

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED
MAR 01 2010
Jim Ruby, Executive Secretary
Environmental Quality Council

IN THE MATTER OF THE NOTICE OF)
VIOLATION AND ORDER ISSUED TO:)
)
B. J. and Vickie Hill)
P. O. Box 176)
Cora, WY 82925)
)

DOCKET NUMBER: 4632-10

10-5201

NOTICE OF VIOLATION
AND
ORDER

NOTICE IS HEREBY GIVEN THAT:

1. B. J. and Vickie Hill own and operate a 1,000 gallon aboveground storage tank (AST) at The Place, storage tank facility 0-002451, which is located at Mile Marker 20 Highway 352 near Cora, Wyoming.

Storage tank fee invoices for calendar year 2009 were sent to the post office box owned by B.J. and Vickie Hill on November 19, 2008; May 18, 2009; and September 17, 2009. A storage tank fee invoice for calendar years 2009 and 2010 was sent to this post office box on November 23, 2009.

Personnel from the Department of Environmental Quality performed storage tank compliance inspections on October 29, 2008, and September 22, 2009. The inspections were conducted in order to determine whether the tank had been upgraded to meet the AST upgrade deadline of October 1, 2008.

During the first inspection it was discovered that B. J. and Vickie Hill had purchased the facility and had not filed a change of ownership form with the department. B. J. and Vickie Hill were sent change of ownership forms.

During the inspections it was discovered that a minimum site assessment (MSA) had not been performed. The inspector also found that the tank did not have: a suitable foundation, secondary containment, vehicle impact protection, corrosion protection, an overflow prevention alarm, an overflow prevention device, double wall and non-corrodible underground piping, a transition sump between the aboveground and underground piping, a vent pipe that terminates at least 12 feet above grade, emergency venting, proper labeling, signs indicating what kind of product is stored, tank top access, security fencing, and emergency shutoff devices.

2. B. J. and Vickie Hill failed to pay annual storage tank fees by January 1.

B. J. and Vickie Hill have failed to submit a change of ownership form to the department after they purchased a storage tank facility.

B. J. and Vickie Hill have failed to perform an MSA.

B. J. and Vickie Hill have failed to upgrade an AST by October 1, 2008.

B. J. and Vickie Hill have operated an AST without: a suitable foundation, secondary containment, vehicle impact prevention, corrosion protection, an overfill alarm, an overfill prevention device, spill prevention, underground piping that is double wall and non-corrodible, line leak detection equipment, a sump for the connection between underground and aboveground piping, a vent pipe that terminates at least 12 feet above grade, proper emergency venting, proper labeling, proper tank top access, proper security fencing, and a proper shutoff device.

3. WS 35-11-1420(b) states: "On or before January 1 of each year the owner of a tank shall pay a fee to the department of two hundred dollars (\$200.00) per tank owned, except the owner of an aboveground storage tank subject to this section that holds five thousand (5,000) gallons or less shall pay a fee of fifty dollars (\$50.00) per tank owned. This fee shall be deposited in the corrective action account. (b) On April 1 of each year the department may assess a late payment fee of one hundred dollars (\$100.00) per tank or contaminated site against any owner who has not paid the annual fee required pursuant to subsection (a) of this section. This late fee shall be paid by the owner and shall be in addition to the annual fee required pursuant to subsection (a) of this section and shall be deposited in the department's corrective action account."

WS 35-11-1420 (a) states: "In the event of the transfer of any tank to a different owner, notification of the transfer shall be provided to the department by the new and former owners."

Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Section 29(a)(i) states: "Unless the site is already listed as a contaminated site, all owners and/or operators of regulated ASTs shall, by October 1, 2007, provide a MSA to the department. This MSA shall be done at the owners and/or operators expense and shall meet all of the requirements of this part." (The Wyoming Legislature extended the deadline to October 1, 2008.)

WWQRR, Chapter 17, Section 35(o) states: "*Upgrading existing tanks.* All existing ASTs that do not meet the requirements of this chapter must be upgraded no later than October 1, 2008, to meet all of the requirements of this chapter for new ASTs."

WWQRR, Chapter 17, Section 35(b) states: "*Secondary Containment.* All ASTs regulated under this section shall be constructed with secondary containment equal to at least 110% of storage capacity of the largest single AST within the secondary containment wall.

WWQRR, Chapter 17, Section 35(c) states: "*Vehicle impact protection.* All ASTs regulated under this section shall be protected against vehicle impact."

WWQRR, Chapter 17, Section 35(d) states: "*Corrosion protection.* All AST systems regulated under this section shall be protected against corrosion."

WWQRR, Chapter 17, Section 35(f) states: "*Overfill protection.* All ASTs regulated under this section shall have overfill protection as follows: (i) systems shall sound an audible or visible alarm at the filling rack when the AST is 90% full; (ii) systems shall close valves and prevent overfilling the tank before the AST is 95% full;"

WWQRR, Chapter 17, Section 35(g) states: "*Spill prevention.* All AST Systems regulated under this section shall have spill prevention equipment."

