

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

FILED  
JUL 14 2009  
Jim Ruby, Executive Secretary  
Environmental Quality Council

IN THE MATTER OF THE  
NOTICE OF VIOLATION  
ISSUED TO:

SHANE R. TAYLOR )  
SHANE R. TAYLOR PROPERTY )  
413 LAUREL COURT ) DOCKET NO. 4521-09  
GILLETTE, WY 82718 )

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. On March 25, 2009, the Wyoming Department of Environmental Quality (WDEQ), Solid and Hazardous Waste Division (SHWD) representative, Mr. Timothy Moe, United States Environmental Protection Agency (EPA) representative, Mr. Steve Merritt, and other EPA contract personnel, conducted inspections of two treatment tanks that are currently located on private property owned by Mr. Dave Cole, at 650 West Wheatland Street, in Guernsey, Wyoming. The inspections were conducted for the purpose of evaluating compliance with the Wyoming Environmental Quality Act (EQA), the Wyoming Solid Waste Rules and Regulations (SWRR), and the Hazardous Waste Rules and Regulations (HWRR).
2. The WDEQ has determined that the two steel tanks [i.e., tanks identified as a "Retort/Pressure Vessel" and a "Work Tank"] were previously used for treatment of posts and poles at your property [i.e., the former Valley Post and Sawmill (VP&S) facility located at 446 Big Goose Road, near Sheridan, Wyoming] using a liquid treatment formulation consisting of pentachlorophenol (PCP) and diesel fuel.
3. The WDEQ has determined that the two tanks contain a hazardous waste residue, identified by EPA and WDEQ, as hazardous waste code F032 [i.e., F032 as listed under HWRR Chapter 2, Section 4(b)(i)], containing high concentrations of PCP. Specifically, the tank identified as the "Retort/Pressure Vessel", was found to contain a regulated quantity of a listed hazardous waste residue [i.e., "greater than 0.3 percent by weight of the total capacity of the container" as defined under HWRR Chapter 2, Section 1(g)] containing PCP; the tank was also found to contain a rail cart and numerous PCP-treated posts, all identified as listed F032 hazardous wastes. The EPA and WDEQ have also determined the existence of drill holes located in the walls of each tank, indicating that the tanks are not in good condition or capable of safely transporting hazardous waste materials.
4. The WDEQ has determined that Mr. Taylor initiated the removal and transport of equipment (listed F032 hazardous wastes) [i.e., tanks identified as a "Retort/Pressure Vessel" and a "Work Tank" and their contents] from the Shane R. Taylor property located near Sheridan, Wyoming. The tanks are known to have been transported to properties located in El Rancho and Guernsey, Wyoming, where the hazardous waste materials have been improperly stored since the time of their removal from Mr. Taylor's property.
5. Due to the inspections of the equipment conducted on March 25, 2009, WDEQ has determined that the following violations of the Wyoming EQA and HWRR have occurred.

**Count 1: Failure to properly characterize and identify hazardous waste. [HWRR Chapter 8, Section 1(b)(i) (A and B), Chapter 8, Section 1(b)(i)(C)(I) and (II)]** As a generator of a "waste material" as defined in HWRR Chapter 1, Section 1(f)(i), Mr. Taylor, is in violation of Wyoming HWRR Chapter 8, Section 1(b)(i) (A and B), for failure to determine if the waste materials (the equipment) [i.e., tanks identified as a "Retort/Pressure Vessel" and a "Work Tank" and their contents] are hazardous wastes and for failure to conduct a waste determination by properly testing the waste and/or failure to apply process knowledge.

**Count 2: Failure to obtain EPA ID#.** As a generator of hazardous waste material, Mr. Taylor, is in violation of Wyoming HWRR, Chapter 8, Section 1(c)(iii), for failure to offer hazardous waste only to a transporter that has received an EPA identification number from the Department.

**Count 3: Failure to properly use hazardous waste manifest. [HWRR, Chapter 8, Section 2]** As a generator of hazardous waste, Mr. Taylor is in violation of Wyoming HWRR, Chapter 8, Section 2, for failure to use the required manifest system for shipment of the hazardous waste from the 446 Big Goose Road site, near Sheridan, Wyoming, to off-site storage locations in El Rancho and in Guernsey, Wyoming.

**Count 4: Failure to comply with hazardous waste pre-transport requirements.[HWRR, Chapter 8, Section 3 (a through d)]** As a generator of hazardous waste material, Mr. Taylor is in violation of Wyoming HWRR, Chapter 8, Section 3 (a through d), for failure to properly package, label, mark and placard hazardous waste material according to applicable Department of Transportation (DOT) requirements under 49 CFR parts 172, 173, 178, 179, and 172 subpart F, prior to offering hazardous waste material for transportation off-site, to his property at 446 Big Goose Road, near Sheridan, Wyoming.

