



Montana Department of
ENVIRONMENTAL QUALITY

Judy Martz, Governor

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.state.mt.us

April 29, 2004

Mark Hesla
Fulton Fuel Company
127 Main Street
Shelby, MT 59474



Re: **Fulton Crude Oil Release into Fred and George Creek, Toole County, Montana (CVID #7972)**

Dear Mr. Hesla:

The Montana Department of Environmental Quality (DEQ) performed a site inspection of the Fulton Fuel crude oil release area on Fred and George Creek on Monday, April 26, 2004, and met with the property owner. Crude oil staining was apparent on the soil above the banks of the creek, presumably where the crude had flown along the ice in the creek. Crude staining was also evident just above water level, presumably where crude flowed after the ice was melted off. Pockets of crude remain in the stream. DEQ noted that some of the absorbent pads and booms in the stream need to be replaced with fresh pads and booms. At least two oil-soaked pads had been placed on the bank of the creek, which is inappropriate and is likely to spread contamination. When pads are removed from the stream, they need to be properly containerized and disposed. Additionally, please be careful not to leave trash and personal belongings behind.

The purpose of this letter is to require Fulton Fuel to continue to monitor the release site, replace booms and pads as necessary, and respond to landowner concerns. These activities must be ongoing, although DEQ has not specifically approved a work plan.

The property owner pointed out an additional pipeline release on his property where some excavation had occurred. Please provide DEQ with the date of that release, the amount of product that was released, and a brief description of what remedial activities occurred.

I am in the process of contacting various agencies regarding permits that may be required prior to performing work at the Fred and George Creek release site. Please contact me at (406) 841-5062 or lalvey@state.mt.us if you have any questions concerning the requirements of this letter.

Sincerely,

Laura Alvey
Groundwater Remediation Program
Remediation Division

cc: Jane Amdahl, DEQ Legal Unit
Chad Anderson, DEQ Enforcement Division
Toole County Sanitarian, 226 1st Street South, Shelby, MT 59474
Sarah Shepherd, Toole County Conservation District, 1125 Oilfield Avenue, Shelby, MT 59474
Brian Ratzburg, HC 51 Box 269, Galata, MT 59474

Exhibit 2



Montana Department of
ENVIRONMENTAL QUALITY

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 •



COPY

BILL

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

April 20, 2004

Mark Hesla
Fulton Fuel Company
127 Main Street
Shelby, MT 59474

Re: Notice of Violation Letter for the Fulton Crude Oil Release into Fred and George Creek, Toole County, Montana (CVID #7972)

Dear Mr. Hesla:

The Montana Department of Environmental Quality (DEQ) Enforcement Division was notified on March 3, 2004 of the release of approximately 6 or more barrels of crude oil into Fred and George Creek located in Township 37N, Range 2E, southwest quarter of Section 14, which was discovered on February 29, 2004. The spill is located on the property of Brian Ratzburg. This site was referred to the DEQ Remediation Division, Groundwater Remediation Program on April 12, 2004.

Crude oil was released from a Fulton Fuel Company (FFC) 2-inch flow line directly above Fred and George Creek. Approximately one mile of total stream length has been impacted with either free product or sheen. The creek is spring fed, and flows year round near the source. The creek does go dry further down the drainage. Absorbent booms and pads were placed at various locations along the creek to intercept crude, filter creek water, and prevent contamination from migrating further downstream. A siphon dam was installed, which may have been of limited effectiveness due to inappropriate construction. Two vacuum trucks were brought in to flush and capture free product. Mr. Larry Alheim of DEQ collected soil and water samples, which indicated surface water contamination as high as 315 parts per million (ppm) extractable petroleum hydrocarbons (EPH) in Sample #4, and soil (sediments?) contamination as high as 15,400 ppm EPH in Sample #2. Volatile petroleum hydrocarbons (VPH) analysis of water sample #5 found C9-C10 Aromatics at 282 ppb which exceeds DEQ's Risk-Based Screening Level (RBSL) of 50 ppb for this fraction. VPH analysis of Soil Sample #2 found benzene at 1.6 ppm, which exceeds the RBSL 0.05 ppm for surface soil.

It is a violation of the Montana Water Quality Act (WQA) to cause pollution of any state waters, or to place or cause to be placed wastes where they will cause pollution of any state waters. Section 75-5-605(1)(a), MCA. The release of crude oil at the above-described location

constitutes a violation of the WQA. Because FFC is the owner/operator of the flow line from which the release occurred, DEQ hereby issues to FFC a violation letter pursuant to Section 75-10-617(1)(a), MCA.

