

STATE OF NEVADA

Department of Conservation & Natural Resources

DIVISION OF ENVIRONMENTAL PROTECTION
BUREAU OF CORRECTIVE ACTIONS

P: 775.687.9368 F: 775.687.8335

Jim Gibbons, Governor

Allen Biaggi, Director

Leo M. Drozdoff, P.E., Administrator

June 5, 2008

Mr. Park Blair
Al Park Petroleum, Inc.
P.O. Box 1600
Elko, NV. 89803

Certified Mail 7007 0220 0003 5225 3332
Return Receipt Requested

RE: Enforcement Action for Failure to Complete Quarterly Monitoring and Approved Site Remediation Activities, Show Cause Meeting, Al Park Petroleum, Inc., Crescent Valley Store, NDEP Facility ID Number 6-000318 Petroleum Fund # 1995000039

Dear Mr. Blair

The enclosed enforcement action is the result of Al Park Petroleum Inc.'s failure to complete quarterly monitoring and approved remediation activities for the known petroleum product contamination in both soil and groundwater at the Crescent Valley Store at Nevada Highway 306 and Second Street, Crescent Valley, Nevada, Nevada Division of Environmental Protection (NDEP) facility ID number 6-000318.

The Nevada Division of Environmental Protection may impose civil penalties upon any person who violates or contributes to a violation of any provision of Nevada Revised Statutes (NRS) 445A.300 to 445A.730, inclusive. The person is liable to the Department for a civil penalty of not more than \$25,000 per day, for each violation. These penalties are in addition to any other penalty provided by NRS 459.800 to 459.856, inclusive; or NRS 445A.300 to 445A.730, inclusive.

The enclosed Order requires a representative of Al Park Petroleum, Inc. to appear before the Division to show cause why the Division should not proceed with an action in District Court. Any violation of the terms of this Order could subject you to an action for appropriate relief pursuant to NRS 445A.695, 445A.700, 445A.705, 459.854, or 459.856.

Pursuant to NRS 445A.690, this Order is final and not subject to review unless, within thirty (30) days after the date of the Order is served, a request by written petition for a hearing (Form #3 for an appeal hearing) is received by the State Environmental Commission, John Walker, Executive Secretary, 901 South Stewart Street, Ste 4001, Carson City, Nevada 89701, or by telefax (775) 687-5856. Please provide me with a copy of any correspondence you have with the Commission.

If you have any questions regarding this matter, please call me at (775) 687-9376.

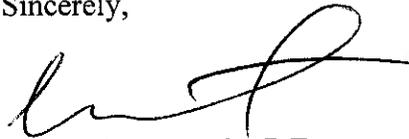


AL PARK PETROLEUM, INC.

June 5, 2008

Page 2 of 2

Sincerely,



Arthur Gravenstein, P.E.
Supervisor
UST LUST Branch
Bureau of Corrective Actions

Enclosures (3)

Finding of Alleged Violation
Order
SEC Form #3

Cc: w/Enclosures

Galen Schorsch, Al Park Petroleum, P.O. Box 1600, Elko, NV 89803
David M. Stanton, Goicoechea, DI Grazia, Coyle & Stanton, LTD., Law Office Center, 530 Idaho
Street, Elko, NV 89801
Terry Tharp, JBR Environmental Consultants, Inc., 1165 East Jennings Way, Suite 101, NV 89801
Bill Frey, Deputy Attorney General
Leo Drozdoff, P.E., Administrator
Tom Porta, P.E., Deputy Administrator
Jim Najima, NDEP, Chief, Bureau of Corrective Actions
Joseph Sawyer, Bureau of Corrective Actions
John Walker, Nevada Environmental Commission
Hayden Bridwell, NDEP, Bureau of Corrective Actions
Donna Bailey, Chairman, Board of Eureka County Commissioners, P.O. Box 677, Eureka County,
NV. 89316
Sarpinder S. Baharta and Jasbir K. Baharta, P.O. Box 21111, Crescent Valley, NV 89821
Steve and Diane S. Reger, P.O. Box 211135, Crescent Valley, NV 89821
Jim and Kristi Davids, P.O. Box 211064, Crescent Valley, NV 89821-1064
Vicki J. Etchinek, P.O. Box 211112, Crescent Valley, NV 89821
D.P. Ward Family Trust, P.O. Box 211337, Crescent Valley, NV. 89821

