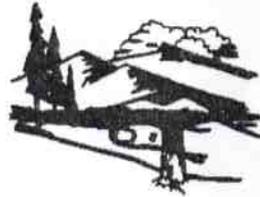




# Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

February 6, 2007

**CERTIFIED 7004 2890 0004 5120 3849**

Neil Broderick  
Kum & Go, L. C.  
6400 Westown Parkway  
Des Moines, IA 50266

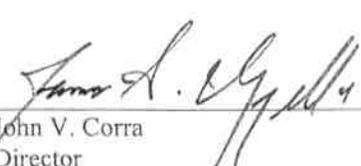
Dear Mr. Broderick:

Enclosed you will find a Notice of Violation, Docket Number **4014-07** issued under the provisions of W.S. 35-11-701(c). On December 13, 2006, this department conducted an inspection of UST facility 0-003475. During the inspection, there were no passing automatic tank gauging (ATG) records for the midgrade gasoline tank for June 2006. Inventory control (IC) records for the period September 2006 through November 2006 all showed failing results for the diesel tank. Inventory control (IC) records for the period April 2006 and May 2006 both showed failing results for the midgrade gasoline tank. A suspected release must be reported and investigated anytime ATG fails for any tank for an entire calendar month. A suspected release must be reported and investigated anytime IC records fail to balance within 1% of throughput plus 130 gallons for two consecutive months. No suspected releases were reported, nor was there any documentation of investigations to determine if releases had occurred.

When ATG is used as the leak detection method for any UST, a suspected release must be reported whenever ATG does not report a passing result for any calendar month. Whenever two consecutive months elapse without a passing result on IC, a suspected release must also be reported. No suspected releases have been reported for this facility during the time period in question. Furthermore, no documentation of any investigation to determine if releases had occurred at this facility has been provided.

Failure to properly conduct ATG and IC is a violation of Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Sections 16 (a), (c)(i) & (c)(ii). Failure to report and investigate suspected releases is a violation of WWQRR, Chapter 17, Sections 16 (c)(ii) and 19(c).

If you would like to resolve this matter through a stipulated settlement without the need to go to District Court, this department is willing to negotiate such a settlement. Please contact Robert Lucht at 777-7095, within thirty (30) days of your receipt of this letter to arrange a mutually agreeable meeting date for the purpose of negotiating the penalty amount.

  
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John V. Corra  
Director  
Department of Environmental Quality

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

Enclosure: Notice of Violation



BEFORE THE  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING

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

Neil Broderick )  
Kum & Go, L. C., d/b/a Kum & Go #956 )  
6400 Westown Parkway )  
Des Moines, IA 50266 )

DOCKET NUMBER 4014-07

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. Kum & Go, L. C., owns and operates underground storage tank (UST) facility number 0-003475, located at 215 East Lincolnway, Cheyenne, Wyoming. This facility, known as Kum & Go #956, consists of three USTs. Kum & Go, L. C., uses automatic tank gauging (ATG) and inventory control (IC) as its monthly UST leak detection methods.

On December 13, 2006, this department conducted an inspection of UST facility 0-003475. During the inspection, there were no passing automatic tank gauging (ATG) records for the midgrade gasoline tank for June 2006. Inventory control (IC) records for the period September 2006 through November 2006 all showed failing results for the diesel tank. Inventory control (IC) records for the period April 2006 and May 2006 both showed failing results for the midgrade gasoline tank. A suspected release must be reported and investigated anytime ATG fails for any tank for an entire calendar month. A suspected release must be reported and investigated anytime IC records fail to balance within 1% of throughput plus 130 gallons for two consecutive months. No suspected releases were reported, nor was there any documentation of investigations to determine if releases had occurred.

2. Kum & Go, L. C., failed to report and investigate suspected releases of a regulated substance in May 2006, June 2006, October 2006, and November 2006.
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."

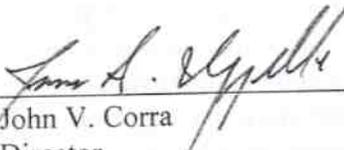
WWQRR, Chapter 17, Section 19 (c), states: "Section 19. Reporting of Suspected Releases. Owners and/or operators of storage tank systems shall orally report to the department within twenty-four (24) hours all releases or suspected releases in accordance with Section 22 and follow the procedures of Section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

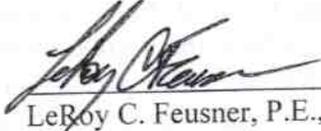
located shall also report within seven (7) days after discovering any new evidence of a release. These reports shall be made for any of the following conditions: (c) Monitoring results: Monitoring results from a release detection method required under Section 14 through 17 that indicate a release may 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."

4. By failing to obtain a passing automatic tank gauge result for each compartment of each tank for each month, and failing to perform inventory control, Kum & Go, L. C., has violated WWQRR, Chapter 17, Section 16 (c)(ii). By failing to conduct inventory control, Kum & Go, L. C. has violated WWQRR, Chapter 17, Section 16 (c)(i). By failing to report and investigate suspected releases, Kum & Go, L. C., has violated WWQRR, Chapter 17, Sections 19(c).
5. This Notice is being sent to you pursuant to W.S. 35-11-701(c)(i), which requires that in any case of 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 8<sup>th</sup> day of February 2007.

  
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John V. Corra  
Director  
Department of Environmental Quality

  
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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.