

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

In the Matter of:)	
)	Filing of Answer
T. Bradley Lam)	
d/b/a Lam's Lumber Company)	
4761 Constitution Highway)	U.S. EPA Docket Number
Barboursville, Virginia 22923)	RCRA-03-2008-0354
)	
RESPONDENT)	
)	
D's Market)	
5515 Spotswood Trail)	
Barboursville, Virginia 22923)	
)	
and)	
)	
Lam's Lumber)	
4761 Constitution Highway)	
Barboursville, Virginia 22923)	
)	
FACILITIES)	

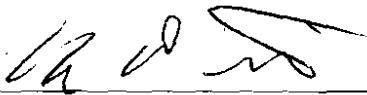
FILING OF ANSWER

Complainant has received a copy of a letter from Respondent, and has confirmed with Respondent that this letter is intended to serve as Respondent's Answer to the Complaint in the above-captioned matter. Respondent did not file this Answer with the Regional Hearing Clerk. After consulting with Respondent, Complainant has agreed to hand-deliver the original and one copy of the Answer to the Regional Hearing Clerk on behalf of Respondent.

Respondent's Answer mistakenly included penalty figures which were presented to Respondent by Complainant as part of a pre-filing settlement offer. Pursuant to Section 22.22(a)(1) of the Consolidated Rules of Practice, these proposed settlement penalty numbers are

not admissible into evidence. Complaint, with Respondent's concurrence, has thus blacked out these figures prior to filing the Answer with the Regional Hearing Clerk.

7/23/08
Date



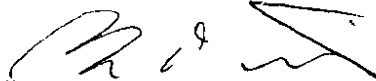
Benjamin D. Fields
Senior Assistant Regional Counsel

CERTIFICATE OF SERVICE

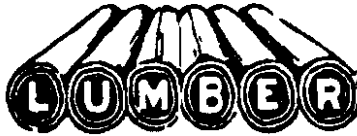
I hereby certify that on the date below I hand-delivered the original and one copy of the attached Filing of Answer to the Regional Hearing Clerk, and caused a copy to be sent via first class mail to:

T. Bradley Lam
d/b/a Lam's Lumber Company
4761 Constitution Highway
Barboursville, Virginia 22923

7/23/08
Date



Benjamin D. Fields
Senior Assistant Regional Counsel



Lams Lumber Company

PO Box 118
4761 Constitution Highway
Gambysville, Virginia 22921
Office (540) 832-5173
FAX (540) 832-7666
gambysville@aol.com

July 19, 2008

United States Environmental Protection Agency
Region III
Abraham Ferdas, Director
Waste & Chemicals Management Division
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

Re: **Complaint, Compliance Order and Notice of Opportunity for Hearing**
EPA Docket No. RCRA-03-2008-0354

Dear Mr. Ferdas,

Thank you for your recent letter and information regarding the above mentioned Complaint. As you are aware this correspondence was received on June 24, 2008. We have been in contact with Stacie Peterson and Benjamin Fields in your office and scheduled a hearing date of July 30, 2008 at 2 PM to be held at your offices in Philadelphia.

In your letter you state that each allegation must be addressed specifically:

D's Market (5515 Spotswood Trail)

- Count 1 - [REDACTED] "From at least five years prior to the date of this Complaint through at least January 31, 2008, Respondent violated 9 VAC 25-580-130 and 140.1 by failing to provide a method or methods of tank release detection for the UST systems designated as Tanks D-1, D-2, D3A and D-3B at the D's Market Facility which meet the requirements referenced in such regulations."
- Count 2 - [REDACTED] "From at least five years prior to the date of this Complaint through at least February 1, 2008, Respondent violated 9 VAC 25-580-140.2 and 170.1 by failing to test the operation of the line leak detectors for Tanks D-1 and D-2 at the D's Market Facility."
- Count 3 - [REDACTED] "From at least five years prior to the date of this Complaint through at least February 1, 2008, Respondent violated 9 VAC 25-580-130 and 140.2.a(2) by failing to provide annual or monthly methods of release detection for the underground piping associated with the Tanks D-1 and D-2 and the D's Market Facility which meet the requirements referenced in such regulations."
- (Test performed on January 31, 2008 - results dated 2/1/2008 - by Tank Compliance and Management - see enclosures. In addition it would seem to us that these two Counts (2 & 3) are related and should not be separated. We understand that it is required that you test the underground piping annually and any failure in the operation of the leak detectors would be evident at the time of testing. Separate counts seem repetitive)*
- Count 4 - [REDACTED] "From at least five years prior to the date of this Complaint through at least October 9, 2007, Respondent violated 9 VAC 25-590-30 and 9 VAC 25-590-40 by failing to demonstrate financial responsibility for the UST's at the D's Market Facility."