FINDING OF ALLEGED VIOLATION

- I. This Finding is made on the basis of the following facts:
- A. The State of Nevada, Department of Conservation and Natural Resources, Division of Environmental Protection (NDEP), under the authority of Nevada Revised Statutes (NRS) 445A.445 (1) and 459.824 (1), has the power and duty to administer and enforce the provisions of NRS 445A.300 to 445A.730 and NRS 459.800 to 459.856 inclusive, all rules, regulations and standards promulgated by the State Environmental Commission, and all orders and permits promulgated by the Department. NDEP is also authorized by Nevada Revised Statutes 445A.675, 445A.690 and 459.852 to make findings and issue orders.
- B. Nevada Administrative Code (NAC) 459.993 Federal Regulations: Adoption by reference of certain provisions regarding underground storage tanks; compliance required. (NRS 459.826, 459.830)
1. The State Environmental Commission hereby adopts by reference the provisions of 40 C.F.R. §§ 280.10 to 280.116, inclusive, as they existed on July 1, 1995.
 2. Each owner and operator of an underground storage tank shall comply with the requirements of 40 C.F.R. §§ 280.10 to 280.116, inclusive.
- C. NDEP records indicate that Al Park Petroleum was the owner of two (2) 3,000-gallon underground storage tanks that were installed at the Crescent Valley Market on or about January 1, 1967.
1. On September 14, 1992, the Controller for Al Park Petroleum (Arlin L. Glines) signed an EPA Form 7530-1; Al Park Petroleum was named as the owner of the underground storage tanks.
 2. On April 25, 1994, the System Manger for Al Park Petroleum (Galen Schorsch) signed a "Notification Data for Underground Storage Tanks" to confirm that information in NDEP files was correct.
- D. On April 8, 1994, Boomer Simpkins, a representative of Al Park Petroleum reported a release of 100 gallons of gasoline from the underground storage tanks. NDEP later discovered that both tanks had failed tank tightness tests that were performed on January 6, 1994 by Steve Lyons, a Nevada-certified Handler of Underground Storage Tanks.

- E. May 27, 1994, the underground storage tanks were removed from the ground by Christensen & Griffith under the supervision of Summit Engineering Corporation. NDEP records indicate that the contractors were employed by Al Park Petroleum. The tanks were later moved to Al Park Petroleum property in Elko for storage and possible reuse as above ground storage tanks
- F. 40 CFR 280.92 Definition of Terms
(h) owner or operator, when the owner or operator are separate parties, refers to the party that is obtaining or has obtained financial assurances.
1. Al Park Petroleum applied for and received State Petroleum Fund coverage for the release reported on April 8, 1994; to date, the Fund has reimbursed Al Park Petroleum over \$138,000.
- G. NRS 445A.465 Injection of fluids through a well or discharge of pollutant without a permit prohibited; regulations.
1. Except as authorized by a permit issued by the department pursuant to the provisions of NRS 445A.300 to 445A.730, inclusive, and regulations adopted by the commission, it is unlawful for any person to:
- (a) Discharge from any point source any pollutant into any waters of the state or any treatment works.
 - (c) Discharge from a point source a pollutant or inject fluids through a well that could be carried into the waters of the state by any means.
 - (d) Allow a pollutant discharged from a point source or fluids injected through a well to remain in place where the pollutant or fluids could be carried into waters of the state by any means.
- H. NAC 459.9975 Monitoring of groundwater. (NRS 459.826, 459.830)
1. If a regulated substance is detected in or is suspected to have contaminated groundwater, the owner or operator shall, with the approval of the Division, install at least one monitoring well. The number of wells and the location, design, and installation of each well must be approved by the Division of Water Resources of the Department and the Division.
2. Monitoring of groundwater must be conducted for:
- (a) Benzene, toluene, xylene, and ethylbenzene (BTEX), by test method 8260 of the Environmental Protection Agency or an equivalent method that is approved by the Division;
 - (b) If suspected or detected, methyl tertiary-butyl ether (MTBE), by test method 8260 of the Environmental Protection Agency or an equivalent method that is approved by the Division;

- (c) Any other pollutant that is present in the groundwater as a result of the action of the owner or operator; and
 - (d) Any other constituent as directed by the Division.

- I. NAC 459.9977 Corrective action required when a dissolved product action level exceeded; exemptions. (NRS 459.826, 459.834)
 - 1. Except as otherwise provided in subsections 2 and 3, the owner or operator of a storage tank shall take corrective action if the dissolved product action level is exceeded.

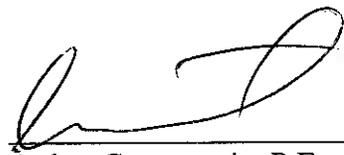
- J. 40 C.F.R. 280.66 Corrective action plan
 - (c) Upon approval of the corrective action plan or as directed by the implementing agency, owners and operators must implement the plan, including modifications to the plan made by the implementing agency. They must monitor, evaluate, and report the results of implementing the plan in accordance with a schedule and in a format established by the implementing agency.

- K. On August 8, 2007 NDEP sent a certified letter to Al Park Petroleum for the 2007 Second Quarter Monitoring Report. NDEP expressed its concern regarding the lack of progress at the site since May 2004 toward the development and installation of a remediation system to mitigate known groundwater contamination.
 - 1. November 1, 2007, NDEP sent a certified letter to Al Park Petroleum because a response to the August 8, 2007 letter had not been received. Delinquent were the third quarter report and the schedule for completion of a Corrective Action Plan.
 - 2. November 19, 2007, NDEP received a remediation schedule from JBR Environmental Consultants, Inc, on behalf of Al Park Petroleum. The schedule outlined activities at the Crescent Valley Market for the implementation of a pump and treat remediation system beginning with testing on January 31, 2008 and full operation by September 15, 2008.
 - 3. November 20, 2007, NDEP responded to Al Park Petroleum by certified mail and concurred with the remediation schedule.

