



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 #7007-0710.0000 3817.3693

Return Receipt Requested

Mr. Bob Neufeld
Vice President, Environmental & Governmental Relations
Wyoming Refining Company (40.035)
1600 Broadway, Suite 2300
Denver, CO 82002-4923

RE: Issuance of Notice of Violation (NOV)

Dear Mr. Neufeld:

Enclosed is a Notice of Violation (NOV) issued to your facility for violation of the Wyoming State Hazardous Waste Rules and Regulations (HWRR) as outlined below for concerns with the impoundments WRC designates as the 100-year ponds.

On November 12, 2009, Mr. Bob Breuer and Mr. Tim Link, of the Wyoming Department of Environmental Quality (WDEQ), Solid & Hazardous Waste Division (SHWD), conducted an inspection of the Wyoming Refining Company (WRC), Newcastle Wyoming Refinery, located at 740, West Main, Newcastle, Wyoming. The purpose of the inspection was to evaluate compliance with the Wyoming Hazardous Waste Rules and Regulations (HWRR). The inspection and subsequent evaluation of information provided to WDEQ indicated WRC failed to make a waste determination regarding primary refinery wastewaters discharged into the two (2) unlined and earthen overflow ponds (100 year ponds) located at the refinery.

On February 25, 2010, DEQ received information from WRC describing the wastewater flows discharged to the TCC Swale and overflow ponds. During a March 30, 2010 meeting with DEQ and WRC it was determined that the following discharges to the two (2) overflow ponds would be subject to the "primary refinery wastewater" regulations (hazardous waste listing code "F037"): cooling tower basin leak, cooling tower overflows, backflushing Syn Ohd Exchangers, backflushing prefract naphtha cooler, and crude unit deareator overflows.

Therefore, as a result of this determination and the November 12, 2010, facility inspection, the following violation of the HWRR were determined:

Count 1: Failure to make a hazardous waste determination. Chapter 8, Section 1(b)(i) of the Wyoming HWRR, requires waste generators to characterize wastes to determine whether wastes are hazardous.

Count 2: Failure to have a hazardous waste disposal permit. Chapter 1, Sections 1(h)(ii) and (iii) of the Wyoming HWRR, require a permit to dispose of hazardous waste in a land disposal



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

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|--|---|---|---|--|--|---|
| ADMIN/OUTREACH (307) 777-7937 FAX 777-3610 | ABANDONED MINES (307) 777-6145 FAX 777-6462 | AIR QUALITY (307) 777-7391 FAX 777-5616 | INDUSTRIAL SITING (307) 777-7369 FAX 777-5973 | LAND QUALITY (307) 777-7756 FAX 777-5864 | SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973 | WATER QUALITY (307) 777-7781 FAX 777-5973 |
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unit. Chapter 3, Section 2(a)(vi), requires the owner/operator to obtain a permit prior to constructing such a unit.

Count 3: Failure to conduct periodic inspections of hazardous waste management units.

Chapter 11, Section 4(f) and Chapter 11, Sections 11 and 12 of the Wyoming HWRR, require owners or operators of hazardous waste storage and disposal units to conduct routine, periodic (at least weekly) inspections of containers and disposal units and daily inspections of hazardous waste tanks, to detect and correct problems.

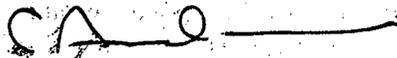
To correct the above violations, WRC must provide adequate information within sixty (60) days of receipt of this NOV, describing the measures that will be taken to stop flows of the primary refinery wastewater waste streams (subject to the F037 hazardous waste listing) in paragraph 3 above, into the two (2) unlined overflow ponds. As we discussed during the meeting we had with you in Cheyenne, on March 30, 2010, the department will consider an Administrative Order On Consent (AOC) to address the proper remediation of the ponds and the proper management and disposal of any wastes generated from corrective action of the ponds.

Because of the significance of these violations (SNC), the department has determined to seek a penalty. However, because of WRC's forthright and thorough responses to SHWD inquiries, we are following our policy to account for such cooperation and have made significant downward adjustments to arrive at the penalty we are seeking.

If you wish to discuss settlement of the penalty and issuance of an Administrative Order On Consent (AOC) to address corrective action during one meeting or during separate meetings, please contact Ms. Lily Barkau, HWP&CA Project Manager, at 307-777-7752.