Mr. Taylor failed to determine or ensure that the tanks were not leaking or were fit for use for the storage of hazardous waste prior to their transport to off-site storage facilities located in El Rancho and in Guernsey, Wyoming, where hazardous waste has been stored since the time of removal. The recent inspection of Mr. Shane Taylor's equipment indicates that the tanks are leaking hazardous waste (i.e., listed F032 hazardous waste).

6. 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

7. 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.

### ORDER

**Pursuant to W.S. 35-11-701, the Wyoming Department of Environmental Quality orders as follows:**

A. Mr. Taylor shall ensure that the drilled holes or any other leaks in the tanks are repaired prior to cleaning the tanks or other equipment.

B. Mr. Taylor shall notify the Department within ten (10) days, to inspect the equipment [i.e., the tank identified as a "Retort/Pressure Vessel" and the contents of the tank and the tank identified as a "Work Tank"] prior to removal of the hazardous wastes contained in the tanks and prior to any further transportation of the equipment.

C. Mr. Taylor shall: prepare, sign, and follow a "*Waste Management Plan*" that describes: 1) how the listed F032 hazardous waste residues will be removed from the equipment; 2) how the listed F032 hazardous waste residues will be specifically managed [i.e., waste residue removal, packaging, manifesting, and disposal]; and 3) how the equipment will be cut, sheared or otherwise processed on the property located at 650 West Wheatland Street, in Guernsey, Wyoming. The *Waste Management Plan* shall include: 1) the name of the certified environmental management company that will be hired to remove and manage the listed F032 hazardous waste residue materials that will be removed from the two tanks; 2) the names of the facilities that will be accepting the listed F032 hazardous waste residue materials for either treatment and/or disposal; 3) the name of the processor that will be hired to process the two metal tanks and the rail cart prior to their transport off-site as "excluded scrap metal"; 4) the name of the waste transporter who will be hired to transport the equipment and the rail cart contained within the vessel, and the tank identified as a "Work Tank", and the rail cart] to the recycling/reclaiming (i.e., smelter) facility; 5) the name of the recycling/reclaiming facility that will be accepting the tanks for the purpose of smelting the equipment; 6) a list of waste materials (i.e., pipes, pumps, plastic sheeting, etc.) that are associated with the equipment used by the former Valley Post and Sawmill (VP&S) facility and that currently are located on your property at 446 Big Goose Road near Sheridan, Wyoming, and the plan shall also include details of how the waste materials will be managed for shipment and final disposition as listed F032 hazardous waste material.

D. Following completion of waste hazardous waste management activities as stated under item's A through C of this Order, Mr. Taylor shall: manage the equipment as "excluded scrap metal" as defined under HWRR Chapter 1, Section 1(f)(i), DEFINITIONS; "excluded scrap metal" [i.e., processed scrap metal (scrap metal that is sheared, cut, etc.)]; and upon delivery of the "excluded scrap metal", Mr. Taylor shall obtain a

receipt for the "excluded scrap metal" from the processing facility and shall subsequently provide a copy of the receipt to the Department.

E. Mr. Taylor, shall allow the Department to review the *Waste Management Plan* prior to commencement of the management activities and shall allow access to oversee any waste management activities as described in items A through D of this Order.

F. Mr. Taylor shall fully document all waste management activities as outlined in items A through D of this Order and shall include all documented activities as an Appendix to the *Waste Management Plan* as described in item C of this Order; and

G. Mr. Taylor shall provide a copy of the *Waste Management Plan* to the Department at the conclusion of the waste management activities as described in items A through F of this Order.

The WDEQ has determined that all treated posts contained within the Retort Pressure Vessel can be used or sold as PCP-treated products and shall not be considered by the Department as listed F032 hazardous waste materials.

THIS NOV AND ORDER is final and binding unless, not later than ten (10) days after the date the notice is served, it is appealed by filing a written petition requesting a hearing before the Environmental Quality Council. Such petition shall be mailed to the Chairman, Environmental Quality Council, Room 1714 Herschler Building, 1<sup>st</sup> Floor West, 122 West 25<sup>th</sup> Street, Cheyenne, Wyoming 82002. A copy of the petition shall be mailed to John Corra, Director, Wyoming Department of Environmental Quality, Herschler Building, 4th Floor, 122 West 25th Street, Cheyenne, Wyoming, 82002.

IT IS SO ORDERED:

WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

Signed this 14th day of JULY, 2009

  
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Carl Anderson, PhD.  
Administrator  
Solid & Hazardous Waste Division

  
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John W. Corra  
Director  
Dept. of Environmental Quality

