

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

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

Fred and Colleen Nelson)
Kinnear Store, Inc.)
11519 Highway 26)
P. O. Box 7)
Kinnear, WY 82516)

DOCKET NUMBER: 4428-09

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Kinnear Store, Inc. owns and operates three underground storage tanks (USTs) located at 11519 Highway 26, Kinnear, Wyoming. Kinnear Store, Inc. does business as Kinnear Store, and has registered these tanks as facility 0-001859. All three of these tanks are steel tanks equipped with an impressed current system for cathodic protection. On September 23, 2005, TTT Inc. performed a cathodic protection test on the sacrificial anodes on these tanks. The cathodic protection test is required to be repeated once every three years. No test has been done since September 23, 2005, and the test has been overdue since September 23, 2008. On July 23, 2008, September 5, 2008, October 10, 2008, December 23, 2008, January 12, 2009, and February 11, 2009, Kinnear Store, Inc. was notified in writing that the test was due September 23, 2008. On August 10, 2008, a compliance inspection was conducted at Kinnear Store, Inc. The report for that inspection also stated that the cathodic protection test was due September 23, 2008.

All three of the tanks at Kinnear Store are connected to U.S. Suction lines. U.S. Suction lines are required to be pressure tested once every three years. The U.S. Suction lines were last tested September 23, 2005, and were required to be pressure tested on or before September 23, 2008. Kinnear Store was notified that the test was due by letter on July 31, 2008, and December 23, 2008. This requirement was also mentioned in the inspection report for the inspection conducted on August 10, 2008.

Kinnear Store, Inc. purchases the fuel it sells from Red Eagle Oil Company, P.O. Box 2468, Cody, WY 82414. The contact person for Red Eagle Oil Company is Juli Hinze.

2. Kinnear Store, Inc. failed to have the cathodic protection system on three USTs tested when that test was due on September 23, 2008. Kinnear Store, Inc. failed to have the U.S. Suction lines pressure tested when that test was due on September 23, 2008.
3. Wyoming Water Quality Rules and Regulations (WWQRR), Section 11 states: "Section 11. *Operation and Maintenance of Corrosion Protection (CP)*. All owners and/or operators of steel storage tank systems with CP shall comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the

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storage tank system is used to store regulated substances: (b) Periodic Inspections. All storage tank systems equipped with CP systems shall be inspected for proper operation by a qualified CP tester in accordance with the following requirements: (i) All CP systems shall be tested within six (6) months of installation and at least once every three (3) years thereafter. (ii) The criteria that are used to determine that CP is adequate shall be in accordance with the NACE Standard RP0285-2002, 'Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems'."

WWQRR, Section 14 (g) (ii) states: "(ii) A U.S. Suction system is a system of underground piping which conveys a regulated substance using suction and which has more than one check valve in the line. All U.S. Suction systems shall: (A) have a line tightness test performed once every three (3) years. 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; or (B) be tested using any of the methods listed in Section 16 (d), (e), (f), (g) or (j). Methods not specifically named in these regulations may be used if they are approved prior to use by the department, pursuant to Section 33 and that approval must state that the method will detect a leak in the lines."

WWQRR, Chapter 17, Section 44 (a) (ii) and (iv) states: "Section 44. **Prohibition of Deliveries** (a) *Reasons for Restricting Delivery*. Prohibition of delivery of regulated substances to a storage tank system shall be required when the department becomes aware that: (ii) The most recently required cathodic protection test has not been done within ninety (90) days of the date when due under Section 11(b) of this chapter. (iv) The most recently required pressure test of the lines has not been done as required under Sections 14(g)(i)(B) or Section 14(g)(ii) of this chapter (as applicable) within sixty (60) days of the date due."

4. By failing to have the cathodic protection system tested when it was due on September 23, 2008, Kinnear Store, Inc. has violated WWQRR, Chapter 17, Section 11 (b) (i). By failing to have the U.S. Suction lines pressure tested when due on September 23, 2008, Kinnear Store, Inc. has violated WWQRR, Chapter 17, Section 14 (g) (ii).
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.

ORDER

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL-STATE OF WYOMING

WHEREFORE IT IS HEREBY ORDERED THAT:

1. This is a Red-Tagging Order. Immediately after receiving this Notice and Order, Kinnear Store, Inc. is prohibited from purchasing any fuel for delivery to any of the three tanks registered under facility 0-001859, located at 11519 Highway 26 Street in Kinnear, Wyoming. Red Eagle Oil Company is ordered not to deliver any fuel to this location until notified by the department that this order has been lifted.
2. When Kinnear Store, Inc. provides a copy of a cathodic protection test that passes and is current, and documentation that shows that the U.S. Suction lines have been pressure tested, then the department will notify it that the Red-Tag has been lifted and Kinnear Store Inc. may purchase fuel again. The department will also notify Red Eagle Oil Company.
3. Within thirty (30) days of receipt of this Notice and Order, Kinnear Store, Inc. shall

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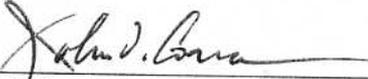
perform the cathodic protection test on all three of the tanks at 11519 Highway 26 Street in Kinnear or notify the department of a date when all of these tanks will be removed.

4. Within thirty (30) days of receipt of this Notice and Order, Kinnear Store, Inc. shall have the U.S. Suction lines pressure tested.
5. Within thirty (30) days of receipt of this Notice and Order, the recipient shall submit to this department a written description of actions that have or will be taken to implement the items above.

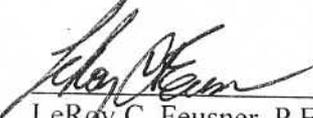
THIS ORDER is final unless, not later than ten (10) days after the date this notice is received, it is appealed by filing a written petition for a hearing before the Environmental Quality Council. If a hearing is requested, the petition shall be mailed to Thomas Dunn, Chairman, Wyoming Environmental Quality Council, Room 1714 Herschler Building, 1st Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. The second petition shall be mailed to the Director, Wyoming Department of Environmental Quality, Herschler Building, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. Both petitions must be sent by certified mail, return receipt requested.

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

ORDERED this 24th day of February, 2009.



John V. Corra
Director
Department of Environmental Quality



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

xc: Juli Hinze, Red Eagle Oil Company, P.O. Box 2468, Cody, WY 82414

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