARTMENT ENVIRONMENTAL QUALITY

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION ISSUED TO:	)	
	)	
Ronald James Abernathy	)	
P. O. Box 329	)	
Hudson, WY 82515	)	DOCKET NUMBER 4669-10
	)	

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. Ronald James Abernathy owns and operates underground storage tank facility number 0-000149 which is known as Hudson Gas, Grill and Goods, which is located at 9065 Highway 79, Hudson, Wyoming. This facility has three steel tanks with double wall flexible plastic lines. The tanks are protected from corrosion by an impressed current corrosion protection system. The lines are monitored for leaks by mechanical line leak detectors and annual line tightness testing.

   According to Wyoming Department of Environmental Quality (DEQ) records, the last test of the impressed current cathodic protection system at the Hudson Gas, Grill and Goods was performed on July 14, 2006.

   According to DEQ records, the line leak detectors at the Hudson Gas, Grill and Goods were last function tested on May 8, 2008.

   According to DEQ records, the last time the pressurized piping at the Hudson Gas, Grill and Goods was tightness tested was on May 8, 2008.

   According to DEQ records, the last time an operator's annual inspection was performed at the Hudson Gas, Grill and Goods was on May 8, 2008.

2. DEQ has determined that the following violations of Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17 have occurred:

   Count 1: Failure to Test a Corrosion Protection System Within Three Years [WWQRR, Chapter 17, Section11(b)(i)] As owner and operator of underground storage tanks, Ronald James Abernathy is in violation of WWQRR, Chapter 17, Section11(b)(i), for failure to perform corrosion protection testing when it was due.

   Count 2: Failure to Perform Annual Function Testing of Line Leak Detectors [WWQRR, Chapter 17, Section 14(g)(i)(B)] As owner and operator of underground storage tanks, Ronald James Abernathy is in violation of WWQRR, Chapter 17, Section 14(g)(i)(B) for failure to perform annual function testing of line leak detectors.

   Count 3: Failure to Perform Annual Line Tightness Testing [WWQRR, Chapter 17, Section 14(g)(i)(B)(1)] As owner and operator of underground storage tanks, Ronald James Abernathy is in violation of WWQRR, Chapter 17, Section 14(g)(i)(B)(1) for failure to perform annual line tightness testing.

Count 3: Failure to Perform an Operator's Annual Inspection [WWQRR, Chapter 17, Section 13(e)] As owner and operator of underground storage tanks, Ronald James Abernathy is in violation of WWQRR, Chapter 17, Section 13(e) for failure to perform an operator's annual inspection.

3. Any person who violates any provision of the Environmental Quality Act, or any rule, standard, permit, license, or variance adopted there under, is liable for a penalty of ten thousand dollars ($10,000.00) for each day of violation, which penalty may be recovered in a civil action brought by the Attorney General in the name of the people of Wyoming.

4. 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. Ronald James Abernathy have the corrosion protection system at the Hudson Gas, Grill and Goods, tested by a licensed cathodic protection tester.

2. Ronald James Abernathy have the line leak detectors at the Hudson Gas, Grill and Goods, function tested by a licensed tank and line tester.

3. Ronald James Abernathy have the piping at the Hudson Gas, Grill and Goods, tightness tested by a licensed tank and line tester.

4. Ronald James Abernathy complete and submit an operator's annual inspection report.

5. This is a Red Tagging Order. Immediately after receiving this Notice and Order, Ronald James Abernathy is hereby prohibited from purchasing any fuel for delivery to the registered retail underground storage tanks located at the Hudson Gas, Grill and Goods storage tank facility 0-000149, at 9065 Highway 79, Hudson, Wyoming. All fuel suppliers are ordered not to deliver any fuel to this tank until notified by the department that this order has been lifted. The order will be lifted when:

    1. Ronald James Abernathy has performed corrosion protection testing as required by WWQRR, Chapter 17, Section 11(b)(i).

    2. Ronald James Abernathy has performed line leak detectors function testing as required by WWQRR, Chapter 17, Section 14(g)(i)(B).

    3. Ronald James Abernathy performs line tightness testing as required by WWQRR, Chapter 17, Section 14(g)(i)(B)(1).

    4. Ronald James Abernathy Performs an Operator's Annual Inspection as required by WWQRR, Chapter 17, Section 13(e).

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 22 day of April, 2010.

John V. Corra
Director
Department of Environmental Quality

Carl Anderson, PhD
Administrator
Solid and Hazardous Waste 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. Bailey Enterprises, P. O. Box 1326 Riverton, WY 82501

JVC/CA/KH/OG