WWQRR, Chapter 17, Section 35(h) states: "*Connected Lines.* All underground pipe lines connected to ASTs regulated under this section shall be non-corrodible, double walled lines equipped with working leak detection equipment. All above ground lines shall be steel. All connections between above ground lines and underground lines shall be made inside accessible leak proof sumps."

WWQRR, Chapter 17, Section 35(i) states: "ASTs installed after the effective date of these regulations shall have a suitable foundation capable of supporting the tank full of the regulated substance without excessive differential settlement as defined in API

Standard 653 or the manufacturer's recommendation. The foundation shall be designed by a Registered Professional Engineer, licensed in the State of Wyoming. The foundation design shall provide positive drainage of water away from the base. ASTs located in areas subject to flooding shall be anchored to prevent flotation."

WWQRR, Chapter 17, Section 35(l) states: "*Operational venting.* Normal operation vents are required to prevent the development of vacuum or pressure within ASTs. Such vents shall be sized in accordance with IFC 3404.2.7.3 and shall be at least the size of the fill or withdrawal connection but not less than 1 and 1/4 (one and one-quarter) inches inside diameter. Flammable liquid vents must terminate not less than twelve (12) feet above grade."

WWQRR, Chapter 17, Section 35(m) states: "*Emergency venting.* Each AST shall be equipped with adequate additional emergency venting that will relieve excessive internal pressure caused by fire exposure."

WWQRR, Chapter 17, Section 35(r) states: "*Access to tank tops.* Access shall be provided to the top of all ASTs for inspection of venting, overfill equipment and other required equipment. Access shall be by way of permanently mounted, solidly constructed, non-combustible ladders, stairs, catwalks and platforms which comply with Occupational Safety and Health Administration standards."

WWQRR, Chapter 17, Section 35(t) states: "*Emergency switches.* Emergency disconnect switches shall be provided at prominent locations to stop the transfer of fuel to the fuel dispenser in the event of a spill or other emergency. These switches shall be within one-hundred (100) feet but not less than twenty (20) feet of dispensers. All emergency disconnect switches shall be labeled: "EMERGENCY FUEL SHUT OFF" using a durable, weatherproof, sign with letters a minimum of 6" (six inches) high."

WWQRR, Chapter 17, Section 35(x) states: "*Site Security.* All ASTs shall be protected from vandalism and unauthorized product release by security fencing. Security fences shall be galvanized wire mesh no less than six (6) feet high topped with three (3) strands of barbed wire on an angled support bracket. Fencing shall be no less than five (5) feet from any of the tanks within the secondary containment structure. At facilities where wire fencing is not allowed by any other authority, the owner/operator may substitute other types of fencing at least six (6) feet high."

4. B. J. and Vickie Hill are in violation of W.S. 35-11-1420; WWQRR Chapter 17 Section 29(a)(i); WWQRR, Chapter 17, Section 35(o); WWQRR, Chapter 17, Section 35(b); WWQRR, Chapter 17, Section 35(c); WWQRR, Chapter 17, Section 35(d); WWQRR, Chapter 17, Section 35(f); WWQRR, Chapter 17, Section 35(g); WWQRR, Chapter 17, Section 35(h); WWQRR, Chapter 17, Section 35(i); WWQRR, Chapter 17, Section 35(l); WWQRR, Chapter 17, Section 35(m); WWQRR, Chapter 17, Section 35(r); WWQRR, Chapter 17, Section 35(t); and WWQRR, Chapter 17, Section 35(x).
5. 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.

ORDER

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL-STATE OF WYOMING

WHEREFORE IT IS HEREBY ORDERED THAT:

1. This is a Red Tagging Order. Immediately after receiving this Notice and Order, B. J. and Vickie Hill are prohibited from purchasing any fuel for delivery to the registered retail AST at facility 0-002451, located Mile Marker 20 Highway 352 near Cora, Wyoming. All fuel suppliers are ordered not to deliver any fuel to this tank until notified by the department that this order has been lifted.

2. The order will be lifted when:
 1. B. J. and Vickie Hill have paid the department \$100.00 and any additional late fees.
 2. B. J. and Vickie Hill have filed a change of ownership form with the department.
 3. B. J. and Vickie Hill have performed an MSA in accordance with WWQRR, Chapter 17, Section 29.
 4. B. J. and Vickie Hill have upgraded the AST in accordance with WWQRR, Chapter 17.

Or

1. B. J. and Vickie Hill have paid the department \$100.00 and any additional late fees.
2. B. J. and Vickie Hill have filed a change of ownership form with the department.
3. B. J. and Vickie Hill have replaced the existing AST with an upgraded tank in accordance with WWQRR, Chapter 17.

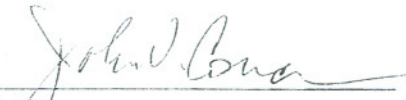
Or

1. B. J. and Vickie Hill have paid the department \$100.00 and any additional late fees.
2. B. J. and Vickie Hill have filed a change of ownership form with the department.
3. B. J. and Vickie Hill have removed the AST in accordance with WWQRR, Chapter 17.

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 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 25 day of FEB 2010.



John V. Corra
Director
Department of Environmental Quality



Carl Anderson, PhD
Administrator
Solid and Hazardous Waste Management 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.

cc. All American Fuels

JVC/CA/KH/OG