

AUG 24 2012

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

Jim Ruby, Executive Secretary
Environmental Quality Council

In the Matter of the Appeal of Notice of)
Violation and Order #4824-11 Issued to:)
Envirotank, Inc. (51.031)) Docket No. 11-5208A
P.O. Box 302)
Ft. Lupton, CO 80621)

JOINT STIPULATION TO MODIFY ORIGINAL JOINT STIPULATION AND ORDER

This case came before the Wyoming Environmental Quality Council (EQC) on Petitioner Envirotank, Inc.'s (Envirotank) appeal of Notice of Violation (NOV) & Order No. 4824-11 issued by Respondent Wyoming Department of Environmental Quality (DEQ) dated April 18, 2011. Sandra Kay Lange, Mildred Rae Broyles and Peggy A. Sullivan (Landowners / Intervenors) moved to intervene and their motion was granted. Envirotank, DEQ and Landowners / Intervenors are the only parties in this case before the EQC. Following the hearing, the parties reached a stipulated settlement of the matter documented in their Joint Stipulation filed May 7, 2012. The EQC entered an Order, filed May 16, 2012, approving, incorporating and binding the parties to their Joint Stipulation. Paragraph 1 of the Joint Stipulation states:

1. Following the EQC's entry of an Order approving this Joint Stipulation, but not later than September 1, 2012:

a) Envirotank shall remove all scrap tires and tire parts constituting the unassembled "fifth" windbreak at the Landowners' property and transport them to an authorized facility or some lawful alternative site approved in writing by the DEQ, and provide confirming documentation; and

b) Envirotank shall drill four (4) holes at least one inch in diameter and spaced approximately 90 degrees apart around the bottom / base (lowest portion) of each whole tire in the four remaining windbreaks and / or corrals at the Landowners' property. Each hole shall be drilled completely through the bottom / base of the tire and on through any abutting wall of the tire below it. Holes drilled in this manner should be sufficient to drain standing water that could provide mosquito habitat.

Envirotank gave notice to the Landowner and began remediation in accordance with the Joint Stipulation and Order, but encountered problems in executing the work as specified in ¶1(b). Envirotank has found it necessary to deconstruct the windbreaks/corrals in order to drill the holes through one sidewall and then reconstruct the windbreaks/corrals with the drilled sidewalls down. To

achieve the size of holes necessary for drainage, Envirotank is using a 1 ½ inch industrial drill bit. The use of this drill bit creates a large enough hole to drain the tires. Envirotank drills four (4) holes in the lower sidewall of each tire positioned such that, when restacked, the undrilled upper sidewall of the tire below will not obstruct drainage through the holes in the lower sidewall of the tire above.

The parties now stipulate and agree that ¶1 should be modified as follows:

1. Following the EQC's entry of an Order approving this Joint Stipulation, but not later than October 1, 2012:

a) Envirotank shall remove all scrap tires and tire parts constituting the unassembled "fifth" windbreak at the Landowners' property and transport them to an authorized facility or some lawful alternative site approved in writing by the DEQ, and provide confirming documentation. After Envirotank provides DEQ with such confirming documentation, DEQ will inspect the Landowners' property and provide written notice to the Landowners/Intervenors and Envirotank regarding Envirotank's compliance with the stipulated requirement to remove all scrap tires and tire parts constituting the unassembled "fifth" windbreak.

b) Envirotank shall deconstruct the windbreaks/corrals at the Landowners' property as necessary to drill holes through one sidewall of each whole tire, and then reconstruct the windbreak/corrals. Prior to reconstruction, Envirotank shall use a one and one-half inch (1 ½) industrial drill bit to drill four (4) holes per tire to allow for drainage.

After Envirotank completes the above-described process, DEQ will inspect the Landowners' property and provide written notice to the Landowners/Intervenors and Envirotank describing, to the extent feasible, Envirotank's compliance with the stipulated requirement to drill holes in the tires. The matter will be deemed closed unless the Landowners/Intervenors notify DEQ in writing by June 1, 2013 and/or June 1, 2014. Before June 1, 2013, the Landowners/Intervenors may inspect the windbreaks/corrals and notify DEQ and Envirotank if any of the tires are not draining. If DEQ is notified in writing by June 1, 2013, it will inspect any tires identified by the Landowners/Intervenors. Envirotank shall have the option of attending DEQ's inspection. If DEQ agrees that the tires are not properly draining, DEQ will notify Envirotank and Landowners / Intervenors in writing, and, if notified, Envirotank will drill additional holes in any identified tires to ensure adequate drainage. The Landowners/Intervenors can also inspect the windbreaks/corrals by June 1, 2014 and notify DEQ and Envirotank in writing if there is a

drainage issue. If the Landowners/Intervenors find a drainage issue by June 1, 2014, the above-described process will be repeated. If it is necessary for Envirotank to drill additional holes in 2014, the matter will be closed after Envirotank completes the additional holes. If the Landowners/Intervenors do not notify DEQ and Envirotank in writing of a drainage issue by June 1, 2013 and/or June 1, 2014 the matter is closed.

All other terms of the Joint Stipulation as approved by the EQC shall remain unchanged. Paragraph 8 of the Joint Stipulation provides that any modification of ¶1 agreed upon by the parties must also be approved by the EQC. Accordingly, the parties request that the EQC enter an order approving and incorporating this Joint Stipulation to modify the parties' original Joint Stipulation as specified herein.

DATED this 9th day of August, 2012.

FOR PETITIONER ENVIROTANK, INC.:

Soren J. Neethas

FOR RESPONDENT WYOMING
DEPT. OF ENVIRON. QUALITY:

John J. Guro

FOR INTERVENOR LANDOWNERS:

Heath A. Jantz

C. D. D.

APPROVED AS TO FORM:

FOR PETITIONER ENVIROTANK, INC.:

Soren J. Neethas

FOR RESPONDENT WYOMING
DEPT. OF ENVIRON. QUALITY:

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M. W. Banner

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