

BEFORE THE  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF )  
VIOLATION ISSUED TO: )  
 )  
Fresh Start Convenience Stores, Inc. )  
P. O. Box 1180 )  
Spearfish, SD 57783-1180 )  
 )

DOCKET NUMBER 4172-07

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. Fresh Start Convenience Stores, Inc. owns and operates underground storage tank (UST) facility number 0-000948, located at 522 Cleveland Street, Sundance, Wyoming. This facility, known as the Fresh Start Convenience Store #12, has three USTs. Two of the USTs contain gasoline and the other one contains diesel. Fresh Start Convenience Stores, Inc., uses automatic tank gauging (ATG) and inventory control (IC) as its monthly UST leak detection methods. The USTs are connected to pressurized steel lines that are monitored for leaks by mechanical line leak detectors (MLLDs) and by line tightness testing (LTT).

Between January 18, 2007 and October 2, 2007, the department sent six letters to Fresh Start Convenience Stores, Inc., informing them that an operator's annual inspection (OAI), MMLD function testing and LTT were due by March 31, 2007.

On August 24, 2007, a notice of inspection was sent to Fresh Start Convenience Stores, Inc., informing them that an inspection was to be conducted on September 28, 2007, at Fresh Start Convenience Store #12. The notice requested that all compliance records including ATG records, IC records, MLLD function testing records, cathodic protection testing records, and LTT records, be onsite at the time of inspection.

On September 28, 2007, this department conducted an UST inspection at Fresh Start Convenience Store #12. It was discovered that the only compliance records onsite were ATG reports dating back to January 2007. Also the OAI, MMLD function testing, and LTT had not been conducted since March 31, 2006.

2. Fresh Start Convenience Stores, Inc. failed to provide compliance records when requested by the department. Fresh Start Convenience Stores, Inc., failed to conduct an OAI when it was due. Fresh Start Convenience Stores, Inc., failed to conduct MLLD function testing when it was due. Fresh Start Convenience Stores, Inc., failed to conduct LTT when it was due.
3. Wyoming Statute (WS) 35-11-1422 (a) (i) states: "(a) When requested by an authorized agent of the state the owner or operator shall: (i) Provide information to determine compliance with the statutes and rules and regulations;"

Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Section 13 (e), states: "Operator's Annual Inspection. Storage tank system owners and/or operators shall provide an annual report of inspection for the entire facility. An annual inspection is to be conducted either by the owner, the operator, or a qualified consultant."

WWQRR, Chapter 17, Section 14 (g) states: "*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;"

4. By failing to provide compliance records when requested by the department, Fresh Start Convenience Stores, Inc., has violated WS 35-11-1422 (a) (i). By failing to perform an OAI when it was due, Fresh Start Convenience Stores, Inc., has violated WWQRR, Chapter 17, Section 13 (e). By failing to perform MLLD function testing when it was due, Fresh Start Convenience Stores, Inc., has violated WWQRR, Chapter 17, Section 14 (g) (i) (B). By failing to perform LTT when it was due, Fresh Start Convenience Stores, Inc., has violated WWQRR, Chapter 17, Section 14 (g) (i) (B) (1).
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 13th day of November 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.