

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

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

Dennis Clark)
Jackson Lumber, Inc.)
130 South Gros Ventre)
P. O. Box 1789)
Jackson, WY 83001)

DOCKET NUMBER: 4429-09

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. Jackson Lumber, Inc. owns and operates one (1) underground storage tank (UST) located at 130 South Gros Ventre, Jackson, Wyoming. Jackson Lumber, Inc. has registered this tank as facility 0-005038. Jackson Lumber, Inc. has registered this tank using Manual Tank Gauging (MTG) as its leak detection method for the tank. The tank is a composite fiberglass reinforced plastic double wall tank, but there is no monitoring equipment on site for the interstitial space. The tank is equipped with exempt suction lines, so the tank leak detection requirement is the only requirement that Jackson Lumber, Inc. must meet.

Jackson Lumber, Inc. purchases its fuel from Conrad and Bischoff, Inc., P. O. Box 12529 Jackson, WY 83002. The contact person for Conrad Bischoff is Kevin Lee.

2. Jackson Lumber, Inc. has failed to provide leak detection for the tank located at 130 South Gros Ventre, Jackson, Wyoming for more than a year. Jackson Lumber, Inc. has also not conducted an operator's annual inspection for more than a year.
3. Wyoming Water Quality Rules and Regulations (WWQRR), Section 13 (e) (v) states: "(e) *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. The inspector shall meet all of the qualifications as a CP tester if he or she inspects a CP system. This inspection shall: (v) provide an annual summary for all inventory control calculations, statistical inventory reconciliation reports, or other leak detection methods which shows compliance for each month of the preceding year. Records of the operation of all leak detection systems for the past three (3) years are required to be kept."

Wyoming Water Quality Rules and Regulations (WWQRR), Section 13 (e) (vi) states: "(vi) include a physical inspection of all sumps, manholes, dispensers, and other openings provided on the storage tank system. Any leaks found shall be immediately eliminated."

WWQRR, Section 15 (a) states: "(a) *Manual tank gauging.* Manual tank gauging shall meet the following requirements: (i) Tank liquid level measurements shall be taken at the beginning and ending of a period of at least thirty-six (36) hours during which no liquid is added to or removed from the tank; (ii) Level measurements shall be based on an average of two (2) consecutive stick readings at both the beginning and end of the period; (iii) The equipment used shall be capable of measuring the depth of the regulated substance over the full range of the USTs height to the nearest one-eighth (1/8) of an inch; (iv) A suspected release shall be declared and the

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requirements of Part E shall be followed if the variation between beginning and ending measurements exceeds the weekly or monthly standards in Table 1;

TABLE 1
MANUAL TANK GAUGING VARIATION STANDARDS

Nominal Tank Capacity		Weekly Standard (one test)	Monthly Standard (average of four tests)	Minimum Test Duration Hours*
If Manual Tank Gauging is the ONLY leak detection method used:				
	550 gallons or less	10 gallons	5 gallons	36
	551-1,000 gallons (when the tank is 64" x 73" or less)	9 gallons	4 gallons	44
	1,000 gallons (if tank is 48" x 128")	12 gallons	6 gallons	58
If Manual Tank Gauging is combined with tank tightness testing:				
	1,001-2,000 gallons	26 gallons	13 gallons	36

* Nothing can be added to or removed from the UST for the duration of the test."

WWQRR, Chapter 17, Section 44 (a) (ii) and (xv), 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: (i) The owner and/or operator has not performed leak detection on the tanks as required in Part D of this chapter for any period exceeding sixty (60) days. (xv) The operator's annual inspection has not been performed, as required by Section 13(e) or Section 36(f) of this chapter, within ninety (90) days of the date when due."

4. By failing to perform an Operator's Annual Inspection when it was due, Jackson Lumber, Inc. has violated WWQRR, Chapter 17, Section 13 (e) (v) and (vi). By failing to perform Manual Tank Gauging for more than one year, Jackson Lumber, Inc. has violated WWQRR, Chapter 17, Section 15 (a).
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, Jackson Lumber, Inc. is prohibited from purchasing any fuel for delivery to the tank registered under facility 0-005038, located at 130 South Gros Ventre, Jackson, Wyoming. Conrad and Bischoff, Inc. is ordered not to deliver any fuel to this location until notified by the department that this order has been lifted.
2. When Jackson Lumber, Inc. notifies the department of a date when an automatic tank gauge will be installed, complete with interstitial monitoring for the double wall tank, the department will notify Dennis Clark that the Red-Tag has been lifted and he may purchase fuel again. The department will also notify Conrad and Bischoff, Inc.
3. Within thirty (30) days of receipt of this Notice and Order, Jackson Lumber, Inc. shall perform an operator's annual inspection of the tank at 130 South Gros Ventre in Jackson or notify the

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department of a date when these tanks will be removed.

4. 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.

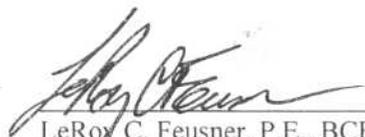
THIS ORDER is final unless, not later than ten (10) days after the date this notice is received, it is appealed by filing a written petition for a hearing before the Environmental Quality Council. If a hearing is requested, the petition shall be mailed to Thomas Dunn, Chairman, Wyoming Environmental 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 3rd day of MARCH, 2009.



John V. Corra
Director
Department of Environmental Quality



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

xc: Kevin Lee, Conrad and Bischoff, Inc., PO Box 42529, Jackson, WY 83002

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