Department of Environmental Quality

To protect, conserve, and enhance the Quality of Wyoming's environment for the benefit of current and future generations

Mathew H. Mead, Governor

Todd Parfitt, Director

July 29, 2014

CERTIFIED 7012 3460 0000 7423 0658

Jodi Newkirk
P.O. Box 95
Rock River, WY 82083

Dear Ms. Newkirk:

Enclosed you will find a Notice of Violation and Order (NOV), Docket Number 5440-14, issued under the provisions of W.S. 35-11-701(c).

The NOV orders you to have a cathodic protection (CP) test performed on the underground storage tanks located at the Arlington Outpost, and it orders you to pay the past due tank fees and late fees totaling $900.00. The NOV also includes a fuel delivery prohibition or "Red Tag" Order. The Red Tag Order will not be lifted until you submit proof to the DEQ Storage Tank Program that the CP system has been tested.

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 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 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.

Todd Parfitt
Director
Department of Environmental Quality

Luke Esch
Administrator
Solid and Hazardous Waste Division

TP/LE/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:	)	
Jodi Newkirk P.O. Box 95 Rock River, WY 82714	)	DOCKET NUMBER: 5440-14

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Jodi Newkirk owns and operates Arlington Outpost, underground storage tank (UST) facility number 0-000756, which is located near Arlington, Wyoming. The facility has three steel USTs that are used to store fuel. The tanks are protected from corrosion by an impressed current cathodic protection (CP) system.

2. The CP system for the tanks located at Arlington Outpost was last tested on March 2, 2011.

3. Jodi Newkirk owes nine hundred dollars ($900.00) in past due tank fees and late fees for calendar year 2014.

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

   Count 1: Failure to Test a CP System: [WWQRR Chapter 17, Section 11(b)(i)]. As owner and operator of the USTs located at Arlington Outpost, Jodi Newkirk is in violation of WWQRR Chapter 17, Section 11(b)(i), for not testing the UST CP system every three years.

   Count 2: Failure to Pay Annual Tank Fees by January 1: [WS 35-11-1425(a)]. As owner and operator of the USTs at Arlington Outpost, Jodi Newkirk is in violation of WS 35-11-1425(a) for failure to pay annual tank fees for 2014.

5. This Notice is being sent to Jodi Newkirk 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 30 days of receipt of this Notice of Violation Jodi Newkirk shall have CP testing performed on the USTs located at Arlington Outpost.

2. Within 30 days of receipt of this Notice of Violation Jodi Newkirk shall pay the DEQ for all past due tank fees and all past due late fees for the USTs located at the Arlington Outpost.

3. This is a Red Tagging Order. Immediately after receiving this Notice and Order, Jodi Newkirk is hereby prohibited from purchasing any fuel for delivery to the registered underground storage tanks located at Arlington Outpost, storage tank facility 0-000756, located near Arlington, 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. Jodi Newkirk has had CP testing performed on the USTs located at the Arlington Outpost.

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 August, 2014.

Todd Parfitt
Director
Department of Environmental Quality

Luke Esch
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.

TP/LE/KH/OG