

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF)
VIOLATION AND ORDER ISSUED TO:)
)
Michael D. Marble)
Fontenelle Store)
HC 65)
Kemmerer, WY 83101)
)

DOCKET NUMBER: 4645-10

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Michael D. Marble owns and operates three aboveground storage tanks (ASTs) that are used to sell fuel retail at The Fontenelle Store, storage tank facility 0-005117, which is located at the Junction of Highway 372 and Road 311, near Kemmerer, Wyoming.
2. Michael D. Marble has not paid the annual tank fees for The Fontenelle Store since 2005.

Michell D. Marble has not performed a minimum site assessment (MSA) at The Fontenelle Store.

Michael D. Marble has not upgraded the retail ASTs located at The Fontenelle Store.
3. The DEQ has determined that the following violations of the Wyoming Environmental Quality Act (EQA) and Wyoming Water Quality Rules and Regulations (WWQRR) have occurred at The Fontenelle Store:

Count 1: Failure to Pay Annual Storage Tank Fees [WS 35-11-1420(b)]. As an owner of a storage tank, Mr. Marble is in violation of WS 35-11-1420(b), for failure to pay the annual storage tank fee for the calendar years 2006, 2007, 2008, 2009, and 2010.

Count 2: Failure to Conduct MSA [WWQRR Chapter 17, Section 29(a)(i)]. As owner of the ASTs, Mr. Marble is in violation of WWQRR Chapter 17, Section 29(a)(i), for failure to conduct an MSA at the facility.

Count 3: Failure to Upgrade ASTs [WWQRR Chapter 17, Section 35(o)]. As owner of the ASTs, Mr. Marble is in violation of WWQRR Chapter 17, Section 35(o), for failure to upgrade the ASTs by October 1, 2008.

4. Any person who violates any provision of the EQA, or any rule, standard, permit, license, or variance adopted there under, is liable for a penalty of ten thousand dollars (\$10,000.00) for each day of violation, which penalty may be recovered in a civil action brought by the Attorney General in the name of the people of Wyoming.
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. Michael D. Marble pay the department \$1,275.00 in back tank fees, which includes late fees.
2. Michael D. Marble return the facility into compliance with WWQRR, Chapter 17, Part I as described within 90 days of receipt of this NOV.
3. This is a Red Tagging Order. Immediately after receiving this Notice and Order, Michael D. Marble is hereby prohibited from purchasing any fuel for delivery to the registered retail ASTs at The Fontenelle Store, storage tank facility 0-005117, located at the Junction of Highway 372 and Road 31, near Kemmerer, 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. Michael D. Marble has paid the department \$1,275.00, which includes late fees.
2. Michael D. Marble has performed an MSA in accordance with WWQRR, Chapter 17, Section 29.
3. Michael D. Marble has upgraded the ASTs in accordance with WWQRR, Chapter 17, Part I.

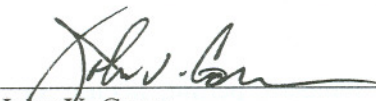
Or

1. Michael D. Marble has paid the department \$1,275.00, which includes late fees.
2. Michael D. Marble has abandoned the existing ASTs in accordance with WWQRR, Chapter 17 Section 31.

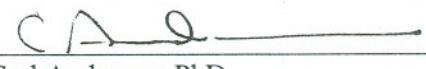
THIS ORDER is final unless, not later than ten (10) days after the date this notice is received, it is appealed by filing a written petition for a hearing before the Environmental Quality Council. If a hearing is requested, the petition shall be mailed to Chairman, Wyoming Environmental Quality Council, 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 1 day of July, 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. Red Horse Oil

JVC/CA/KH/OG