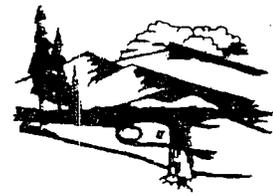




# Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

Wednesday, April 3, 2009

Certified #7008 0150 0001 1173 8736  
Return Receipt Requested

Mr. Roger King, Vice President  
BTI Of Kemmerer  
P.O. Box 350  
Kemmerer, WY 83101

**RE: Issuance of Notice of Violation**

Dear Mr. King,

Enclosed is a Notice of Violation (NOV) issued to your facility for violations of the Wyoming State Solid and Hazardous Waste Rules and Regulations (SHWRR).

On February 23, 2009, the Wyoming Department of Environmental Quality (WDEQ), Solid and Hazardous Waste Division (SHWD), personnel Mr. Charles Plymale and Mr. Gary Keene, conducted an inspection of the BTI facility in Kemmerer, WY. The purpose of this inspection was to evaluate compliance with the Wyoming Solid and Hazardous Waste Rules and Regulations (SHWRR), and to investigate a complaint the department received about the illegal disposal of used oil.

The following violations of the Wyoming Solid and Hazardous Waste Rules and Regulations (SHWRR) were identified during this inspection:

Count 1: The containers, above ground tanks, and UST fill pipes are not labeled or clearly marked with the words "Used Oil". [HWRR, 12, Section 11(c)(iii)] There were used oil containers that were not properly labeled with the wording, "Used Oil". All used oil containers must be labeled with the wording, "Used Oil".

Count 2: The facility was unable to provide adequate evidence that the generator took the required steps to stop the release. [HWRR, 12, Section 11(c)(iv)(A)] The facility was disposing of used oil in a shop sump which was then allowed to flow into a retention pond located on the east side of the property. Used oil collection containers were observed to be draining into a shop sump, and used oil storage tanks allowed to overflow into the shop sump.

Count 3: The facility was unable to provide adequate evidence that the generator took the required steps to contain the release. [HWRR, 12, Section 11(c)(iv)(B)] The facility did not contain the released used oil and allowed the used oil to be disposed into a shop sump which then flowed into a retention pond located on the east side of the facility.



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Herschler Building • 122 West 25th Street • Cheyenne, WY 82002 • <http://deq.state.wy.us>

|  |   |   |   |  |  |   |
|--|---|---|---|--|--|---|
| ADMIN/OUTREACH<br>(307) 777-7937<br>FAX 777-3610 | ABANDONED MINES<br>(307) 777-6145<br>FAX 777-6462 | AIR QUALITY<br>(307) 777-7391<br>FAX 777-5616 | INDUSTRIAL SITING<br>(307) 777-7369<br>FAX 777-5973 | LAND QUALITY<br>(307) 777-7756<br>FAX 777-5864 | SOLID & HAZ. WASTE<br>(307) 777-7752<br>FAX 777-5973 | WATER QUALITY<br>(307) 777-7781<br>FAX 777-5973 |
|--|---|---|---|--|--|---|



Count 4: The facility was unable to provide adequate evidence that the generator took the required steps to clean up and properly manage the released used oil and other materials. [HWRR, 12, Section 11(c)(iv)(C)] The facility did not clean up or properly manage the released used oil. The inspectors observed a large volume of used oil floating on the surface of the retention pond located on the east side of the property.

Count 5: The facility does not have a permit or one-time authorization to manage wastes at this location. [SWRR, Chapter 1, Section 1(f)] The facility does not have a solid waste permit to manage wastes at this location.

Count 6: The open-topped tanks, containers or ponds are not designed and constructed with the required netting. [SWRR, Chapter 6, Section 4(a)(x)(D)] The pond does not have the required netting to prevent access by migratory birds. Documentation from June 3, 2008, provided by the United States Fish & Wildlife (USF&W), confirms that migratory birds have had access to the pond.

The above violations must be corrected in a manner approved by WDEQ, within ninety (90) days of receipt of this NOV.

