BEFORE THE

ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION AND ORDER ISSUED TO:	)	
Richard Nelson 601 Highway 24 Devils Tower, WY 82714	)	DOCKET NUMBER: 4981-12

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Richard Nelson, owns and operates underground storage tank (UST) facility number 0-003892, which is known as Fort Devils Tower located at 601 Highway 24, Devils Tower, Wyoming. The facility has two steel USTs that are used to store gasoline. The USTs are protected from corrosion by a cathodic protection system (CP).

2. According to Wyoming Department of Environmental Quality (DEQ) records, the last test of the CP system at Fort Devils Tower was performed on April 16, 2008.

   The USTs located at Fort Devil's Tower have been in temporarily out of use (TOU) status since July 12, 2008. A minimum site assessment has not been performed.

   The 2012 annual tank fees for the USTs located at Fort Devil's Tower have not been paid.

3. The DEQ has determined that the following violations of Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, have occurred at Fort Devil's Tower:

   Count 1: *Failure to* Test a Corrosion Protection System Within Three Years [WWQRR, Chapter 17, Section11(b)(i)]. As owner and operator of the USTs at Fort Devil's Tower, Richard Nelson 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 a Minimum Site Assessment when an UST has been in TOU Status Longer than Three Years [WWQRR, Chapter 17, Section 30(c)]. As owner and operator of the USTs at Fort Devil's Tower, Richard Nelson is in violation of WWQRR, Chapter 17, Section 30(c), for failure to perform an MSA.

   Count 3: Failure to Pay Annual Tank Fees [WS 35-11-1425(a)]. As owner and operator of the USTs at Fort Devil's Tower, Richard Nelson is in violation of WS 35-11-1425(a) for failure to pay the annual tank fees for 2012.

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 Fort Devils Tower, 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. Within 30 days of receipt of this notice, Richard Nelson shall:

   A. Have a licensed CP tester test the CP system connected to the USTs at Fort Devils Tower.

   B. Perform an MSA or change the status of the USTs at Fort Devil's Tower.

   C. Pay the 2012 annual tank fees and associated late fees for the USTs at Fort Devil's Tower.

2. This is a Red Tagging Order. Immediately after receiving this Notice and Order, Richard Nelson is hereby prohibited from purchasing any fuel for delivery to the registered retail underground storage tanks located at Fort Devils Tower, storage tank facility 0-003892, at 601 Highway 24, Devils Tower, Wyoming. All fuel suppliers are ordered not to deliver any fuel to these tanks until notified by the department that this order has been lifted. The order will be lifted when:

   1. Richard Nelson has performed CP testing as required by WWQRR, Chapter 17, Section 11(b)(i).

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 18th day of APRIL, 2012.

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.

JVC/CA/KH/OG