

BEFORE THE  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING

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

Tim Lakers )  
Kum and Go, L. C. )  
6400 Westown Parkway )  
West Des Moines, IA 50266 )  
)

DOCKET NUMBER 4317-08

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. Kum and Go, L. C. (K&G) owns and operates four Underground Storage Tanks (USTs) located at 1617 South Greeley Highway in Cheyenne, Wyoming. K&G does business at this location as Kum & Go #955 and has registered the USTs as facility 0-000039. K&G conducted an Operator's Annual Inspection (OAI) on June 4, 2008, one month late. An OAI is required by Chapter 17, Section 13 (e), Wyoming Water Quality Rules and Regulations (WWQRR). When this inspection was reported to the department, the last 12 month's leak detection records were submitted as required. The reported results show that Statistical Inventory Reconciliation (SIR) failed for the unleaded gasoline UST for May 2008. A suspected release was not reported and no investigation was made.

An inspection was conducted by the department on July 7, 2008. During that inspection, it was discovered that there was no drop tube in one of the tanks. In order to conduct SIR, K&G must first meet the requirements for inventory control. Conducting inventory control properly requires that a drop tube be present in every tank. The south unleaded gasoline tank was missing the drop tube, which was reported to K&G during the OAI. The drop tube was still missing during the inspection on July 7, 2008. The missing drop tube was brought to the attention of K&G during an inspection conducted by the department on December 29, 2004, and again on November 27, 2007.

2. K&G failed to report a suspected release and failed to investigate that suspected release when SIR failed for the unleaded gasoline UST for May 2008. K&G was also operating the south unleaded gasoline UST without a drop tube.
3. WWQRR, Chapter 17, Section 20 states: "Release Investigation and Confirmation for Eligible Owners and/or Operators. Owners and/or operators of storage tanks who are eligible for cleanup under the Corrective Action Account shall immediately investigate and confirm all suspected releases of regulated substances requiring reporting under Section 19 within seven (7) days of detection as follows: (a) System test. Owners and/or operators shall conduct tests, according to the requirements for tightness testing in Section 14 (g) and Section 16 (b,) that determine whether a leak exists in that portion of the storage tank system that routinely contains a regulated substance. Owners and/or operators of all storage tanks shall also audit one year's inventory control required by Section 16(a) or 36(e). (i) Owners and/or operators shall repair, replace, or permanently close the storage tank system if the test results for the system, tank, or delivery piping indicate that a leak exists.

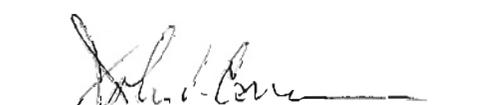
(ii) Owners and/or operators shall also conduct a thorough audit of all of their leak detection methods for the preceding year. This audit shall be performed by a qualified third party, employed for this purpose by the owner and/or operator. In the event that the audit indicates a pattern of releases over several months, then the department will accomplish the site check as described in Section 20 (c). (iii) Further investigation is not required if the test results for the system, tank, delivery piping and the audit do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release. (b) Further Action. If the test results required under Section 20 (a) do not indicate a release, but environmental contamination is the basis for suspecting a release, the department will accomplish the site check as required under Section 20 (c) and all other required Part E activities, as determined by the administrator."

WWQRR, Chapter 17, Section 16 (a) (iv), states: "Petroleum UST Systems with a capacity of more than 2,000 gallons shall be monitored at least every thirty (30) days for releases using one or more of the following methods: (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: (iv) Deliveries shall be made through a drop tube that extends to within one (1) foot of the UST bottom."

4. By failing to report and investigate a suspected release when SIR failed for the unleaded gasoline UST in May 2008, K&G has violated WWQRR, Chapter 17, Section 20 (a) and (b). By operating an unleaded gasoline UST without a drop tube when SIR is the leak detection method, K&G has violated WWQRR, Chapter 17, Section 16 (a) (iv).
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 30th day of JULY, 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.

JVC/LCF/KH/RFL: