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**U.S. EPA REGION 8
HEARING CLERK**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

IN THE MATTER OF: Jack Anderson, Jack's Service Center 404 Main Street Isabel, South Dakota 57533 Respondent	Docket No. RCRA-08-2025-0007 COMPLAINT, COMPLIANCE ORDER, AND NOTICE OF OPPORTUNITY FOR HEARING Section 9006 of the Resource Conservation and Recovery Act, 42 U.S.C. § 6991e.
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I. INTRODUCTION

1. This Complaint, Compliance Order, and Notice of Opportunity for Hearing (Order) is issued by the United States Environmental Protection Agency (EPA) to Jack Anderson (Respondent). This Order concerns violations of the underground storage tank regulations, 40 C.F.R. Part 280, at the Jack's Service Center Facility (Facility) located at 404 Main Street, Isabel, South Dakota, within the exterior boundaries of the Cheyenne River Reservation. This proceeding is governed by the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, Issuance of Compliance or Corrective Action Orders, and the Revocation, Termination or Suspension of Permits set forth at 40 C.F.R. Part 22, a copy of which is enclosed.

II. STATUTORY AUTHORITY

2. This Order is issued under section 9006 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6991e. The authority to issue this Order has been properly delegated to the undersigned official.

III. PARTIES BOUND

3. This Order shall apply to and be binding upon Respondent and Respondent's agents, successors, and assigns. No change in ownership of the Facility shall alter Respondent's responsibilities under this Order unless EPA, Respondent, and the transferee agree in writing to allow the transferee to assume such responsibilities. Additionally, no later than 30 calendar days prior to such transfer, Respondent shall notify EPA at the address specified in paragraph 32, below.

IV. FINDINGS OF FACT AND LAW

4. Subtitle I of RCRA, RCRA sections 9001-9010, 42 U.S.C. §§ 6991 - 6991i, authorizes the EPA to regulate the installation and use of "underground storage tanks" (USTs or tanks) which contain "regulated substances" as those terms are defined in section 9001 of RCRA, 42 U.S.C. § 6991.
5. The EPA has jurisdiction over this matter pursuant to RCRA section 9006, 42 U.S.C. § 6991e.
6. Section 9003(c)(1) of RCRA, 42 U.S.C. § 6991b(c)(5), authorizes the EPA to promulgate regulations setting forth requirements for the closures of tanks to prevent releases of regulated substances into the environment. The EPA has promulgated such regulations at 40 C.F.R. Part 280, subpart G.
7. Petroleum, and any fraction thereof, is a regulated substance as defined at RCRA section 9001(2), 42 U.S.C. § 6991(2).
8. The EPA is the "implementing agency" as that term is used at 40 C.F.R. § 280.12.
9. Respondent Jack Anderson owns and/or operates one 3,000-gallon, jacketed steel tank at the Facility located at 404 Main Street, Isabel, South Dakota, within the exterior boundaries of the Cheyenne River Reservation. The tank was installed in October 1998 and has three compartments used to store unleaded gasoline, premium, and diesel fuels for use at the Facility's for-profit gas station.

10. The Respondent is a “person” as defined in RCRA section 9001 (6), 42 U.S.C. § 6991(6), and 40 C.F.R. § 280.12, and is therefore subject to regulation under RCRA.
11. The Respondent is an “operator” as defined in RCRA section 9001(4), 42 U.S.C. § 6991(10), and 40 C.F.R. § 280.12 of the underground storage tank system, as defined in RCRA § 9001(1), 42 U.S.C. 6991(10), and 40 C.F.R. § 280.12.
12. The Respondent is an “owner” of the UST system at the Facility as defined in RCRA § 9001(3), 42 U.S.C. § 6991(3), and 40 C.F.R. § 280.12.
13. The compartments of the UST system are each 1,000 gallons and are referred to as Tank 1, Tank 2 and Tank 3 in the EPA records. Tank 1 contains premium grade gasoline, Tank 2 contains regular grade gasoline, and Tank 3 contains diesel.
14. The Facility is currently not operating and has been closed since approximately late 2022.
15. Any owner or operator of a UST who fails to comply with any requirement or standard promulgated by the Administrator under RCRA section 6991b is subject to a civil penalty not to exceed \$29,980 for each tank for each day of violation. 42 U.S.C. § 6991e(d)(2).
16. Pursuant to section 9006(a) of RCRA, 42 U.S.C. § 6991e(a), the EPA is authorized to issue compliance orders whenever the Agency determines that any person has violated or is in violation of any requirement of subtitle I of RCRA, 42 U.S.C. § 6991.
17. This order sets forth specific actions the Respondent is required to conduct within specified schedules to return the Facility to compliance with RCRA.
18. Any violator who fails to comply with a section 9006 order within the time specified in the order shall be liable for a civil penalty of not more than \$74,943 for each day of continued noncompliance. 42 U.S.C. § 6991e(a)(3).

19. On May 15, 2024, an EPA credentialled inspector conducted a routine facility compliance inspection of the UST at the Facility. The purpose of the inspection was to assess the Facility's compliance with the UST regulations. The EPA identified several violations of 40 C.F.R. Part 280 at the time of the inspection.
20. The inspector attempted to contact the owner prior to the inspection and was unable to connect. Upon arrival at the Facility, the door was locked, and no personnel were present.
21. During the May 15, 2024, inspection, the inspector observed that Tank 1 measured 2.5 inches of petroleum product, Tank 2 measured 2.75 inches of petroleum product, and Tank 3 had 7 inches of petroleum product present.
22. On July 12, 2024, the EPA attempted to inform the Respondent of the violations by certified mail and provided a copy of the inspection report. The EPA mailer was returned to sender. The EPA re-attempted to deliver the certified mail again in December 2024 with a similar result.