(Please see enclosure)

As stated in previous correspondence to Stacie Peterson and Benjamin Fields, it would be most appropriate to highlight the history of this location to respond to all of the allegations related.

T. Bradley and Scheryl Lam purchased the UST(s) and equipment in April of 2002. The previous owner, John Stanley of Stanley Petroleum was in deep financial trouble and was being forced to sell due to bankruptcy. As the owners of the property, the Lam's were put into a position of having not much choice except to purchase the UST(s) and the equipment. Mr. Stanley owned and operated a petroleum company and had contracted with Blackburn Petroleum Equipment Services, Inc. to install new tanks in October 1995 (because of a petroleum leak at the time). When the tanks were purchased it was relayed that the computer system (ATG) was non-operational, but that the fuel levels could be gauged manually. At no point were they ever told that they were required to contact VADEQ to change ownership or to find out about rules or regulations. There was never a disruption in service at the station and the business continued as usual. Mr. Stanley never told them or the business owner at the time (Mary Lou Estes) that there were monitoring requirements or that the ATG needed to be operational. Mr. Stanley had always owned the tanks and equipment and the ATG never worked, so it was assumed that was not a problem. We have no way of knowing how or if Mr. Stanley was meeting the testing and monitoring requirements.

In addition to Mr. Stanley never providing any education with the sale, it was also assumed that things were running smoothly with the station because the VADEQ monitors the groundwater around the area due to the previous leak mentioned above. The VADEQ knew that the Lam's took ownership and communicate with them regarding the groundwater monitoring twice a year. We have are now aware that it is the same regional office, Northern Regional, that is responsible for the UST inspections and the groundwater management. It is still very unclear to us how the same office could be communicating with us on one very important issue and over looking another. We can state with certainty that this location has never had a UST inspection since the Lam's purchased it in April 2002 and we assume none prior to that since the equipment was non-operational. We hope that it has been made clear to your office by our efforts to meet all regulations and requirements once being aware of them, that had we ever been aware of them before we would have quickly done the same.

Lam's Lumber (4761 Constitution Highway)

- Count 5 - [REDACTED] "From at least five years prior to the date of this Complaint through at least January 31, 2008, Respondent violated 9 VAC 25-580-130 and 140.1 by failing to provide a method or methods of tank release detection for the UST systems designated as Tanks L-1A and L-1B at the Lam's Lumber Facility which meet the requirements referenced in such regulations."
- Count 6 - [REDACTED] "From at least five years prior to the date of this Complaint through at least February 1, 2008, Respondent violated 9 VAC 25-580-140.2 and 170.1 failing to test the operation of the line leak detectors for Tanks L-1A and L-1B at the Lam's Lumber Facility."
- Count 7 - [REDACTED] "From at least five years prior to the date of this Complaint through at least February 1, 2008, Respondent violated 9 VAC 25-580-130 and 140.2.a(2) by failing to provide annual or monthly methods of release detection for the underground piping associated with the Tanks L-1A and L-1B at the Lam's Lumber Facility which meet the requirements referenced in such regulations."

(Test performed on January 31, 2008 - results dated 2/1/2008 - by Tank Compliance and Management - see enclosures. In addition it would seem to us that these two Counts (6 & 7) are related and should not be separated. We understand that it is required that you test the underground piping annually and any failure in the operation of the leak detectors would be evident at the time of testing. Separate counts seem repetitive)

- Count 8 - [REDACTED] "From at least five years prior to the date of this Complaint through at least October 9, 2007, Respondent violated 9 VAC 25-590-30 and 9 VAC 25-590-40 by failing to demonstrate financial responsibility for the USTs at the Lam's Lumber Facility."

(Please see enclosure)

- Count 9 - [REDACTED] "From at least September 30, 1998 to at least November 16, 2007, Respondent violated 9 VAC 25-580-70.A, by failing to properly notify VADEQ of the existence of Tanks L-1A and L-1B at the Lam's Lumber Facility."

(Reason for delay from inspection to recording of the Notification with the VADEQ was that I (Heather) had a very hard time filling the form in correctly. Even after lengthy phone calls with Sevgi Rudd and Steven Hughes in the Woodbridge office I still continued to be misinformed and therefore sent the forms in wrong several times. In addition, a contracted licensed petroleum company, Blackburn Petroleum Equipment Service, Inc. installed the

UST in August 1998. I have provided to Ms. Peterson all of the documentation provided to us by the contractor at that time. We have already stated that we were never told of any regulations or requirements we had to comply with as a result of this. Having contracted with a believed to be reputable petroleum company, we again assumed that information such as this would be shared with us.)

