



# 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

March 13, 2015

CERTIFIED 7013 2630 0001 0391 1083

Mr. Brad Holm  
Dampier Lodge, LLC  
2301 8<sup>th</sup> Avenue N.E., Suite 230  
Aberdeen, SD 57401

RE: Dampiers


Dear Mr. Holm:

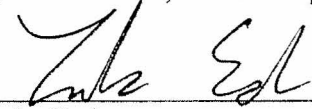
Enclosed you will find a Notice of Violation and Order (NOV), Docket Number 5542-15, issued under the provisions of W.S. 35-11-701(c). Tanks at Dampiers have been in temporarily out-of-use (TOU) status for more than 3 years.

The NOV orders you to: 1) complete cathodic protection system testing and submit the results to the department, which is required for TOU tanks using cathodic protection; 2) complete a minimum site assessment, which is required for tanks that have been TOU for more than 3 years; and 3) obtain both a licensed Class A and Class B Storage Tank Operator for the underground storage tanks at Dampiers. The NOV also includes a fuel delivery prohibition or "Red Tag" Order. The Red Tag Order will not be lifted until you have submitted cathodic protection system testing and obtained a licensed Class B Storage Tank Operator for the facility.

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, 4<sup>th</sup> Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail, return receipt requested.

  
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Todd Parfitt  
Director  
Department of Environmental Quality

  
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Luke Esch  
Administrator  
Solid and Hazardous Waste Division

TP/LE/KH  
Enclosure: Notice of Violation and Order, Rules of Practice and Procedure

Herschler Building · 122 West 25th Street · Cheyenne, WY 82002 · <http://deq.state.wy.us>

ADMIN/OUTREACH (307) 777-7758 FAX 777-3610	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7369 FAX 777-6937	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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BEFORE THE  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF )  
VIOLATION ISSUED TO: )  
)  
Dampier Lodge, LLC ) DOCKET NUMBER 5542-15  
2301 8<sup>th</sup> Avenue N.E., Suite 230 )  
Aberdeen, South Dakota 57401 )

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. Dampier Lodge, LLC, owns Dampiers, underground storage tank (UST) facility number 0-005005, located at 25135A U.S. Highway 85, Newcastle, Wyoming. Tanks at this facility were placed in temporarily out-of-use (TOU) status on November 21, 2011.
2. The tanks at this facility have been TOU for more than 3 years. The cathodic protection system on the tanks has not been operated and maintained. A minimum site assessment has not been completed. The facility does not have licensed Class A and Class B storage tank operators.
3. The DEQ has determined that the following violations of Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17 have occurred:

**Count 1: Failure to Operate and Maintain a Cathodic Protection System on TOU Tanks [WWQRR, Chapter 17, Section 30(a)].** As the owner and operator of the USTs located at Dampiers, Dampier Lodge, LLC, violated WWQRR, Chapter 17, Section 30(a), by not completing cathodic protection testing when it was due.

**Count 2: Failure to Complete a Minimum Site Assessment [WWQRR, Chapter 17, Section 30(c)].** As the owner and operator of the USTs located at Dampiers, Dampier Lodge, LLC, violated WWQRR, Chapter 17, Section 30(c), by not completing a minimum site assessment when tanks have been TOU for more than 3 years.

**Count 3: Failure to have Licensed Class A and B Operators [WWQRR, Chapter 17, Section 46(a) and (b)].** As the owner and operator of the USTs located at Dampiers, Dampier Lodge, LLC, violated WWQRR, Chapter 17, Section 46(a) and (b), by not having Class A and B storage tank operators for the facility.

4. 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.

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ORDER

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL-STATE OF WYOMING

WHEREFORE IT IS HEREBY ORDERED THAT:

1. Within 90 days of receipt of this Notice of Violation Dampier Lodge, LLC, shall:
  - A. Complete cathodic protection system testing and submit test results to the department.
  - B. Complete a minimum site assessment.
  - C. Obtain Class A and B licensed storage tank operators for Dampiers.

2. This is a Red Tagging Order. Immediately after receiving this Notice and Order, Dampier Lodge, LLC, is hereby prohibited from purchasing any fuel for delivery to the registered underground storage tanks at Dampiers, storage tank facility 0-005005, located at 25135A U.S. Highway 85, Newcastle, 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:

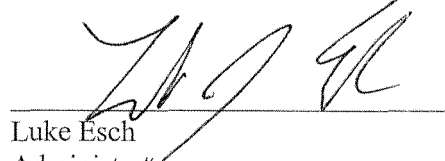
- A. Dampier Lodge, LLC, submits cathodic protection testing results to the department; and
- B. Dampier Lodge, LLC, obtains a licensed Class B storage tank operator for Dampiers.

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.

SIGNED this 13th day of MARCH, 2015.

  
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Todd Parfitt  
Director  
Department of Environmental Quality

  
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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.

TP/LE/KLH