

10-5222

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF)
VIOLATION AND ORDER ISSUED TO:)
)
Cindy Esterbrook)
The Place)
HC 63 Box 6A)
Saratoga, WY 82331)
)

DOCKET NUMBER: 4778-10

FILED
DEC 21 2010
Jim Ruby, Executive Secretary
Environmental Quality Council

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Cindy Esterbrook owns and operates one aboveground storage tank (AST) that is used to sell fuel retail at The Place, storage tank facility 0-001186, which is located along Highway 130, near Saratoga, Wyoming.
2. Cindy Esterbrook has not fully upgraded the AST at The Place.

Cindy Esterbrook has not performed a minimum site assessment (MSA) at The Place.

Cindy Esterbrook has not performed an operator's annual inspection (OAI) at The Place.

The Place does not have a licensed Class A Storage Tank Operator.

The Place does not have a licensed Class B Storage Tank Operator.

3. The DEQ has determined that the following violations of Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, and the Storage Tank Act of 2007 have occurred at The Place:

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

Count 2: Failure to Perform an MSA [WWQRR, Chapter 17, Section 29(a)(i)]. As the owner of the AST, Cindy Esterbrook is in violation of WWQRR Chapter 17, Section 29(a)(i), for failure to perform an MSA by October 1, 2008.

Count 3: Failure to Perform an OAI [WWQRR, Chapter 17, Section 36(f)]. As the owner of the AST, Cindy Esterbrook is in violation of WWQRR, Chapter 17, Section 36(f) for failure to perform an OAI.

Count 4: Failure to Have a Licensed Class A Storage Tank Operator [WWQRR, Chapter 17, Section 46(a)]. The AST is not under the supervision of a licensed Class A Storage Tank operator, which is a violation of WWQRR, Chapter 17, Section 46(a).

Count 5: Failure to Have a Licensed Class B Storage Tank Operator [WWQRR, Chapter 17, Section 46(B)]. The AST is not under the direct supervision of a licensed Class B Storage Tank operator, which is a violation of WWQRR, Chapter 17, Section 46(B).

4. Any person who violates any provision of the Environmental Quality Act, or any rule, standard, permit, license, or variance adopted thereunder, 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. Cindy Esterbrook bring this facility into compliance with WWQRR, Chapter 17, as described within 270 days of receipt of this NOV.
2. This is a Red Tagging Order. Immediately after receiving this Notice and Order, Cindy Esterbrook is hereby prohibited from purchasing any fuel for delivery to the registered retail AST at storage tank facility 0-001186, The Place, located along Highway 130, near Saratoga, 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. The order will be lifted when:
 - a. Cindy Esterbrook has upgraded the AST in accordance with WWQRR, Chapter 17, Part I; has performed an MSA in accordance with WWQRR, Chapter 17, Section 29; has performed an OAI in accordance WWQRR, Chapter 17, Section 36(f); and has the AST under the direct supervision of a licensed Class B operator in accordance with WWQRR, Chapter 17, Section 46(b).

OR

- b. Cindy Esterbrook has permanently closed the existing AST in accordance with WWQRR, Chapter 17 Section 31(b).

OR

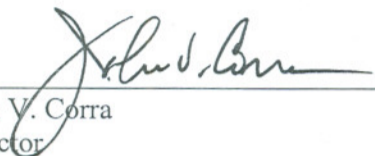
- c. Cindy Esterbrook has changed the service of the existing AST in accordance with WWQRR, Chapter 17 Section 33(c).

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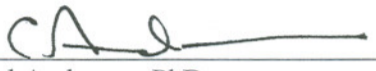
THIS ORDER is final unless, not later than ten (10) days after the date this notice is received, it is appealed by filing a written petition for a hearing before the Environmental Quality Council. If a hearing is requested, the petition shall be mailed to Chairman, Wyoming Environmental Quality Council, 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 17th day of December, 2010.



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.

cc. J.H. Kaspar Oil Company, P.O. Box 448, Rawlins, WY 82301

JVC/CA/KH/OG

