

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF)
VIOLATION AND ORDER ISSUED TO:)
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Dave Groustra & Brent Beeman)
High Country Sportsman, LLC)
4478 South Alkire Street)
Morrison, CO 80465)
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DOCKET NUMBER: 4474-09

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. High Country Sportsman, LLC owns and operates seven (7) underground storage tanks (UST) located at 1561 Snowy Range Road, Laramie, WY 82070. High Country Sportsman, LLC registered these tanks as facility 0-002954. High Country Sportsman, LLC has not paid the fees required by the Wyoming Water Quality Rules and Regulations, Chapter 17, Section 9(c), which requires the payment of an annual fee to be paid by January 1 of each year. The fees begin on the date when the tank is first filled with a regulated substance and end on the date when the tank is placed permanently out of service or converted to a non-regulated use under these regulations. The most recent fee transaction was on July 11, 2007, when High Country Sportsman, LLC paid \$700.00. Since then, \$2,800.00 in tank fees for calendar years 2008 and 2009, plus \$1,400.00 in late fees have accrued, for a total of \$4,200.00.

Cathodic protection on these seven (7) tanks is provided by an impressed current system. The impressed current system was due to be tested by a cathodic protection tester no later than April 21, 2009. High Country Sportsman, LLC was notified that this test was due on April 21, 2009, by letters dated January 26, 2009, February 22, 2009, and April 3, 2009. This test has not yet been done.

During an inspection conducted by this department on January 15 and 16, 2009, the center submersible pump sump in the west basin was discovered to be actively leaking diesel fuel at the rate of a drip every six seconds. A pool of diesel fuel lay in the bottom of the sump. It is not known how long fuel had been leaking from the pump. The sumps are skirted and open at the bottom, consequently, the soil at the base of the sump is saturated with diesel fuel.

2. Under the provisions of Wyoming Water Quality Rules and Regulations, Chapter 17, Sections 20(a)(ii) and 21(a)(ii), when environmental contamination (as noted above) is the basis for suspecting a release, owners and/or operators shall conduct a thorough audit of all leak detection methods for the preceding year. The audit shall be performed by a qualified third party, employed for this purpose by the owner and/or operator.

High Country Sportsman, LLC was required to perform this audit and provide the original report of this audit to the department by February 27, 2009. High Country Sportsman, LLC has not performed this audit.

Because the storage tank fees have not been paid, the site is not eligible for clean up under the Corrective Action Account.

High Country Sportsman, LLC maintains current year inventory control records on site. The records for previous years are kept in Colorado. Under the provisions of the Wyoming Water Quality Rules and Regulations, Chapter 17, Section 13(d), the required records shall be kept at the

storage tank site and be immediately available for inspection, or they may be kept at a readily available alternative site within the State of Wyoming (emphasis added). Maintaining past year records in Colorado is a violation of this regulation. This violation was initially noted in an inspection conducted by the department on March 9, 2007, and again in an inspection conducted on January 15 and 16, 2009.

3. W.S. 35-11-1425 states: "(a) On or before January 1 of each year the owner of a tank shall pay a fee to the department of two hundred dollars (\$200.00) per tank owned, except the owner of an aboveground storage tank subject to this section that holds five thousand (5,000) gallons or less shall pay a fee of fifty dollars (\$50.00) per tank owned. This fee shall be deposited in the corrective action account. (b) On April 1 of each year the department may assess a late payment fee of one hundred dollars (\$100.00) per tank or contaminated site against any owner who has not paid the annual fee required pursuant to subsection (a) of this section. This late fee shall be paid by the owner and shall be in addition to the annual fee required pursuant to subsection (a) of this section and shall be deposited in the department's corrective action account."

Wyoming Water Quality Rules and Regulations (WWQRR), Section 11 (b) and (c), states: *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." (iii) All CP systems shall be tested within six months of any repair or substantial modification to the storage tank system, or any other installation on the facility requiring excavation, in accordance with NACE Standard RP0285-2002. (c) *Impressed Current Systems* Storage tank systems with impressed current CP systems shall also be inspected by the owner and/or operator every sixty (60) days to ensure the equipment is running properly. The owner and/or operator shall make a record of these inspections, including the date of the inspection, the voltage reading on the rectifier, the amperage reading on the rectifier, and the hour reading on a properly connected hour meter showing how long the system has operated since the last inspection. The owner and/or operator shall compare those readings to the readings determined to be correct during the last inspection required under paragraph (b) of this section. Large changes in the voltage or amperage readings, or zero readings, shall be investigated by the owner and/or operator.