Allow us please to address our concerns as a whole rather than the violations individually. We have very little defense against the violations themselves because we did neglect the issues that they represent. However, they were neglected unknowingly and not with intent. Be assured that had any of these violations been known before the EPA inspection, there would never have been any issues. We are a family that works very hard to stay in compliance on every level of our business. We are very strict with all local, state and federal guidelines that affect us or our business in any way. Had these issues been known to us they would have never been negligent. Please note ** we are not petroleum professionals** We are forth generation lumber/logging operators. At both locations we were in communication with professional petroleum contractors and even the VADEQ and were never told that there were things needing to be done by us.

We have been in contact with most of the regional offices of the VADEQ as well as many other UST owners in the state of Virginia and what we have discovered is very disheartening to us as a family. Starting with the very first time that either location was inspected, it was done by the EPA rather than the VADEQ. And, if the location of the Lumber Company was unknown to the VADEQ, then the question of how/why the EPA knew to inspect it is very unclear. Having communication with Woodbridge VADEQ office on the matter of the groundwater testing around D's Market and having had several meetings with them at the Lumber Company (were the UST pumps are visible) we understand they must have known of the UST there and for some reason neglected to inspect/inform us. In many conversations with directors and inspectors in other regional offices we have been told that this is very unlike VADEQ practices. When a facility is found in non-compliance they are worked with and educated to come into compliance and then monitored to be sure they remain that way. And only in extreme cases of unwillingness and non-cooperation are fines enforced and/or the EPA called in to help. We understand the EPA does random inspections of their own, but when asked if we were a result of one of these inspections, no clear answer has been given. We feel that we were ignored and neglected by our own regional office and have no understanding of why?? We are certain that we have been singled out by that office and as a result your office of the EPA. Again, the question of why? has not been answered. We have explained our neglect, we are asking for explanation for why we are being treated clearly unfairly.

We have and are only asking for the same respect and consideration given to others that have been found in our same or similar situation.

Thank you for your time and consideration. As a family, we look forward to resolving this matter and focusing on the future.

Sincerely,

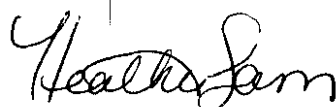
The Lam Family

T. Bradley Lam & Scheryl B. Lam

enclosures

cc: Stacie Peterson
Benjamin Fields

written by Heather U. Lam





COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY
Street address: 629 East Main Street, Richmond, Virginia 23219
Mailing address: P.O. Box 1105, Richmond, Virginia 23218
Fax (804) 698-4500 TDD (804) 698-4021
www.deq.virginia.gov

L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

December 6, 2007

Ms. Heather Lam
P.O. Box 138
Barboursville, VA 22923

Financial Responsibility for Owner ID: 44390

Lams Lumber

Dear Ms. Lam:

The Virginia Department of Environmental Quality has reviewed the documentation submitted by Tony Bradley Lam to demonstrate financial responsibility for petroleum underground storage tanks (USTs) owned and/or operated in the Commonwealth of Virginia. The documents you have submitted provide sufficient evidence of financial responsibility for the referenced facilities.

Tony Bradley Lam must annually update financial assurance documentation for all regulated USTs and maintain a copy of this information at either the UST site(s) in question or the owner's/operator's place of work in the Commonwealth. In the event that aggregate petroleum throughput for all of the owner's/operator's regulated USTs for the calendar year ended 12/31/07 exceeds 600,000 gallons, please have the issuing institution of the letter of credit being used to demonstrate financial responsibility increase its face value to the newly required amount and submit the appropriate documentation to DEQ by **10/09/08**.

If you have any questions regarding the UST financial assurance requirements, please contact me at (804) 698-4205 (toll free (800) 592-5482 ext. 4205). Thank you for your time and consideration in this matter.

