



State of Utah

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Environmental Quality

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Executive Secretary

11/30/11
MB
cc

November 10, 2011

CERTIFIED MAIL
(Return Receipt Requested)

Jack J. Grynberg, President
Grynberg Petroleum Company
3600 S. Yosemite Street, Suite #900
Denver, CO 80237

Dear Mr. Grynberg:

Subject: Notice of Violation and Compliance Order, Docket No. UGW11-11

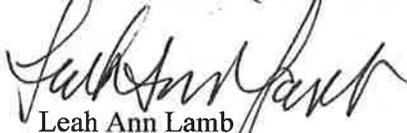
Nuisance complaints of hydrocarbon odors prompted Rich County officials to contact the Utah Division of Oil, Gas, and Mining, which resulted in a site inspection of the Peart property in Rich County, Utah on September 19, 2011. Results of the inspection indicated the unauthorized disposal of oil field wastes from the Grynberg Petroleum Company Hiawatha State well-site closures in Moffat County, Colorado in violation of *Utah Code Ann. §19-5-107*.

Please give the enclosed Notice of Violation and Compliance Order ("NOV/CO") your immediate attention. **A written response is required within 30 calendar days after receipt of this NOTICE. This order is fully enforceable unless appealed in writing within 30 days, as described in the "Notice" section of this NOV/CO. Any response or written answer to this NOV/CO should be addressed to Walter L. Baker, P.E., Executive Secretary, Water Quality Board, 195 North 1950 West, P.O. Box 144870, Salt Lake City, Utah 84114-4870.**

If you have any questions, please contact Rob Herbert at (801) 536-4350. A phone call to DWQ or a site visit does not alter the requirement to timely respond in writing if you wish to contest this NOV/CO.

Sincerely,

UTAH WATER QUALITY BOARD


Leah Ann Lamb
Acting Executive Secretary

Enclosure: Notice of Violation and Compliance Order, Docket No. UGW11-11

cc: Bear River Health Department
Rich County Commission

195 North 1950 West • Salt Lake City, UT
Mailing Address: P.O. Box 144870 • Salt Lake City, UT 84114-4870
Telephone (801) 536-4300 • Fax (801) 536-4301 • T.D.D. (801) 536-4414

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UTAH WATER QUALITY BOARD

| | | |
|----------------------------|---|-------------------------------|
| IN THE MATTER OF | : | DOCKET NUMBER UGW11-11 |
| GRYNBERG PETROLEUM | : | NOTICE OF VIOLATION |
| COMPANY, DENVER, CO | : | AND COMPLIANCE ORDER |

A. STATUTORY AUTHORITY

This **NOTICE OF VIOLATION and COMPLIANCE ORDER (NOV/CO)** is issued to **Grynberg Petroleum Company** by the **UTAH WATER QUALITY BOARD (the BOARD)** under the Utah Water Quality Act, Utah Code Ann. §§ 19-5-101 to 19-5-123 (the **ACT**), including sections 19-5-104, 19-5-106, 19-5-111 and 19-5-115. This **NOV/CO** is also issued in accordance with the Utah Administrative Procedures Act, Utah Code Ann. §§ 63G-4-101 to 63G-4-601. The **BOARD** has authorized the Executive Secretary of the **BOARD (EXECUTIVE SECRETARY)** to issue such **NOTICES AND ORDERS** in accordance with §19-5-106(8) of the Utah Code.

B. APPLICABLE STATUTORY AND REGULATORY PROVISIONS

1. *UCA § 19-5-102(18)(a)* defines waters of the state as “all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state”.
2. *UCA § 19-5-107(1)(a)* states: “Except as provided in this chapter or rules made under it, it is unlawful for any person to discharge a pollutant into waters of the state or to cause pollution which constitutes a menace to public health and welfare, or is harmful to wildlife, fish or aquatic life, or impairs domestic, agricultural, industrial, recreational, or other beneficial uses of water, or to place or cause to be placed any waste in a location where there is probable cause to believe it will cause pollution.”
3. *UCA § 19-5-107(3)(a)* states: “It is unlawful for any person, without first securing a permit from the executive secretary as authorized by the board, to: make any discharge not authorized under an existing valid discharge permit”.
4. *UAC R.317-1-2.1* states: “No person shall discharge wastewater or deposit wastes or other substances in violation of the requirements of these regulations.”

