

BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF)
VIOLATION ISSUED TO:)
)
AB Power, LLC) DOCKET NUMBER 4716-10
5885 Cumming Highway Suite 108-331)
Sugar Hill, GA 30518)
)

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. AB Power, LLC owns and operates underground storage tank facility number 0-004300, which is known as the Rock Stop and is located at 1514 East Fifth Street, Sheridan, Wyoming. This facility has two underground storage tanks. The underground tanks are connected to pressurized piping that is monitored for leaks by sump sensors.

On January 18, 2008, an operator's annual inspection was conducted and the next operator's annual inspection was not conducted until June 3, 2010.

The sump sensors, which are used as automatic line leak detectors, were function tested on January 18, 2008, and were not function tested again until June 3, 2010.

On July 20, 2010, a storage tank compliance inspection was conducted at the Rock Stop. It was discovered that inventory control was not being conducted. Additionally, the tanks had not passed an automatic tank gauge (ATG) test since July 2009. No suspected releases were reported to the DEQ, nor was there any indication that suspected releases had been investigated.

2. DEQ has determined that the following violations of Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17 have occurred:

Count 1: Failure to perform an operator's annual inspection [WWQRR, Chapter 17, Section 13(e)]. As owner and operator of underground storage tanks, AB Power, LLC has violated WWQRR, Chapter 17, Section 13(e), by not conducting an operator's annual inspection in 2009.

Count 2: Failure to annually function test automatic line leak detectors [WWQRR, Chapter 17, Section 14(g)(i)(B)]. As owner and operator of underground storage tanks, AB Power, LLC has violated WWQRR, Chapter 17, Section 14(g)(1)(B), by failing to perform annual automatic line leak detector function testing.

Count 3: Failure to perform inventory control in conjunction with ATG testing [WWQRR, Chapter 17, Section 16(c)(i)]. As owner and operator of underground storage tanks, AB Power, LLC has violated WWQRR, Chapter 17, Section 16(c)(i), by failing to perform inventory control in conjunction with ATG testing.

Count 4: Failure to report a suspected release when a calendar month goes by and a passing result cannot be obtained from the ATG [WWQRR, Chapter 17, Section 16(c)(ii)(A)]. As owner and operator of underground storage tanks, AB Power, LLC violated WWQRR, Chapter 17, Section 16(c)(ii)(A), when they failed to report a suspected release each month their tanks did not pass ATG testing.

Count 5: Failure to investigate a suspected release [WWQRR, Chapter 17, Section 20]. As owner and operator of underground storage tanks, AB Power, LLC violated WWQRR, Chapter 17, Section 20, when they failed to investigate a suspected release each month their tanks did not pass ATG testing.

3. Any person who violates any provision of the Environmental Quality Act, or any rule, standard, permit, license, or variance adopted there under, is liable for a penalty of ten thousand dollars (\$10,000.00) 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 Wyoming.
4. 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.

NOTHING IN THIS NOTICE OF VIOLATION shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this Notice of Violation be interpreted as being a condition precedent to any other enforcement action.

SIGNED this 18 day of August, 2010.



John V. Corra
Director
Department of Environmental Quality



Carl Anderson, PhD
Administrator
Solid and Hazardous Waste Division

PLEASE DIRECT ALL INQUIRES TO: Oma Gilbreth, Storage Tank Program Compliance Supervisor at 122 West 25th Street, Fourth Floor, West Wing, Cheyenne, WY 82002, (307) 777-7097 or (307) 777-5973 FAX for technical matters.

JVC/CA/KH/OG