- L. On January 31, 2008 NDEP was verbally notified by JBR Environmental Consultants that all work at the Crescent Valley Market had ceased during the fourth quarter of 2007.

- M. On March 4, 2008, NDEP sent a certified letter to Al Park Petroleum regarding confirmation of the status of the quarterly monitoring and implementation of the remediation system schedule.
1. March 14, 2008 NDEP received a letter from Goicoechea, Di Grazia, Coyle & Stanton LTD. on behalf of Al Park Petroleum. The letter stated that Al Park Petroleum is not responsible for the site because Al Park Petroleum was never the owner of the underground storage tanks. The letter also requested the documentation that NDEP used to determine Al Park Petroleum's liability for the Crescent Valley Market.
 2. March 27, 2008 NDEP sent a letter to Al Park Petroleum and provided the information requested regarding the ownership of the underground storage tanks. A response to this letter has not been received by NDEP.
 3. The dissolved product action levels for benzene, ethyl benzene, toluene, and xylene in groundwater, have been exceeded at the Crescent Valley Market. Al Park Petroleum ceased quarterly ground water monitoring at the Crescent Valley Market. The last quarterly monitoring event was completed during the third quarter of 2007. Work towards corrective action ceased during the fourth quarter of 2007.
- II. Based on the information described above, the Nevada Division of Environmental Protection has determined that Al Park Petroleum is allegedly in violation of the following provisions of the Nevada Administrative Code (NAC) and Nevada Revised Statutes (NRS).
- A. NRS 445A.465 Discharge of a pollutant from a point source and allowing the pollutant to remain in place.
 - B. NAC 459.9975 Failure to complete monitoring of groundwater.
 - C. NAC 459.9977 Failure to complete corrective action required when a dissolved product action level is exceeded

6/5/08
Date



Arthur Gravenstein, P.E
Supervisor UST LUST Branch
Bureau of Corrective Actions

IN THE MATTER OF)
AL PARK PETROLEUM, Inc.)
June 5, 2008)
Page 1 of 1)

ORDER

This Order, is issued under the authority vested in the Director of the Department of Conservation and Natural Resources by Nevada Revised Statutes (NRS) 445A.445 (1), 445A.450 (8) and 459.824 (1), delegated to the Division of Environmental Protection (NDEP). Pursuant to NRS 445A.450 (9) and 459.824 (8) and in accordance with NRS 445A.675, 445A.690 and 459.852.

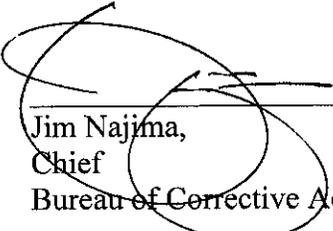
On the basis of the attached Finding of Alleged Violation, which is a part of this Order, the Administrator of the Division of Environmental Protection, pursuant to authority delegated to him by the Director, Department of Conservation and Natural Resources, has determined that Al Park Petroleum, Inc. is in violation of Nevada Administrative Codes 459.9975, 459.9977 and Nevada Revised Statute 445A.465 as outlined in the Finding of Alleged Violation.

IT IS HEREBY ORDERED:

That Al Park Petroleum, Inc. completes the following acts at the Crescent Valley Leaking Underground Storage Tank (LUST) site by the dates specified.

1. By July 15, 2008 submit to the NDEP a written reply which states your intention to comply with the ORDER.
2. By July 15, 2008 resume quarterly site ground water monitoring and reporting.
3. By July 15, 2008 resume with a schedule for testing and implementation of the remedial action plan.
3. Commencing July 31, 2008 submit monthly progress reports due on the last day of the month, to the NDEP regarding the status of the remediation schedule including any testing, design, implementation and system operation at the site for the preceding month.
5. By July 15, 2008, contact NDEP to arrange a meeting to be held in Carson City to show cause why NDEP should not seek civil penalties for the violations cited. Please contact Arthur Gravenstein at (775) 687-9376 to arrange this meeting

6-5-08
Date



Jim Najjima,
Chief
Bureau of Corrective Actions

FORM # 3
FORM FOR REQUESTING AN APPEAL HEARING
BEFORE THE NEVADA STATE ENVIRONMENTAL COMMISSION

1. Name, address, telephone number, and signature of applicant:

Name: _____

Address: _____

Telephone: _____

Signature: _____

Representative Capacity (if applicable): _____

2. Specify type of applicant: Individual, Partnership, Corporation, or Other: _____

3. Other person or persons authorized to receive service of notice: _____

4. Complete description of the business or activity and the location of the activity involved in the request: _____

5. Nature of the appeal and grounds thereof: _____

6. Section or sections of the State Air Quality Regulations, Water Pollution Control Regulations, Hazardous Waste Regulations, Solid Waste Management Regulations, or NRS section involved in the appeal: _____

7. Approximate time in hours and minutes necessary for delivery of oral testimony and reading of prepared statements as admissible evidence to be entered in the record: _____

Date of Request _____

Send Form To: John B. Walker, State Environmental Commission, 901 South Stewart Street, Suite 4001
Carson City, NV 89701-5249