Wyoming Water Quality Rules and Regulations (WWQRR), Section 13 (d), states: "*Availability and maintenance of records.* Owners and/or operators of UST systems shall keep the records required either: (i) At the storage tank site and immediately available for inspection by the department; or (ii) At a readily available alternate site and be provided for inspection to the department, upon request. The readily available alternative site shall be within the boundaries of the State of Wyoming. If records are to be kept at an alternate site, the department shall be notified in writing of the name, address and telephone number for that alternate facility."

WWQRR, Chapter 17, Section 19(a), states: "**Reporting of Suspected Releases.** Owners and/or operators of storage tank systems shall orally report to the department within twenty-four (24) hours all releases or suspected releases in accordance with Section 22 and follow the procedures of Section 22. Owners of sites where storage tanks were formerly located shall also report within seven (7) days after discovering any new evidence of a release. These reports shall be made for any of the following conditions: (a) *Released Regulated Substances:* The discovery by owners and/or operators or others of released regulated substances at the storage tank site or in the surrounding area (such as the presence of free product or vapors in soils, basements, utility lines, nearby surface water and/or groundwater)."

WWQRR, Section 21 (a) (ii), states: "(ii) When environmental contamination is the basis for suspecting a release, 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, owners and/or operators shall conduct a site check as described in Section 20(c)."

4. By failing to pay the storage tank fees for calendar years 2008 and 2009, High Country Sportsman has violated W.S. 35-11-1425. By failing to keep records within the State of Wyoming, High Country Sportsman, LLC has violated Chapter 17, WWQRR, Section 13 (d). By failing to respond to a confirmed release, High Country Sportsman, LLC has violated Chapter 17, WWQRR, Section 19 (a) and 21 (a) (i). By failing to conduct a cathodic protection test when that test is due, High Country Sportsman, LLC has violated Chapter 17, WWQRR, Section 11 (b) and (c). The fuel suppliers for High Country Sportsman, LLC, are: Fuel Services (Robin Taylor), P.O. Box 614.

Gering, NE 69341; Dooley Oil Company (Greg Warren) P.O. Box 373, Laramie, WY 82073; Sinclair Oil Company (Bill Grey), P.O. Box 30825, Salt Lake City, UT 84130.

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:

This is a Red-Tagging Order. Immediately after receiving this Notice and Order, High Country Sportsman, LLC is prohibited from purchasing any fuel for delivery to the tanks registered under facility 0-002954, 1561 Snowy Range Road, Laramie, WY 82070. Fuel Services (Robin Taylor), P.O. Box 614, Gering, NE 69341; Dooley Oil Company (Greg Warren) P.O. Box 373, Laramie, WY 82073; and Sinclair Oil Company (Bill Grey), P.O. Box 30825, Salt Lake City, UT 84130 are ordered not to deliver any fuel to this location until notified by the department that this order has been lifted.

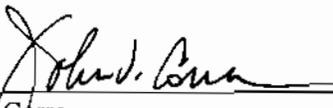
The department will lift the red-tagging order against High Country Sportsman, LLC when all of the following have been fulfilled:

1. High Country Sportsman, LLC shall pay the department \$4,200.00, plus any additional late fees.
2. High Country Sportsman, LLC shall conduct a cathodic protection system test by a qualified cathodic protection tester.
3. Within thirty (30) days of receipt of this Notice and Order, High Country Sportsman, LLC shall conduct a thorough audit of all leak detection methods at facility 0-002954, 1561 Snowy Range Road, Laramie, WY 82070 for the preceding year. The audit shall be performed by a qualified third party, employed for this purpose by the owner and/or operator, or notify the department of a date when these tanks will be removed.
4. Within thirty (30) days of receipt of this Notice and Order, High Country Sportsman, LLC 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 18th day of May, 2009.



John V. Corra
Director
Department of Environmental Quality



LeRoy C. Feusner, P.E., BCCE
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