BEFORE THE

ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION AND ORDER ISSUED TO:	)	
	)	
Thomas Kindler Five – K, LLC P.O. Box 21 Evanston, WY 82931	)	DOCKET NUMBER: 5017-12

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Five – K, LLC, owns and operates the Speed Bump Convenience Store, underground storage tank (UST) facility 0-002841. The Speed Bump Convenience Store has five underground storage tanks (USTs) that are located at 1943 Harrison Drive in Evanston

2. Five – K, LLC, does not have a licensed Class A Storage Tank Operator for the USTs located at the Speed Bump Convenience Store.

3. Five – K, LLC, does not have a licensed Class B Storage Tank Operator for the USTs located at the Speed Bump Convenience Store.

4. The DEQ has determined that the following violations of Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, have occurred at the Speed Bump Convenience Store:

   Count 1: Failure to Have a Licensed Class A Storage Tank Operator [WWQRR, Chapter 17, Section 46(a)]. As owner of USTs, Five – K, LLC, is in violation of WWQRR, Chapter 17, Section 46(a), for failure to have a licensed Class A Storage Tank Operator.

   Count 2: Failure to Have a Licensed Class B Storage Tank Operator [WWQRR, Chapter 17, Section 46(b)]. As owner of USTs, Five – K, LLC, is in violation of WWQRR, Chapter 17, Section 46(b), for failure to have a licensed Class B Storage Tank Operator.

5. This Notice is being sent to Five – K, LLC, 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.

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ORDER

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL-STATE OF WYOMING

WHEREFORE IT IS HEREBY ORDERED THAT:

1. Five – K, LLC, bring the facility into compliance with WWQRR, Chapter 17, by performing the following:

    a. Within 90 days of receipt of this NOV, have a licensed Class A Storage Tank Operator assigned to the Speed Bump Convenience Store.

    b. Within 90 days of receipt of this NOV, have a licensed Class B Storage Tank Operator assigned to the Speed Bump Convenience Store.

    Or

    c. Within 90 days of receipt of this NOV, place the tanks in temporarily out of use (TOU) status in accordance with WWQRR, Chapter 17, Section 30. After the tanks have been placed in TOU status, Five – K, LLC, shall submit written notification of this change of status. After the tanks have been placed in TOU status, Five – K, LLC, shall not bring the tanks back into use, until the facility has a licensed Class A Operator and a Licensed Class B Operator.

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 July, 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