C. FACTS

1. Grynberg Petroleum Company (hereafter **Grynberg**) is a private company that engages in oil and gas exploration and production throughout the United States. The company was founded in 1954 and is based in Denver, Colorado.
2. Exploration and Production "E and P Wastes" are defined by Rule R649-1-1 of the Utah Division of Oil, Gas, and Mining (UDOGM) as wastes resulting from the drilling of and production from oil and gas wells.
3. Facilities used for the treatment and disposal of E and P Wastes including landfarming, composting, solidifying, bioremediation, and others, are required to obtain a permit from UDOGM in accordance with Rule R649-9-4.
4. During July and August 2011, approximately 4,000 cubic yards of waste material composed of E and P Wastes mixed with soil and compost material was disposed of on private property owned by Dan C. Peart in Rich County, Utah (Peart Property). Mr. Peart does not have a UDOGM permit that authorizes the receipt and disposal of E and P Wastes on his property.
5. Nuisance complaints from neighbors to the Peart Property of hydrocarbon odors prompted Rich County officials to contact UDOGM, which resulted in a UDOGM site inspection on September 19, 2011. The UDOGM inspectors documented approximately 4,000 cubic yards of waste material on the Peart Property and collected two samples of the waste material for laboratory analysis. Laboratory analytical reports indicate that one sample (South Pile #1) had a concentration of 22,600 milligrams per kilogram (mg/kg) total petroleum hydrocarbons diesel range organics (TPH-DRO), and the second sample (Comp #1) had a TPH-DRO concentration of 23,800 mg/kg. The soil cleanup standard for TPH-DRO is 500 mg/kg, based on the Utah Division of Environmental Response and Remediation (UDERR) Initial Screening Level (ISL) for petroleum hydrocarbon contaminated sites.
6. Based on an aerial photograph provided by UDOGM, the waste material was disposed on the Peart Property at a location adjacent to or on top of a currently dry tributary of the nearby Bear River. According to UAC R317-2-13.3a, the Bear River and its tributaries in Rich County are waters of the state with designated beneficial uses as Class 2B (secondary contact recreation), Class 3A (cold water fishery), and Class 4 (agricultural).
7. Based on an October 19, 2011 personal communication between Mr. Peart and Rob Herbert of the Utah Division of Water Quality (UDWQ), the depth to ground water on the Peart Property is approximately 60 feet below ground surface based on a private water well on the property.
8. An October 19, 2011 personal communication between Rob Herbert of UDWQ and Alex Fischer of the Colorado Oil and Gas Conservation Commission (COGCC) determined that the E and P Wastes disposed on the Peart Property were generated in Moffat County, Colorado from the Hiawatha State well-site closures operated by **Grynberg**,

which included drilling reserve pits, flare pits, drill cuttings, and drilling fluid. The E and P Wastes from the **Grynberg** well site closures were mixed to an approximate 1:1 ratio with clean fill and compost material for disposal at the Rock Springs, Wyoming landfill. For reasons unknown, the Rocks Springs landfill ceased accepting the E and P Wastes, and other disposal options explored by **Grynberg** included a permitted facility in Vernal, Utah, and the ECDE waste disposal facility in Carbon County Utah.

9. The COGCC-approved Site Investigation and Remediation Work Plan (Form 27), which was signed by Mr. Jack J. Grynberg, President of **Grynberg**, on February 23, 2011, requires the E and P Wastes generated from the Hiawatha State well-site closures (Project #5585) to be disposed of at a licensed commercial disposal facility.
10. The Peart Property in Rich County, Utah is not a licensed commercial disposal facility for E and P Wastes.

D. FINDINGS

1. The unauthorized disposal of approximately 4,000 cubic yards of oil field E and P Wastes mixed with soil and compost material occurred on Mr. Dan C. Peart's property in Rich County, Utah.
2. The E and P Wastes disposed on the Peart Property were generated in Moffat County, Colorado from the Hiawatha State well-site closures operated by **Grynberg**, which included drilling reserve pits, flare pits, drill cuttings, and drilling fluid.
3. Laboratory analytical results of two samples of the waste material collected by UDOGM staff indicate concentrations of TPH-DRO of 22,600 and 23,800 mg/kg, respectively. These concentrations are 45 times and 47 times, respectively, the Utah standard of 500 mg/kg for TPH-DRO in soil (DERR ISL).
4. The large quantity of unauthorized E and P Wastes disposed on the Peart Property coupled with the elevated TPH-DRO concentrations in the wastes represent a threat to waters of the state, which includes ground water.

E. VIOLATIONS

Based on the foregoing **FACTS** and **FINDINGS**, **Grynberg** is in violation of:

1. *UCA § 19-5-107(1)(a)*, for placing wastes in locations where there is probable cause to believe pollution will result.
2. *UCA § 19-5-107(3)*, for making a discharge not authorized under an existing valid permit.
3. *UAC R.317-1-2.1* for discharging wastewater or deposit wastes or other substances in violation of the requirements of the Utah Water Quality regulations.

