



# 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

Monday, April 12, 2010

Certified #70070710 0000 3817 3471

Return Receipt Requested

Tyler Miller  
Owner, P.E.  
Earth Work Solutions  
2506 Little Powder River Road  
Gillette, WY 82717

**RE: Issuance of Notice of Violation**

Dear Mr. Miller:

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

On February 10, 2010, the Wyoming Department of Environmental Quality (WDEQ), Solid and Hazardous Waste Division (SHWD) personnel Mr. Tim Link, conducted an inspection of the Earth Work Solutions facility located at 2506 Little Powder River Road, Gillette, WY. The purpose of this inspection was to evaluate compliance with the Wyoming Solid (SWRR) and Hazardous Waste Rules and Regulations (HWRR).

Specifically, the NOV has been issued for the following significant violations (SNC):

Count 1: The total used oil storage capacity at the time of the inspection was greater than 2000 gallons and there was no used oil storage permit onsite and no records of Earth Work Solutions having such permit, in the DEQ files. [SWRR, Chapter 1, Section 1(f)(i)]

Count 2: The containers, above ground tanks, and UST fill pipes are not labeled or clearly marked with the words "Used Oil". There were 25 unlabeled 55 gallon drums outside, a 250 gallon used oil tote unlabeled, and a 50 gallon used oil drain container unlabeled. All items were properly labeled before the inspector left the facility. [HWRR, Chapter 12, Section 11(c)(iii)]

Count 3: The used oil generator does not have an SPCC plan that adequately addresses used oil spills, cleanup and total waste containment. The total used oil storage capacity at the time of the inspection was greater than 1,320 gallons and there was no current and up to date, SPCC plan onsite. [HWRR, Chapter 12, Section 11(c)]

On November 22, 2004, WDEQ/SHWD issued an NOV and penalty to Osborne Brothers Construction Company for the same SNC's listed above. You were the person representing Osborne Brothers at that time. Because of the recurrence of the SNC's, the department has



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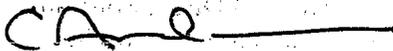
ADMIN/OUTREACH	ABANDONED MINES	AIR QUALITY	INDUSTRIAL SITING	LAND QUALITY	SOLID & HAZ. WASTE	WATER QUALITY
(307) 777-7937	(307) 777-6145	(307) 777-7391	(307) 777-7369	(307) 777-7756	(307) 777-7752	(307) 777-7781
FAX 777-3610	FAX 777-6462	FAX 777-5616	FAX 777-5973	FAX 777-5864	FAX 777-5973	FAX 777-5973



determined to also seek a penalty due to the repeat violations and to further deter future violations from occurring at this facility. Although we plan to seek a modest penalty, consistent with our policy and US EPA's oversight guidance, we have accounted for mitigating factors. These factors included the fact no significant release was observed, the well maintained facility operations and your willingness to work with the department to immediately return the facility back to compliance. As your company was previously informed, your alternative to a required permit for storage of over 2,000 gallons of used oil is to reduce the used oil storage capacity to volumes below this 2,000 gallon threshold. Similarly, you could avoid future SPCC requirements and/or violations by further reducing used oil storage capacity to less than the 1,320 gallon SPCC threshold. These storage thresholds include empty containers in used oil storage areas which would be counted towards storage capacity. Therefore, removal of empty containers from any used oil storage area would be required to qualify for exemptions below these storage capacity/volume thresholds.

If you have any questions regarding this letter or the attached NOV, please feel free to contact me at (307) 777-7752 or Bob Breuer in Casper at (307) 473-3454.

Sincerely,



Carl Anderson, Ph.D.  
Administrator  
Solid and Hazardous Waste Division

Enclosure: NOV

C: Bob Breuer, I&C Program Manager, WDEQ/Casper  
Dale Anderson, SWP&CA, WDEQ/Casper  
Tim Link, I&C, WDEQ/Cheyenne  
Earth Work Solutions HW Gen File

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

IN THE MATTER OF THE  
NOTICE OF VIOLATION  
ISSUED TO:

TYLER MILLER, OWNER, P.E. )  
EARTH WORK SOLUTIONS )  
2506 LITTLE POWDER RIVER ROAD ) DOCKET NO. 4670-10  
GILLETTE WY 82717 )  
)

**NOTICE OF VIOLATION**

NOTICE IS HEREBY GIVEN THAT:

1. On February 10, 2010, the Wyoming Department of Environmental Quality (WDEQ), Solid and Hazardous Waste Division (SHWD), personnel Mr. Tim Link, conducted an inspection of the Earth Work Solutions facility located at 2506 Little Powder River Road, Gillette, WY. The purpose of this inspection was to evaluate compliance with the Wyoming Solid (SWRR) and Hazardous Waste Rules and Regulations (HWRR).
2. During the 2/10/2010 inspection, the following violations were found:
  - Count 1: The total used oil storage capacity at the time of the inspection was greater than 2000 gallons and there was no used oil storage permit onsite and no records of Earth Work Solutions applying for or having such a permit in the DEQ files. [SWRR, Chapter 1, Section 1(f)(i)]
  - Count 2: The containers, above ground tanks, and UST fill pipes are not labeled or clearly marked with the words "Used Oil". There were 25 unlabeled 55 gallon drums outside, a 250 gallon used oil tote unlabeled, and a 50 gallon used oil drain container unlabeled. All items were properly labeled before the inspector left the facility. [HWRR, Chapter 12, Section 11(c)(iii)]
  - Count 3: The used oil generator does not have an SPCC plan that adequately addresses used oil spills, cleanup and total waste containment. The total used oil storage capacity at the time of the inspection was greater than 1,320 gallons and there was no current and up to date, SPCC plan onsite. [HWRR, Chapter 12, Section 11(c)]
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 13th day of April, 2010

  
Carl Anderson, Ph.D.  
Administrator  
Solid & Hazardous Waste Division

  
John V. Corra  
Director  
Dept. of Environmental Quality