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

Sincerely,



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

Enclosure: NOV

cc: Lily Barkau, Project Manager, HWP&CA, WDEQ/SHWD Cheyenne Office, Cheyenne
Bob Breuer, I&C Program Manager, WDEQ/SHWD Casper Field Office → File 40.015
Tim Link, I&C, WDEQ/SHWD Cheyenne Office
Linda Jacobson, EPA Region 8
File 40.035

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

IN THE MATTER OF THE
NOTICE OF VIOLATION
ISSUED TO:

Wyoming Refining Company (40.015))
1600 Broadway, Suite 2300)
Denver, CO 80202-4923) DOCKET NO: 4671-10

NOTICE OF VIOLATION

1. On November 12, 2009, Mr. Bob Breuer and Mr. Tim Link of the Wyoming Department of Environmental Quality (WDEQ), conducted an inspection of the Wyoming Refining Company (WRC), Newcastle, Wyoming, refinery, located at 740 W. Main, Newcastle, WY, for the purpose of evaluating compliance with the Wyoming Hazardous Waste Rules and Regulations (HWRR). During the inspection, it was determined that several wastewater streams subject to the hazardous waste listing designated as waste code "F037" were being discharged into the two (2) unlined earthen impoundments (designated by WRC as 100 year storm ponds) located at the refinery.
2. During a subsequent meeting held with WRC on March 30, 2010, WDEQ reviewed information in a February 25, 2010 WRC letter it had requested and received regarding specific wastewater streams discharged to the 100-year ponds. It was determined as many as five (5) of these wastewater streams would be subject to the hazardous waste listing designated as "F037" waste code by Chapter 2, Section 4(b)(i) of the HWRR. This regulation states sludges or wastes generated or derived from certain refinery wastewater streams which have not been treated in Aggressive Biological Treatment Units (ABTU) must be managed as a hazardous waste. It was determined that the following waste streams that had been discharged to the ponds, meet the definition of "primary refinery wastewater", listed hazardous waste (listing code "F037"): cooling tower basin leak, cooling tower overflows, backflushing Syn Ohd Exchangers, backflushing prefract naphtha cooler, and crude unit deareator overflows.
3. As the result of this determination, the following violation of the HWRR had occurred:

Count 1: Failure to make a hazardous waste determination. Chapter 8, Section 1(b)(i), of the Wyoming HWRR, requires waste generators to characterize wastes to determine whether wastes are hazardous. Chapter 2, Section 4(b)(i) of the Wyoming Hazardous Waste Rules and Regulations (HWRR), designates any solids or sludges derived from management of "primary refinery wastewater" as a listed hazardous waste (listing code "F037"). WRC failed to make a hazardous waste determination to document it had generated and managed F037 hazardous waste as described under #2, into the two (2) unlined overflow ponds.

Count 2: Failure to have a hazardous waste disposal permit. Chapter 1, Sections 1 (h)(ii) and (iii) of the Wyoming HWRR, require a permit to dispose of hazardous waste into a land disposal unit. Chapter 3, Section 2(a)(vi), requires the owner/operator to obtain a permit prior to constructing such a unit. WRC disposed of and generated F037 hazardous waste as described under #2, into two (2) unlined earthen overflow ponds. WRC has neither obtained nor applied for a permit from the Department for the hazardous waste disposal units.

Count 3: Failure to conduct periodic inspections of hazardous waste management units. Chapter 11, Section 4(f) and Chapter 11, Sections 11 and 12/Chapter 8, Section 3(e)(i)(A) and Chapter 11, Section 10(e)(i), of the Wyoming HWRR, require owners or operators of hazardous waste storage and disposal units and hazardous waste large quantity generators, to conduct routine, periodic (at least weekly) inspections of containers and disposal units and daily inspections of hazardous waste tanks to detect and correct problems. The two (2) unlined earthen overflow ponds are hazardous waste disposal units and are subject to these inspection requirements. The



November 12, 2009, inspection, revealed that WRC has not conducted weekly inspections of the hazardous waste units for the period the wastes had been disposed and/or stored at the facility.

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

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 M. Corra
Director
Dept. of Environmental Quality