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APR 11 2005

**Terri A. Lorenzon, Director
Environmental Quality Council**

BEFORE THE

ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF)
VIOLATION AND ORDER ISSUED TO:)

University of Wyoming)
312 Merica Hall)
Laramie, WY 82071)

S.B. Fuels of Wyoming Inc.)
3350 E I80 Service Road)
Cheyenne, WY 82009)

DOCKET NUMBER ³⁸²⁴XXXX-05

NOTICE OF VIOLATION

AND

ORDER

NOTICE IS HEREBY GIVEN THAT:

1. The University of Wyoming owns and operates the University Fleet Operations Shop, Storage Tank Program Facility Number 0-002274. This facility has three (3) underground storage tanks and is located at the corner of 15th Street and Lewis Street, in Laramie, Wyoming. S. B. Fuels of Wyoming Inc. is the company that delivers fuel to this facility;

On November 3, 2005, an underground storage tank compliance inspection was conducted by personnel from the Department of Environmental Quality. During the inspection, it was discovered that the 2,000 gallon unleaded tank was being filled through a fill pipe that did not have spill prevention equipment and was not originally intended for filling the tank. The soil around the fill pipe was discolored and smelled of gasoline;

2. The University of Wyoming failed to provide spill protection equipment on a fill pipe. S. B. Fuels of Wyoming Inc. failed to remediate the petroleum spills that occurred when the delivery hoses were disconnected from the tank's fill tube;
3. Water Quality Rules and Regulations (WWQRR), Chapter 17, Section 5(c)(i), states: "Except as provided in Section 5(c)(ii), to prevent spilling and overfilling associated with product transfer to the underground storage system, owners and/or operators must use the following spill and overfill prevention equipment:
(A) Spill prevention equipment that will prevent release of regulated product to the environment when the transfer hose is detached from the fill pipe (for example, a spill catchment basin)..."

WWQRR, Chapter 17, Section 22, states: "Reporting and Cleanup of Spills and Overfills.

(a) Owners and/or operators of underground storage tank systems must contain and immediately clean up a spill or overfill and orally report to the department within 24 hours all spills or overfills on the department 24 hour telephone system (307-777-7781) and begin corrective action in accordance with Part F in the following cases:

- (i) Spill or overfill of petroleum that results in a release to the environment that exceeds 25 gallons or that causes a sheen on nearby surface water; and/or
- (ii) Spill or overfill of a regulated hazardous substance that results in a release to the environment that equals or exceeds its reportable quantity under CERCLA (40 CFR Part 302).

(b) Costs incurred by owners and/or operators to cleanup surface spills and/or overfills are not eligible for the state correction action program funds.

(c) Owners and/or operators of underground storage tank systems must contain and immediately cleanup a spill or overfill of petroleum that is less than 25 gallons and a spill or overfill of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within 24 hours, owners and/or operators must immediately notify the department.”

WWQRR, Chapter 4, Section 4 (a) (i), States: “(a) Any person owning or having control over oil or a hazardous substance which, after release, enters, or threatens to enter, waters of the state shall:

(i) immediately take appropriate action to stop and contain the release.”;

4. By failing to provide spill prevention equipment, the University of Wyoming has violated WWQRR, Chapter 17, Section 5 (c) (ii). By failing to take corrective action to remediate the spills associated with not providing spill prevention equipment, the University of Wyoming has violated WWQRR, Chapter 17, Section 22. By failing to take corrective action to stop and contain a release, S.B. Fuels of Wyoming Inc. has violated WWQRR, Chapter 4, Section 4 (a)(i);
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.

ORDER

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL-STATE OF WYOMING

WHEREFORE IT IS HEREBY ORDERED THAT THE UNIVERSITY OF WYOMING AND SB FUELS OF WYOMING INC. SHALL:

1. Cease filling the 2,000 gallon unleaded tank until the University of Wyoming has:
 - a) Uncovered the original fill tube portion of the tank to determine if there has been damage to the tank;
 - b) Repaired any damage to the tank, and if repairs are made, the tank shall be recertified by the manufacturer;
 - c) Repaired the damaged fill tube;
 - d) Permanently capped the fill tube that does not have spill protection to prevent further filling;
 - e) Had the Department inspect the repair work, and the Department has issued a notice to resume operation of the tank;

2. Immediately take corrective action in accordance with WWQRR, Chapter 17, Section 22 (c), in response to the releases caused by not having spill protection equipment and:
 - a) Identify and mitigate fire, explosion, and/or vapor hazards;
 - b) Prevent further migration of the released substance into surrounding soils and/or ground and/or surface water;
 - c) Monitor and mitigate any additional fire and/or safety hazards posed by vapors and/or free product that may have migrated from the tank zone into subsurface structures (such as sewers or basements);
 - d) Conduct a subsurface investigation of the spill, the spill site, and the surrounding area possibly affected by the spill in accordance with Department guidelines;
 - e) Submit a report within thirty (30) days to the Department summarizing the initial abatement steps taken and any resulting information or data;
 - f) If the subsurface investigation indicates further corrective action is required for the surface spills, create a corrective action plan and submit the plan to the Department for review and approval within thirty (30) days; and,
 - g) After the corrective action plan is approved by the Department it must be implemented within ninety (90) days of Department approval.

THIS ORDER is final unless, not later than ten (10) days after the date this notice is received, it is appealed by filing two written petitions for a hearing before the Environmental Quality Council. If a hearing is requested, the first 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. The second 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.

ORDERED this _____ day of _____ 2005.

John V. Corra
Director
Department of Environmental Quality

John F. Wagner
Administrator
Water Quality Division

PLEASE DIRECT ALL INQUIRES TO: Robert Lucht, P.E. & P.G. Storage Tank Program Principal at 122 West 25th Street, Fourth Floor, West Wing, Cheyenne, WY 82002, (307) 777-7095 or (307) 777-5973 FAX for technical matters.