V. FINDINGS OF VIOLATION

40 C.F.R. § 280.70(a) Failure to comply with the temporary closure requirements

23. 40 C.F.R. § 280.70(a) requires that when a UST system is temporarily closed, owners and operators must continue operation of any release detection system unless the system is empty.
24. During the May 15, 2024, inspection, the inspector observed that Tank 1 measured 2.5 inches of petroleum product, Tank 2 measured 2.75 inches of petroleum product, and Tank 3 had 7 inches of petroleum product present. Respondent has not provided EPA records showing operation of a release detection system.
25. The Respondent's failure to empty the UST system or continue release detection system monitoring constitutes a violation of 40 C.F.R. § 280.70(a) and section 9003(b) of RCRA, 42 U.S.C. § 6991b(c).

40 C.F.R. § 280.241(a) Failure to designate a Class A/B operator

26. 40 C.F.R. § 280.241(a) and the training requirements in 40 C.F.R. § 280.242 require that UST system owners and operators must designate and train at least one Class A and one Class B operator for each UST system.
27. Respondent did not provide EPA a record of designation or training for a Class A or B operator during or since the May 15, 2024, inspection.
28. Respondent's failure to designate and train a Class A and B operator constitutes a violation of 40 C.F.R. § 280.241(a) and section 9003(b) of RCRA, 42 U.S.C. § 6991b(c).

VI. ORDER FOR COMPLIANCE

29. Based upon the Findings of Violation and the Findings of Fact and Law alleged above and pursuant to section 9006(a) of RCRA, 42 U.S.C. § 6991e(a), the Respondent is hereby ORDERED to take the following actions in the specified timeframes:
30. By August 30, 2025, the Respondent shall comply with the temporary closure requirements of 40 C.F.R. § 280.70(a). The Respondent shall either:
- a. remove liquid from the UST system so that no more than one inch (2.5 centimeters) of residue, or 0.3 percent by weight of the total capacity of the UST system, remain in the system; or
 - b. continue to perform release detection monitoring every 30 days.

Respondent shall provide the EPA with documentation of the liquid removal or proof that the tank interstice has been monitored.

31. By August 30, 2025, the Respondent shall comply with the operator training and designation requirements of 40 C.F.R. § 280.241(a) and 40 C.F.R. § 280.242 by completing a Class A and B operator training course. Respondent must send EPA documentation of completing the training, including a certificate demonstrating completion of a Class A and B operator training program or passing results from a comparable examination.

32. All documents required to be submitted by this Order shall be sent to the attention of:

Roberta Person
8ECA-RO-E
U.S. EPA Region 8
1595 Wynkoop St.
Denver, CO 80202
person.roberta@epa.gov

VII. OPPORTUNITY TO REQUEST A HEARING

32. Respondent Jack's Service Center has the right to request a public hearing within 30 calendar days after the Order is served, as provided in RCRA section 9006(b), 42 U.S.C. § 6991e(b). If (1) you contest the factual claims made in this Order, (2) wish to contest the appropriateness of the Order; or (3) assert that you are entitled to judgment as a matter of law, you must file a written Answer in accordance with 40 C.F.R §§ 22.15 and 22.37 within 30 calendar days after this Order is received.

- a. Your Answer must (1) clearly and directly admit, deny, or explain each of the factual allegations contained in the Order; (2) state all facts and circumstances, if any, which constitute grounds for defense; (3) state the facts intended to be placed at issue; and (4) specifically request an administrative hearing, if desired. The denial of any material fact or the raising of any affirmative defense in your Answer shall be construed as a request for a hearing. Failure to deny any of the factual allegations in this Order constitutes an admission of the undenied allegations.
- b. The Answer and one copy must be sent to the EPA Region 8 Hearing Clerk at r8_hearing_clerk@epa.gov or mailed to:

Hearing Clerk
U.S. EPA Region 8 (8ORC-IO)
1595 Wynkoop St.
Denver, Colorado 80202-1129

- c. A copy of the Answer must be sent to the enforcement attorney assigned to this matter at castelli.matthew@epa.gov or mailed to:

Matthew Castelli, Attorney
U.S. EPA Region 8 (8ORC-LE-R)
1595 Wynkoop St.
Denver, Colorado 80202-1129

- d. Failure to make a timely request for a hearing may waive your right to formally contest any of the allegations in this Order.

33. In accordance with section 9006(b) of RCRA, 42 U.S.C. 6991e(b), and 40 C.F.R. 22.14(c) and 22.37(b), the requirements of this Order shall become final 30 days after service of this Order unless Respondent requests a hearing in accordance with 40 C.F.R. §§ 22.15 and 22.37.

VIII. GENERAL PROVISIONS

34. The Respondent shall fully implement each item of this Order in accordance with the requirements and timeframes herein. The Respondent's failure to fully implement all requirements of this Order in the manner and time period required is a violation of this Order and may subject the Respondent to the assessment of penalties as provided under section 9006(a), 42 U.S.C. 6991e(a)(3).
35. Nothing in this Order shall be construed to prevent the EPA from taking whatever action(s) it deems appropriate for the violations cited in the Order or to relieve the Respondent from responsibilities, liabilities, or penalties pursuant to any applicable federal, tribal, or applicable law or regulation.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY REGION 8

Kristin McNeill, Supervisor
RCRA Enforcement Section
Enforcement and Compliance Assurance Division