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

November 2, 2010

CERTIFIED Mail #7007 0710 0000 3817 6571
Return Receipt Requested

Steve Sherwin
Snowy Mountain Lodge, LLC
One Freedom Square
Laurel, MS 39440-3325

Dear Mr. Sherwin:

Enclosed you will find a Notice of Violation and Order, Docket Number 4759-10, issued under the provisions of W.S. 35-11-701(c). The retail aboveground storage tank (AST), located at the Snowy Mountain Lodge has not been upgraded in accordance with Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17. The AST was to have been upgraded by October 1, 2008. A minimum site assessment was also to have been conducted in accordance with WWQRR, Chapter 17, Section 29.

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 AST located at the Snowy Mountain Lodge 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 QUALITY COUNCIL

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION AND ORDER ISSUED TO:	)	
Snowy Mountain Lodge, LLC One Freedom Square Laurel, MS 39440-3325	)	DOCKET NUMBER: 4759-10

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Snowy Mountain Lodge, LLC, owns and operates one aboveground storage tank (AST) that is used to sell fuel retail at the Snowy Mountain Lodge, storage tank facility 0-005086, which is located at 3474 Highway 130, near Centennial, Wyoming.

2. Snowy Mountain Lodge, LLC, has not upgraded the AST at the Snowy Mountain Lodge.

   Snowy Mountain Lodge, LLC, has not performed a minimum site assessment (MSA) at Snowy Moutnain Lodge.

   Snowy Mountain Lodge, LLC, has not paid the annual tank fees for 2010.

3. The DEQ has determined that the following violations of Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, and the Storage Tank Act of 2007 have occurred at Snowy Mountain Lodge:

   Count 1: Failure to Upgrade ASTs [WWQRR Chapter 17, Section 35(o)]. As owner of the AST, Snowy Mountain Lodge, LLC, is in violation of WWQRR Chapter 17, Section 35(o), for failure to upgrade the AST by October 1, 2008.

   Count 2: Failure to Perform an MSA[WWQRR Chapter 17, Section 29(a)(i)]. As the owners of the AST, Snowy Mountain Lodge, LLC, is in violation of WWQRR Chapter 17, Section 29(a)(i), for failure to perform an MSA by October 1, 2008.

   Count 3: Failure to Pay Annual Tank Fees[WS 35-11-1425(a)] As the owners of the AST, Snowy Mountain Lodge, LLC, is in violation of WS 35-11-1425(a), for failure to pay annual tank fees.

4. Any person who violates any provision of the Environmental Quality Act, or any rule, standard, permit, license, or variance adopted thereunder, 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.

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. Snowy Mountain Lodge, LLC, return this facility into compliance with WWQRR, Chapter 17, as described within 270 days of receipt of this NOV.

   Pay the pay the past due annual tank fees within 30 days of receipt of this NOV.

2. This is a Red Tagging Order. Immediately after receiving this Notice and Order, Snowy Mountain Lodge, LLC, is hereby prohibited from purchasing any fuel for delivery to the registered retail AST at storage tank facility 0-005086, Snowy Mountain Lodge, located at 3474 Highway 130, near Centennial, 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:

   a. Snowy Mountain Lodge, LLC, has upgraded the AST in accordance with WWQRR, Chapter 17, Part I, paid the annual tank fees for 2010 and has performed an MSA in accordance with WWQRR, Chapter 17, Section 29

   OR

   b. Snowy Mountain Lodge, LLC, has permanently closed the existing AST in accordance with WWQRR, Chapter 17 Section 31(b).

   OR

   c. Snowy Mountain Lodge, LLC, has changed the service of the existing AST in accordance with WWQRR, Chapter 17 Section 33(c).

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 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 4th day of November, 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. Hartman Distributing, P.O. Box 1208, Laramie, WY 82073

JVC/CA/KH/OG