F. ORDER

In view of the foregoing **FINDINGS**, and pursuant to Utah Code Annotated Section 19-3-108, **Grynberg** is hereby ordered to:

1. Immediately cease and desist unauthorized disposal of E and P Wastes on Mr. Dan C. Peart's property in Rich County, Utah.
2. Implement a Corrective Action Plan within 30 days of receipt of this **NOV/CO** in accordance with UAC R317-6-6.15 (Utah Ground Water Quality Protection Rules) to include, at a minimum:
 - a) Excavation and removal of all E and P Wastes from the Peart Property.
 - b) Transport of all E and P Wastes from the Peart Property to a facility with an approved permit from UDOGM authorizing the facility to accept the wastes in accordance with UDOGM Rule R649-9-4, or to a licensed commercial disposal facility in Colorado.
 - c) Collection of confirmation soil samples on the Peart Property in Rich County demonstrating that the E and P Wastes were adequately removed to comply with UDERR ISLs for soils.
3. Submit a Corrective Action Implementation Report to the **EXECUTIVE SECRETARY** within 60 days to include, at a minimum:
 - a) A site map with a scale showing the excavated areas of E and P Wastes and locations of confirmation soil samples.
 - b) Analytical results of confirmation samples from a Utah-certified laboratory.
 - c) Waste manifests documenting the disposal of all E and P Wastes at a facility with an approved permit from UDOGM, or a licensed commercial disposal facility in Colorado.

G. NOTICE

Compliance with the provisions of this NOV/CO is mandatory. Under DWQ's Penalty Criteria for Civil Settlement Negotiations, Utah Admin. Code § R317-1-8, **Grynberg's** good faith efforts to comply with this Compliance Order may impact the monetary penalty that would apply in a settlement. Providing false information may subject **Grynberg** to further civil penalties or criminal fines.

UCA § 19-5-115 provides that a violation of the **ACT** or a related order may be subject to a civil penalty of up to \$10,000 per day of violation. Under certain circumstances of willfulness or gross negligence, violators may be fined up to \$25,000 per day of violation.

H. CONTESTING THIS NOV/CO

This **NOV/CO** is effective immediately and shall become final unless contested in writing within thirty (30) days after the date this **NOV/CO** was signed. See Utah Admin. Code § R317-9- 3(3). Any further administrative proceedings in this case shall be conducted formally under Utah Code Ann. § 63G-4-204 to 601.

To contest this **NOV/CO**, you must respond in writing and must comply with the requirements of the Administrative Rules of the **BOARD**, found at Utah Admin Code § R317-9 and with the requirements of the Utah Administrative Procedures Act, including Utah Code Ann. § 63G-4-201(3)(a) and (b). Those provisions of the Utah Administrative Procedures Act require, among other things, that you state your factual and legal reasons for disagreeing with the **NOV/CO**, and that you state the action that you would like the agency to take (e.g., withdrawing the **NOV/CO**). A copy of Utah Code Ann. § 63G-4-201(3)(a) and (b) is provided on the next page.

A response contesting this **NOV/CO** must be received by the **EXECUTIVE SECRETARY** within 30 days of the date this **NOV/CO** was signed. The **EXECUTIVE SECRETARY'S** address is:

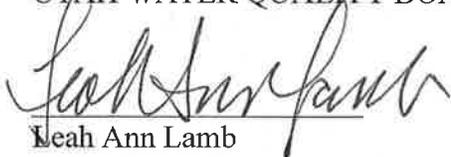
(Mailing address)
Walter L. Baker
Utah Division of Water Quality
P.O. Box 144870
Salt Lake City, UT 84114-4870

(Address for hand or overnight delivery)
Walter L. Baker
Multi-Agency State Office Building
195 North 1950 West
Salt Lake City, UT 84114-4870

You will not be allowed to contest this **NOV/CO** in court or in any other forum if you do not first contest the **NOV/CO** as described above.

Signed this 10th day of November, 2011.

UTAH WATER QUALITY BOARD



Leah Ann Lamb
Acting Executive Secretary

Utah Code Ann. § 63G-4-201(3)(a) and (b):

- (a) Where the law applicable to the agency permits persons other than the agency to initiate adjudicative proceedings, that person's request for agency action shall be in writing and signed by the person invoking the jurisdiction of the agency, or by that person's representative, and shall include:
- (i) the names and addresses of all persons to whom a copy of the request for agency action is being sent;
 - (ii) the agency's file number or other reference number, if known;
 - (iii) the date that the request for agency action was mailed;
 - (iv) a statement of the legal authority and jurisdiction under which agency action is requested;
 - (v) a statement of the relief or action sought from the agency; and
 - (vi) a statement of the facts and reasons forming the basis for relief or agency action.
- (b) The person requesting agency action shall file the request with the agency and shall mail a copy to each person known to have a direct interest in the requested agency action.

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