Sincerely,

Josiah Q. Bennett
Virginia Department of Environmental Quality

c: Cynthia Sale DEQ/NRO



P.O. Box 815 • Vinton, Virginia 24179
540-312-8485

Customer:	Lam's Lumber Company 4761 Constitution Hwy Barboursville, Va 22923	Location:	Lam's Lumber Company 4761 Constitution Hwy Barboursville, Va 22923
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Technician:	Rick Trogdon WV C462
Date:	2-1-08

UST / LINE TEST RESULTS

Tank ID:	Diesel Off Rd	Diesel On Rd			
Line Material:	FBG	FBG			
Pump Manufacturer:	RJ	RJ			
Isolation Method:	Check Valve	Check Valve			
Isolation Dispenser:	Shear Valve	Shear Valve			
Test starting time:	3:00	3:00			
Test ending time:	3:30	3:30			
Initial Cylinder Level:	.0600	.0560			
Final Cylinder Level:	.0580	.0520			
Leak volume (ICL-FCL):	.0020	.0040			
Conclusion:	PASS	PASS			

Testing Comments: Lines were tested with nitrogen at 150% of Working Pressure.

UST / LEAK DETECTOR TEST RESULTS

Product:	Diesel Off rd	Diesel On Rd			
L.D. Manufacturer:	RJ	RJ			
Simulated Leak Rate:	3 GPH	3 GPH			
Conclusion:	PASS	PASS			

Testing Comments: NA


RICK TROGDON

Certifications: US 1082-190/ LT-017 WV C462

Note: Pressurized UST Lines and Leak Detectors must be tested annually
Threshold for passing (+/- .005 GPH for 30 minutes)
P/D 0.10 leak 100% PFA 0%



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

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Fax (804) 698-4500 TDD (804) 698-4021

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(804) 698-4000
1-800-592-5482

December 6, 2007

Ms. Heather Lam
P.O. Box 138
Barboursville, VA 22923

D's market

Financial Responsibility for Owner ID: 44392

Dear Ms. Lam:

The Virginia Department of Environmental Quality has reviewed the documentation submitted by T. Bradley & Scheryl B. Lam to demonstrate financial responsibility for petroleum underground storage tanks (USTs) owned and/or operated in the Commonwealth of Virginia. The documents you have submitted provide sufficient evidence of financial responsibility for the referenced facilities.

T. Bradley & Scheryl B. Lam must annually update financial assurance documentation for all regulated USTs and maintain a copy of this information at either the UST site(s) in question or the owner's/operator's place of work in the Commonwealth. In the event that aggregate petroleum throughput for all of the owner's/operator's regulated USTs for the calendar year ended 12/31/07 exceeds 1,200,000 gallons, please have the issuing institution of the letter of credit being used to demonstrate financial responsibility increase its face value to the newly required amount and submit the appropriate documentation to DEQ by **10/09/08**.

If you have any questions regarding the UST financial assurance requirements, please contact me at (804) 698-4205 (toll free (800) 592-5482 ext. 4205). Thank you for your time and consideration in this matter.

Sincerely,

Josiah Q. Bennett
Virginia Department of Environmental Quality

c: Cynthia Sale DEQ/NRO



P.O. Box 815 • Vinton, Virginia 24179
540-312-8485

Customer:	D'S Market 5515 Spotswood Trail Barboursville, Va 22923	Location:	D'S Market 5515 Spotswood Trail Barboursville, Va 22923
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Technician:	Rick Trogdon WV C462
Date:	2-1-08

UST / LINE TEST RESULTS

Tank ID:	Regular	Super			
Line Material:	FBG	FBG			
Pump Manufacturer:	FEP	FEP			
Isolation Method:	Check Valve	Check Valve			
Isolation Dispenser:	Shear Valve	Shear Valve			
Test starting time:	11:00	11:00			
Test ending time:	11:30	11:30			
Initial Cylinder Level:	.0470	.0430			
Final Cylinder Level:	.0440	.0400			
Leak volume (ICL-FCL):	.0030	.0030			
Conclusion:	PASS	PASS			

Testing Comments: Reg and Super lines were tested with nitrogen at 150% of Working Pressure. Diesel and Kero piping were suction delivery . (No testing required)

UST / LEAK DETECTOR TEST RESULTS

Product:	Reg	Super			
L.D. Manufacturer:	FEP	FEP			
Simulated Leak Rate:	3 GPH	3 GPH			
Conclusion:	PASS	PASS			

Testing Comments: Diesel and Kero were suction delivery . (No Leak Detectors required.)


RICK TROGDON

Certifications: US 1082-190/ LT-017 WV C462

Note: Pressurized UST Lines and Leak Detectors must be tested annually
Threshold for passing (+/- .005 GPH for 30 minutes)
P/D 0.10 leak 100% PFA 0%

If you have any questions, give me a call.

Thanks.

