

11-5208A

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

FILED

MAY 02 2011

Jim Ruby, Executive Secretary
Environmental Quality Council

IN THE MATTER OF THE)
NOTICE OF VIOLATION & ORDER)
ISSUED TO:)
ENVIROTANK, INC. (51.031))
P.O. BOX 302)
FT. LUPTON, CO 80621)

Docket No. 4824-11

NOTICE OF VIOLATION AND ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Envirotank, Inc. operates a scrap tire processing facility located on Clarkelen Road approximately 14 miles south of Gillette in Campbell County.
2. Envirotank, Inc. is an active Wyoming corporation which initially filed with the Wyoming Secretary of State 12/26/2001 (Filing No. 2001-000428258).
3. "Envirotank, Inc." with an initial filing date of 12/26/2001 and Filing ID No. 2001-000428258 is the only listing for "Envirotank" in the Wyoming Secretary of State's online business entity database.
4. Envirotank, Inc.'s current principal office is located at 377 Clarkelen Rd. in Gillette, Wyoming and its current mailing address is P.O. Box 302, Ft. Lupton, Colorado 80621.
5. Michael J. Bulger is currently listed as Envirotank, Inc.'s President in the Wyoming Secretary of State's online database.
6. The only changes in the "History" of Envirotank, Inc. during 2006 listed in the Wyoming Secretary of State's online database are Changes for the Name and Address of its Registered Agent on 4/13/2006.
7. Scrap tires are "solid waste," which is defined in W.S. 35-11-103(d)(i) as including discarded materials resulting from industrial, commercial, agricultural or community activities.
8. Envirotank, Inc.'s scrap tire processing facility is a "solid waste management facility," which is defined in W.S. 35-11-103(d)(ii) as any facility for the transfer, treatment, processing, storage or disposal of solid waste.
9. W.S. 35-11-502(a) requires a permit from the Wyoming Department of Environmental Quality (DEQ), Solid & Hazardous Waste Division (SHWD) for Envirotank, Inc. to operate a solid waste management facility.
10. By letter addressed to Mr. John Hull, Envirotank, Inc., dated November 15, 2004, the DEQ/SHWD issued Solid Waste Operating Permit #51.031 authorizing Envirotank, Inc. to operate in compliance with the terms of the approved permit application received by DEQ October 20, 2004 and the conditions specified in the DEQ's November 15, 2004 permit letter.

11. The approved final permit application received by DEQ October 20, 2004 (dated July 15, 2004) describes the Envirotank, Inc. facility as "a tire processing facility" and gives the following details for Envirotank's "Operating Plan":

- o up to 30 "raw" tires held in inventory at any one time;
- o tires are slit into two pieces on a rotary table;
- o the lower pieces are sold to be used for stock watering tanks;
- o the upper portion, the sidewall or top, is sold "to be used in stacks" for livestock windbreaks;
- o the tops are sold in larger lots (a dozen or more) for windbreaks;
- o normally the facility stores up to 75 finished tanks and 200 finished tops.

12. Permit Condition #6 states that "as listed in the [July 15, 2004 final permit] application," not more than 30 "raw" tires, 75 finished tanks, and 200 tops shall be stored at the facility at any one time.

13. On April 3, 2006, DEQ received an Application for Permit Transfer to transfer the permit for the "Envirotank Inc., SHWD File #51-031 scrap tire processing" facility located at 377 Clarkelen Road, Gillette, from John Hull to Michael Bulger II, signed by both Transferor John D. Hull as "President" and Transferee Michael J.F. Bulger II as "Owner"

14. By letter dated April 19, 2006, DEQ approved the transfer from John Hull to Michael Bulger of Solid Waste Operating Permit #51-031 for Envirotank, Inc., as initially issued November 15, 2004, and gave notice that the new operator would be responsible for complying with the November 15, 2004 permit and with the terms of the permit application approved in that permit, and also with a new condition requiring the planting of trees to screen the facility.

15. Envirotank, Inc. remains the entity authorized by the April, 2006 permit transfer as requested by the parties to the transfer and as approved by the DEQ.