Due to the seriousness of the above violations, the department has also determined to seek a penalty. If you would like to discuss voluntary settlement or need clarification, please contact Bob Breuer at (307) 473-3454, or Charles Plymale at (307) 335-6951.

Sincerely,



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

Enclosure: NOV Docket #4472-09

cc: Bob Breuer, Program Manager, WDEQ/SHWD, Casper  
Tim Link, WDEQ/SHWD, Cheyenne  
Charles Plymale, WDEQ/SHWD, Lander  
Linda Jacobson, USEPA, Region 8, Denver, CO

**BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING**

IN THE MATTER OF THE  
NOTICE OF VIOLATION  
ISSUED TO:

BTI OF KEMMERER  
P.O. BOX 350  
408 N. ALLMAN ROAD  
KEMMERER WY 83101

)  
)  
) DOCKET NO.4472-09  
)  
)

**NOTICE OF VIOLATION**

NOTICE IS HEREBY GIVEN THAT:

1. On February 23, 2009, the Wyoming Department of Environmental Quality (WDEQ), Solid and Hazardous Waste Division (SHWD), personnel Mr. Charles Plymale and Mr. Gary Keene, conducted an inspection of the BTI facility in Kemmerer, WY. The purpose of this inspection was to evaluate compliance with the Wyoming Solid and Hazardous Waste Rules and Regulations (SHWRR), and to investigate a complaint the department received about the illegal disposal of used oil.

2. The following violations of the Wyoming Solid and Hazardous Waste Rules and Regulations (SHWRR) were identified during this inspection:

Count 1: The containers, above ground tanks, and UST fill pipes are not labeled or clearly marked with the words "Used Oil". [HWRR, 12, Section 11(c)(iii)] There were used oil containers that were not properly labeled with the wording, "Used Oil". All used oil containers must be labeled with the wording, "Used Oil".

Count 2: The facility was unable to provide adequate evidence that the generator took the required steps to stop the release. [HWRR, 12, Section 11(c)(iv)(A)] The facility was disposing of used oil in a shop sump which was then allowed to flow into a retention pond located on the east side of the property.

Count 3: The facility was unable to provide adequate evidence that the generator took the required steps to contain the release. [HWRR, 12, Section 11(c)(iv)(B)] The facility did not contain the released used oil and allowed the used oil to be disposed of in a shop sump which then flowed into a retention pond located on the east side of the facility.

Count 4: The facility was unable to provide adequate evidence that the generator took the required steps to clean up and properly manage the released used oil and other materials. [HWRR, 12, Section 11(c)(iv)(C)] The facility did not clean up or properly manage the released used oil. A large volume of used oil was allowed to remain floating on the surface of a retention pond located on the east side of the property.

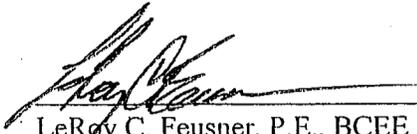
Count 5: The facility does not have a permit or one-time authorization to manage wastes at this location. [SWRR, Chapter 1, Section 1(f)] The facility does not have a solid waste permit to manage wastes at this location.

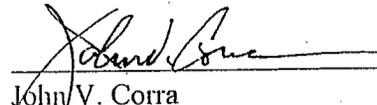
Count 6: The open-topped tanks, containers or ponds are not designed and constructed with the required netting. [SWRR, Chapter 6, Section 4(a)(x)(D)] The pond does not have the required netting to prevent access by migratory birds. Documentation from June 3, 2008, provided by the United States Fish & Wildlife (USF&W), confirms that migratory birds have had access to the pond.

3. ANY PERSON who violates any provision of the Environmental Quality Act, or any rules, standard, permit, license, or variance adopted thereunder, is liable to a penalty of ten thousand dollars (\$10,000) for each day of violation, which penalty may be recovered in a civil action brought by the Attorney General in the name of the People of the State of Wyoming; and

4. THIS NOTICE OF VIOLATION is being sent to you pursuant to Wyoming Statute 35-11-701(c), 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.

Signed this 6th day of April, 2009

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

  
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John V. Corra  
Director  
Dept. of Environmental Quality