

BEFORE THE
DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

FILED

JUN 22 2015

Jim Ruby, Executive Secretary
Environmental Quality Council

IN THE MATTER OF THE NOTICE OF)
VIOLATION ISSUED TO:)
)
Mr. Richard Nelson)
601 Highway 24)
Devils Tower, WY 82714)

DOCKET NUMBER 5580-15

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. Richard Nelson owns Fort Devils Tower, underground storage tank (UST) facility number 0-003892, located near Devils Tower National Monument, Wyoming. The previous owner for this facility submitted a letter to the department dated July 12, 2008, placing the tanks in temporarily out-of-use (TOU) status. The tanks have been emptied and the dispensers have been removed.
2. Notice of Violation (NOV) and Order, Docket Number 4981-12, was issued to Mr. Nelson on April 18, 2012, for violations at Fort Devils Tower. As part of that NOV and Order, Mr. Nelson was ordered to complete a minimum site assessment (MSA) if the tanks remained in TOU status. An MSA is required by Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Section 30(c) when tanks have been TOU for more than 3 years. Currently, the tanks remain in TOU status, and Mr. Nelson has not submitted an MSA work plan to the department for approval or completed an MSA.
3. In addition to the prior violations, Mr. Nelson has failed to pay tank fees for 2015, and the facility does not currently have licensed Class A and Class B storage tank operators.
4. The DEQ has determined that the following violations of WWQRR, Chapter 17, and the Storage Tank Act of 2007 have occurred:

Count 1: Failure to Pay Annual Tank Fees by January 1: [W.S. 35-11-1425(a)]. Tank fees for 2015 were due January 1, 2015. If tank fees are not paid by April 1 of any year, late fees are assessed. The tank fees were not paid by April 1, and late fees have been assessed for 2015. Currently, tank fees and associated late fees have not been paid. As owner and operator of the USTs at Fort Devils Tower, Richard Nelson is in violation of W.S. 35-11-1425(a) for failure to pay annual tank fees for 2015.

Count 2: Failure to have Licensed Class A and B Operators [WWQRR, Chapter 17, Section 46(a) and (b)]. Every facility must be under the supervision of a person who has obtained a Class A Storage Tank Operator's License. All owners and/or operators of storage tanks must insure that the person who is in responsible charge of the day-to-day operation of the storage tanks must obtain a Class B Storage Tank Operator's License. In order to obtain the licenses, the operator(s) must take and pass the International Code Council exam and submit documentation to the department that the exam was taken and passed. The department then issues the licenses. Currently, the department has not received evidence that the exam was taken and passed by anyone for this facility and has not issued Class A and B licenses for this facility. As the owner and operator of the USTs located at Fort Devils Tower, Richard Nelson violated WWQRR, Chapter 17, Section 46(a) and (b), by not having Class A and B storage tank operators for the facility.

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.

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ORDER

WHEREFORE IT IS HEREBY ORDERED THAT:

1. Within 90 days of receipt of this Notice of Violation Richard Nelson shall:

A. Pay 2015 tank fees plus late fees totaling \$600.00.

B. Obtain Class A and B licensed storage tank operators for Fort Devils Tower.

2. This is a Red Tagging Order. Immediately after receiving this Notice and Order, Richard Nelson is hereby prohibited from purchasing any fuel for delivery to the registered underground storage tanks at Fort Devils Tower, Storage Tank Facility 0-003892, located near Devils Tower National Monument, Wyoming. All fuel suppliers are ordered not to deliver any fuel to these tanks until notified by the department that this Order has been lifted. The Order will be lifted when:

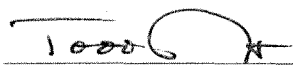
A. Richard Nelson completes a minimum site assessment at Fort Devils Tower as ordered in NOV and Order, Docket Number 4981-12; and

B. Richard Nelson obtains a licensed Class B storage tank operator for Fort Devils Tower.

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 the Chairman, Wyoming Environmental Quality Council, Room 1714, Herschler Building, 1st Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. A copy of the 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.

SIGNED this 15th day of JUNE, 2015.



Todd Parfitt
Director
Department of Environmental Quality



Luke Esch
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.

TP/LE/KLH/OG