16. Neither the operating permit DEQ initially issued to Envirotank, Inc. dated November 15, 2004 nor DEQ's April 19, 2006 approval for the transfer of that permit authorized Envirotank, Inc. to deposit any whole scrap tires or tire parts, other than tire tanks or tire tops as described in Envirotank's approved application, at any location away from Envirotank's permitted facility (except at another permitted facility).

17. The Lange Trust owns rural property located at 227 Bell Road south of Gillette in Campbell County (the Lange Trust site).

18. Since approximately November, 2004 ("prior to the first tires being placed on the property"), the Lange Trust has leased the site to Mr. Brian Morgan for ranching operations.

19. At some time after November, 2004, the Lange Trust, through Ms. Sandra Kay Lange, agreed to let the Trust's Lessee, Mr. Brian Morgan, arrange to have two windbreaks built with tires placed on the Lange Trust site.

20. Based on information requested by DEQ/SHWD provided by Envirotank, Inc. and/or the Lange Trust, it appears that Envirotank, Inc. and the Lange Trust's Lessee, Mr. Brian Morgan:

- a) agreed to Envirotank, Inc.'s placement of a total of approximately 725 non-earth-filled whole tires of various sizes at the Lange Trust site between November, 2004 and November, 2007, of which approximately 350 whole tires were placed there after April 19, 2006; and

b) agreed to Envirotank, Inc.'s placement of a total of approximately 1,574 half tires to be used to make windbreaks and 50+ 'rings' at the Lange Trust site between November, 2004, and November, 2007, of which approximately 260 tire "tops" were placed there after April 19, 2006.

21. Envirotank, Inc.'s placement at the Lange Trust site between November, 2004 and November, 2007 of approximately 725 non-earth-filled whole tires of various sizes and any scrap tire materials other than the lower halves used for stock water tanks or the upper portions ("tops" or sidewalls) for use in stacks for windbreaks, was not authorized by Solid Waste Operating Permit 51.031, and was not exempted from the permit requirement, and therefore was in violation of Solid Waste Operating Permit 51.031 and W.S. 35-11-502(a).

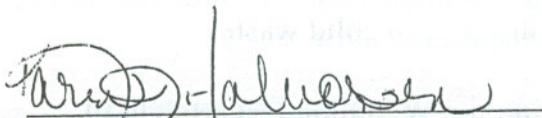
ORDER

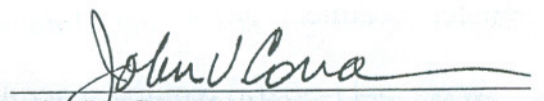
IT IS HEREBY ORDERED THAT:

1. Within 90 days from the date this NOV & Order are served, Envirotank, Inc. shall remove from the Lange Trust site all whole tires and tire parts that are not either the lower half of a whole tire used for stock watering tanks or the top half / sidewall of a whole tire for use in making livestock windbreaks, as described in Envirotank, Inc.'s approved final permit application dated July 15, 2004.
2. Envirotank, Inc. shall take all whole tires and tire parts removed from the Lange Trust site to a facility authorized to receive them.
3. Envirotank, Inc. shall obtain and provide DEQ/SHWD with copies of receipts and/or other signed documents specifying dates, name and location of receiving facilities, and numbers of whole tires and volume of tire parts in each shipment to confirm that all tires and tire parts Envirotank, Inc. removes from the Lange Trust site are taken to a facility authorized to receive them.

Under W.S. 35-11-701(c)(ii), this ORDER is final unless not later than ten (10) days after the date the notice is served, the person(s) named therein request, in writing, a hearing before the Wyoming Environmental Quality Council. The Request for Hearing shall be mailed by certified mail, return receipt requested, to the Chairman, Wyoming Environmental Quality Council, Room 1714 Herschler Building, 1st Floor West, 122 W. 25th Street, Cheyenne, WY 82002, with a copy mailed to the Director of the Wyoming Department Environmental Quality, Herschler Building, 4th Floor West, 122 W. 25th Street, Cheyenne, WY 82002.

DATED this 18 day of April, 2011.


for Carl Anderson, Ph.D.
Administrator,
Solid & Hazardous Waste Division


John V. Corra
Director,
Department of Environmental Quality