At D's Market (fka Mary Lou's Market), the 10,000 gallon regular gasoline UST, the 8,000 gallon premium gasoline UST, and both compartments of the compartmentalized UST that is used for the storage of on-road diesel fuel and gasoline all have ballfloat valves for overfill protection. In addition, at Lam's Lumber, both compartments of the compartmentalized UST that is used for the storage of on- and off-road diesel fuel have ballfloat valves for overfill protection.

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete.

Name (printed) ROBERT WILLIAMS (RED JEWEL CONST.) 804-240-2962-M.
Title SUPERVISOR
Signature *Robert Williams*
Date 6/13/08

Stacie Peterson, Environmental Engineer
Eastern PA Remediation Branch (3HS21)
US EPA Region III
1650 Arch Street
Philadelphia, PA 19103
(215)814-5173 - Phone
(215)814-3002 - Fax

STATEMENT

RED JEWEL CONSTRUCTION
P.O. BOX 6201
ASHLAND, VIRGINIA 23005
804-730-2547

Jan #
2/22/08
2/23/08

LAM LUMBER COMPANY
P.O. BOX 138
BARBOURSVILLE, VA 23923

Date MAY 19, 2008

		Balance Forward	
	INSTALLATION OF ONE V-R TLS 300C TWO PROBE MONITOR SYSTEM.	\$7,200	00
<i>they purchased equipment from Jones & Frank = included in this bill</i>			
Terms: Payable on Receipt			

40517
5/28/08

If not paid within terms, 2% finance charge will be imposed.

Pay last amount
in this column.

Thank You



Petroleum Equipment Specialists

Remit to: PO Box 12789
Norfolk, VA 23541

BRANCH LOCATIONS:
ATLANTA, GA
CHARLOTTE, NC
COLUMBIA, SC
FREDERICKSBURG, VA
HUGHESVILLE, MD
NORFOLK, VA
RALEIGH, NC
SALISBURY, MD



Invoice Number 105531
Invoice Date June 20, 2008
PO Number
Contract
Project 03-08-0047-S

Customer No. 14900
Sold To :
LAMS LUMBER CO
P O BOX 138
BARBOURSVILLE, VA 22923

Ship To :
LAMS LUMBER CO
5515 SPOTSWOOD TR
BARBOURSVILLE, VA 22923

Salesman: 160 WEBB-DWIGHT M
Terms: Net 10 Days

TANK MONITOR EQUIPMENT	\$7,662.08
START UP AND TRAINING	\$500.00

Invoice Total: \$8,162.08

Contract Value	\$8,162.08	Billing To Date	\$8,162.08
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Bill to: TWILA KIRBY
tkirby@jones-frank.com
JONES & FRANK CORP
(540) 752-1992

D's market

Invoice Total includes all applicable sales and use taxes.

Thank you for choosing Jones & Frank!

Tank Compliance and Management

INVOICE

STATEMENT # TT0131

Rick Trogdon, Owner and Operator / WV C-462
 PO BOX 815
 VINTON, VA 24179

BILL TO LAM'S LUMBER COMPANY & D'S MARKET
 RT. 20 / 33
 BARBOURSVILLE, VA

COMMENTS PERFORMING TIGHTNESS TEST ON
 (6)TANKS , LINES AND LEAK
 DETECTORS.

SITE

INV DATE	DESCRIPTION:	UNIT COST	AMOUNT
1-31-07	PERFORMED ANNUAL TIGHTNESS TEST ON (6)TANKS, LINES, AND L.D.	200.00 165. ⁰⁰	1,200.00 990. ⁰⁰

CURRENT	1-30 DAYS PAST DUE	31-60 DAYS PAST DUE	61-90 DAYS PAST DUE	OVER 90 DAYS PAST DUE	AMOUNT DUE
1,200.00 990. ⁰⁰					1,200.00 990. ⁰⁰

THANK YOU FOR YOUR BUSINESS!

Rick Trogdon

Tank Compliance and Management
PO Box 115
Cloverdale, VA 24077

INVOICE

Date 4/2/2008
Invoice # 17

PAID

Lams Lumber
4761 Constitution Hwy
Barboursville, VA 22923

Lams Lumber
4761 Constitution Hwy
Barboursville, VA 22923

P.O. #
Terms Due on receipt

Ship Date 4/2/2008
Due Date 4/2/2008
Other

Tank Test	tested 4 tanks at D's Market	4	150.00	600.00
Tank Test	tested 2 tanks at Lams Lumber	2	150.00	300.00

Tank Compliance and Management
twotrogs@cox.net

(540)312-8467

Subtotal	\$900.00
Sales Tax (0.0%)	\$0.00
Total	\$900.00
Payments/Credits	\$-900.00
Balance Due	\$0.00