

BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF)
VIOLATION ISSUED TO:)
)
Russ Gardner)
Gardner's Country Village)
1220 South Washington Street)
Afton, WY 83110)
)

DOCKET NUMBER 4298-08

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

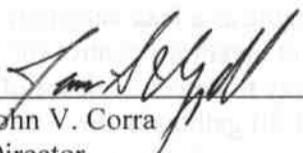
1. Russ Gardner, d/b/a Gardner's Country Village, owns and operates three underground storage tanks (USTs) located at 1220 South Washington Street, Afton, Wyoming. Mr. Gardner uses inventory control (IC) and automatic tank gauging (ATG) as the leak detection method for all three of these USTs. These USTs are registered as facility 0-004287. A compliance inspection was conducted by the department on June 3, 2008. During this inspection it was discovered that there were no passing ATG results for the #2 Diesel UST for August 2007, September 2007, October 2007, January 2008, March 2008, April 2008, or May 2008. There were no passing ATG results for the Premium Gasoline UST for August 2007. IC was not properly conducted for any of the tanks for the past 12 months.
2. Russ Gardner has failed to conduct leak detection on the diesel UST for 7 months, failed to conduct leak detection on the premium UST for 1 month, and has failed to conduct IC on any of the USTs for 12 months.
3. Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Section 16 (a) states: "(a) *Inventory control*. Inventory control is never acceptable as a leak detection method except when it is combined with another method. Product inventory control (or another test of equivalent performance) shall be conducted monthly to detect a release of at least 1.0 percent (1%) of throughput plus one hundred thirty (130) gallons in the following manner: (i) Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the UST shall be recorded each operating day; (ii) The equipment used shall be capable of measuring the depth of regulated substance over the full range of the USTs height to the nearest one-eighth (1/8) of an inch; (iii) The regulated substance inputs shall be reconciled with delivery receipts by measurement of the UST inventory volume before and after delivery; (iv) Deliveries shall be made through a drop tube that extends to within six (6) inches of the Storage Tank bottom; (v) Dispensing of regulated substances shall be metered and recorded within the local standards for meter calibration or an accuracy of six (6) cubic inches for every five (5) gallons of regulated substance withdrawn; and (vi) Water in the bottom of the UST shall be measured to the nearest one-eighth (1/8) of an inch at least once a month. (vii) Owners and/or operators using inventory control may combine this method with tank tightness testing at least every five (5) years until December 22, 2008, or until ten (10) years after the UST itself first met the requirements of Section 6(a), whichever is sooner; (viii) Owners and/or operators using inventory control shall report a suspected release under Section 19(c) of this chapter whenever: (A) The inventory control fails to balance within 1.0 percent (1%) of total throughput plus one hundred thirty (130) gallons for the second consecutive month; (B) More than 20 daily readings are either positive or negative for the second consecutive month; or (C) A graph of the daily over/short readings shows a consistent non-zero trend for two (2) consecutive months."

WWQRR, Chapter 17, Section 16 (c) states: "(c) *Automatic tank gauging (ATG)*. Equipment for automatic tank gauging that 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) of this section, unless: (A) the regulated substance is placed in the UST in batches of twenty-five (25) gallons or less; (B) the tank is used only to fuel an emergency power generator; (C) a passing result is obtained monthly from the Automatic Tank Gauge with the tank at least 85% full; (D) the automatic tank gauge itself reconciles the inventory to the same levels as required by paragraph (a)(i) of this section; or (E) 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."

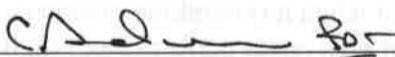
4. By failing to properly conduct IC, Russ Gardner, d/b/a Gardner's Country Village, has violated Chapter 17, Section 16 (a). By failing to properly conduct ATG, Russ Gardner, d/b/a Gardner's Country Village, has violated Chapter 17, Section 16 (c).
5. This Notice is being sent to you pursuant to W.S. 35-11-701(c)(i), which requires that in any case of 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 25th day of JUNE, 2008



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.

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