

BEFORE THE  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF )  
VIOLATION ISSUED TO: )

Robert Coe )  
Pahaska Teepee Resort Lodge )  
183 Yellowstone Highway )  
Cody, WY 82414 )

DOCKET NUMBER 3933-06

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. Pahaska Teepee Resort Lodge (Pahaska) owns and operates underground storage tank (UST) facility number 0-001790. This facility is located at 183 Yellowstone Highway, Cody, Wyoming. This facility has three composite steel USTs with single walled fiberglass reinforced plastic lines. Two of the USTs are 8,000 gallon USTs containing gasoline and diesel in 3 compartments, and one is a 1,000 gallon UST containing diesel to fuel an emergency power generator. All of the lines at this facility are double walled and are monitored for leaks using sump sensors. The sump sensors were last tested for functionality on March 17, 2004. Pahaska uses butterfly valves in the drop tubes to prevent overfills.

A routine inspection was conducted on August 22, 2006, at this facility. The only leak detection records available during that inspection were ATG records for August 2005, October 2005, and August 2006 for all three products; November and December 2005 for the unleaded and premium USTs; March, April and May 2006 for the premium UST; and July 2006 for the diesel and unleaded UST. Pahaska was also not performing inventory control as required. No suspected releases were reported, nor was there any documentation of investigations to determine if releases had occurred.

2. Pahaska failed to report and investigate suspected releases of a regulated substance in September 2005, and every month from November 2005 through July 2006. Pahaska failed to test the sump sensors for functionality when this test was due on March 17, 2005.

3. Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Section 16 (c)(i) and (ii), states: "(c) Automatic tank gauging (ATG). Equipment for automatic tank gauging which tests for the loss of a regulated substance shall detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains a regulated substance. Owners and/or operators using automatic tank gauging shall also: (i) conduct inventory control in conformance with paragraph (a)(i) of this section, unless: (A) the regulated substance is placed in the UST in batches of twenty five (25) gallons or less; (B) a passing result is obtained monthly from the automatic tank gauge with the tank at least 85% full; (C) the automatic tank gauge itself reconciles the inventory to the same levels as required by paragraph (a)(i) of this section; or (D) a method of equivalent performance to inventory control is also used. (ii) report a suspected release and follow the requirements of Section 19(c) of this chapter whenever: (A) Any calendar month goes by when a passing result cannot be obtained from the ATG sometime during the month; or (B) A pattern becomes evident that the ATG produces a failing result whenever the level of a regulated substance in the tank is high, even if passing results can be obtained when the level is low. (C) Inventory control fails for the second consecutive month."

WWQRR, Chapter 17, Section 19 (c), states: "Section 19. Reporting of Suspected Releases. Owners and/or operators of storage tank systems shall orally report to the department within twenty-four (24) hours all releases or suspected releases in accordance with Section 22 and follow the procedures of Section 22. Owners of sites where storage tanks were formerly

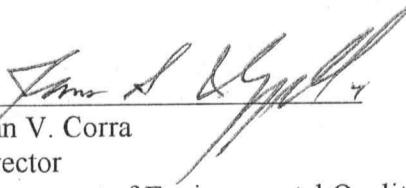
located shall also report within seven (7) days after discovering any new evidence of a release. These reports shall be made for any of the following conditions: (c) Monitoring results: Monitoring results from a release detection method required under Section 14 through 17 that indicate a release may have occurred unless the monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result."

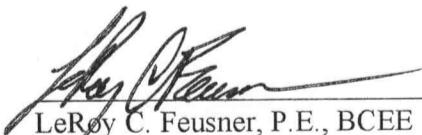
WWQRR, Chapter 17, Section 14 (g), states: "(g) Piping. Connected piping that routinely contains regulated substances shall be monitored for releases in a manner that meets one (1) of the following requirements: (i) Pressurized piping systems shall: (A) be monitored in accordance with Section 14(g)(i)(B) below. Whenever pressure systems have multiple dispensers hooked up to dispense product through a single meter, the pressurized piping between the first dispenser and the slave dispenser must also be monitored and tested; and (B) Be equipped with an automatic line leak detector in accordance with the following: Methods which alert the owner and/or operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm, may be used only if they detect leaks of three (3) gallons per hour at ten (10) pounds per square inch line pressure within one (1) hour. An annual test of the operation of the leak detector shall be conducted. Manufacturers are required to recommend procedures to be used for testing their own equipment, but all automatic line leak detectors shall be tested annually. No manufacturer shall recommend that its equipment not be tested nor interfere with the testing of its equipment in any way. In addition all underground pressurized piping shall: (1) have an annual line tightness test. A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at one and one-half (1 1/2) times the operating pressure. Tests performed by automatic systems are specifically allowed in meeting this requirement; or (2) be tested using any of the methods listed in Section 16(d), (e), (f), (g), (h) or (j). Methods not specifically named in these regulations shall be approved prior to use by the department, pursuant to Section 33, and that approval must state that the method will detect a leak in lines."

4. By failing to obtain a passing ATG result for each compartment of each tank for each month, Pahaska has violated WWQRR, Chapter 17, Section 16 (c)(ii). By failing to conduct inventory control, Pahaska has violated WWQRR, Chapter 17, Section 16 (c)(i). By failing to report and investigate suspected releases, Pahaska has violated WWQRR, Chapter 17, Sections 19(c). By failing to test the sump sensors for functionality, Pahaska has violated WWQRR, Chapter 17, Section 14(g).
5. This Notice is being sent to you pursuant to W.S. 35-11-701(c)(i), that 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.

NOTHING IN THIS NOTICE OF VIOLATION (NOV) shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this NOV be interpreted as being a condition precedent to any other enforcement action.

Signed this 5<sup>th</sup> day of October 2006.

  
John V. Corra  
Director  
Department of Environmental Quality

  
LeRoy C. Feusner, P.E., BCEE  
Administrator  
Solid and Hazardous Waste Management Division

PLEASE DIRECT ALL INQUIRES TO: Robert Lucht, P.E. & P.G. Storage Tank Program Compliance Supervisor at 122 West 25th Street, Fourth Floor, West Wing, Cheyenne, WY 82002, (307) 777-7095 or (307) 777-5973 FAX for technical matters.