BEFORE THE

ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION AND ORDER ISSUED TO:	)	
Wadi Shah Lincolnway Fast Break 300 West Lincolnway Cheyenne, WY 82001	)	DOCKET NUMBER: 5059-12

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Wadi Shah owns the Lincolnway Fast Break, storage tank facility number 0-002017, located at 300 East Lincolnway, Wyoming. This site has one underground storage tank (UST).

2. After reviewing the facility files for the Lincolnway Fast Break, Department of Environmental Quality personnel have determined that the following violations exist at the Lincolnway Fast Break: 1) the facility does not have a licensed Class A Storage Tank Operator, 2) the facility does not have a licensed Class B Storage Tank Operator, 3) an operator's annual inspection (OAI) has not been performed, and 4) the 2012 tank fees 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 Lincolnway Fast Break:

   Count 1: Failure to Have a Licensed Class A Storage Tank Operator [WWQRR, Chapter 17, Section 46(a)]. As owner of an UST, Wadi Shah 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 an UST, Wadi Shah is in violation of WWQRR, Chapter 17, Section 46(b), for failure to have a licensed Class B Storage Tank Operator.

   Count 3: Failure to Perform an OAI [WWQRR, Chapter 17, Section 13(e)]. As owner of an UST, Wadi Shah is in violation of WWQRR, Chapter 17, Section 13(e), for failure to perform an OAI.

   Count 4: Failure to Pay Annual Tank Fees [W.S. 35-11-1425(a)]. As owner of an UST, Wadi Shah is in violation of W.S. 35-11-1425(a) for failure to pay annual tank fees.

4. This Notice is being sent to Wadi Shah 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. Within thirty (30) days of receipt of this NOV, Wadi Shah bring the facility into compliance with WWQRR, Chapter 17, by performing the following:

    a. Have a licensed Class A Storage Tank Operator assigned to the Lincolnway Fast Break.

    b. Have a licensed Class B Storage Tank Operator assigned to the Lincolnway Fast Break.

    c. Perform an OAI.

    OR

    d. Empty the tank and register it as being temporarily out of use in accordance with WWQRR, Chapter 17, Section 30.

2. Within thirty (30) days of receipt of this NOV, Wadi Shah pay the annual tank fees and associated late fees totaling three hundred dollars ($300) in accordance with W.S. 35-11-1425

3. This is a Red Tag Order. Immediately after receiving this NOV and Order, Wadi Shah is hereby prohibited from purchasing fuel for delivery to the registered tanks located at 300 East Lincolnway, storage tank facility number 0-002017. All fuel suppliers are hereby ordered not to deliver fuel to these tanks until notified by the department that this Order has been lifted. The Order will be lifted when:

    a. A licensed Class B Operator has been assigned to the Lincolnway Fast Break.

    b. An OAI has been performed.

    c. Past due tank fees and late fees have been paid.

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 17 th day of SEPTEMBER, **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