At this time, DEQ requires that FFC complete the following actions:

1. Collect surface water samples and collocated sediment samples. These samples should be analyzed for EPH screen and VPH. If the EPH screen produces a Total Extractable Hydrocarbon (TEH) value of 300 ppb or greater in water, or 50 ppm or greater in sediments, then EPH fractionation must be run, and the sample must also be analyzed for polynuclear aromatic hydrocarbons (PAHs) by EPA Method 8270. Sediment samples must also be analyzed for total organic carbon. All sediment sample results need to be reported on a dry-weight basis (the laboratory will need to be instructed to do this). Please be aware that samples to be submitted for VPH must not be composited in the field. Samples must represent worst-case conditions in the stream bed and bank at several points along the contaminated portion of the stream, and at least one set of samples must be collected from downstream of the area where work has occurred to document clean downstream conditions. Also, collect "background" sediment/soil and water samples upstream of the release, because natural sediment samples and some stream water can contain large amounts of organic matter that may be reflected in the EPH screen. These sampling results will serve as a "baseline" for comparison to later sample results.
2. Compare results of surface water sampling to WQB-7 Numeric Water Quality Standards, selecting the most conservative of the Aquatic Life Standards or the Human Health Standards.
3. Compare the results of soil sampling to appropriate RBSLs.
4. Compare the results of sediment sampling to Washington State Department of Ecology Freshwater Sediment Quality Values. A qualified environmental professional may also perform a risk assessment to generate site-specific cleanup levels, which would need to be reviewed and approved by DEQ.
5. Determine the vertical and lateral extent of contaminated soil and sediment. Generate a map of the impacted length of the creek, and document areas of contamination on this map. Sample results can be documented on this map as well. A photographic log of creek conditions must be maintained.
6. It may be possible to remove areas of stained soil and sediment by careful digging with hand-tools, especially if the creek goes dry during some portion/s of the year. If remedial excavation is employed for cleaning up soil contamination, confirmation samples must be collected from the excavated areas. At least one composite confirmation sample must be collected for every 25' x 25' of surface area in the excavation. Professional judgment may dictate the collection of additional samples. These samples must be analyzed for EPH screen and VPH. If the EPH screen produces a TEH value of 50 ppm or greater, then EPH fractionation must be run, and the sample must also be analyzed for PAHs by EPA Method 8270. At other sites where petroleum products have impacted surface water and streambeds and banks,

DEQ has required the generation of a Site-Specific Risk Assessment that addresses threats to both human and ecological receptors. However, if FFC can clean up the crude in the creek to "non-detect" or background levels, the drafting of a Site-Specific Risk Assessment may not be necessary.

7. FFC may propose alternative remediation strategies, which must be reviewed and approved by DEQ.
8. Properly manage all excavated contaminated soil. If the volume of the petroleum-contaminated soil exceeds 1600 cubic yards, then the soil must be transported to, and managed at, an existing licensed landfarm or a licensed Class II landfill. If the volume of contaminated soil does not exceed 1600 cubic yards, then it may be managed at a one-time landfarm registered with DEQ's Waste Management Section or a licensed Class II landfill. Please let me know if you would like a copy of DEQ's *"Guidelines for Registered Landfarming of Hydrocarbon Contaminated Soils."* If you have any questions please contact George Scriba of DEQ's Permitting and Compliance Division, Waste Management Section at (406) 444-1434. If contaminated soil needs to be stockpiled, it should be placed on plastic sheeting and bermed to prevent runoff.
9. DEQ is not requiring the installation of groundwater monitoring wells at this time. However, if it is determined that crude has migrated into subsurface soil, DEQ may require the installation of an appropriate number of monitoring wells to determine whether or not groundwater has been impacted. There may be perched or shallow groundwater in the area of the creek. Monitoring wells must be surveyed for location and elevation by a licensed surveyor, and tied to an established USGS datum.
10. Conduct a survey of potential receptors within one-half mile downgradient of the site and collect water samples, if appropriate, from these receptor points.
11. If the siphon dam is not functioning properly, it must be reconstructed or fixed. Booms and absorbent pads must be placed to capture contamination until DEQ determines that these can be removed. Booms, pads, and dams must be monitored at least weekly to ensure that they are functioning appropriately. Replace booms and pads as necessary. Surface water samples must be collected at least once a month to document whether or not contamination is moving downstream.
12. FFC must work with the property owner regarding issues such as fencing of the contaminated area to keep out cattle, ensuring that the property owner's cattle have access to adequate water supplies, and other issues that may arise.
13. FFC must ensure that all necessary permits are secured prior to conducting work in the streambed or on the stream banks. FFC should contact the local Conservation District for a 310 permit prior to conducting excavation activities in the creek. FCC should contact the DEQ's Permitting and Compliance Division, Water Protection Bureau to obtain a 318 permit if a short-term activity may cause unavoidable short-term violations of state water quality standards. If Fred and George Creek flows into navigable waters, FCC may need to obtain a 404 permit of the Army Corp of Engineers.

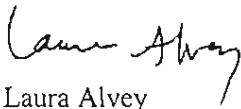
14. FFC must submit information detailing the following information about Fred and George Creek: human uses of the creek, habitat types adjacent to the creek, animal uses of the creek, endangered and/or threatened species that may use the creek as habitat, flow characteristics of the creek (average flow volumes during different times of the year), eventual discharge point of the creek, and any other pertinent information.
15. Submit a report to DEQ that contains a description of the release and the initial remedial response actions conducted at the site, all analytical results, a map of the site, and photographs taken of the site, and a discussion of data quality. If soil samples have been collected, the locations of these should be indicated on a map. If an excavation has occurred, the boundaries of the excavation should be indicated on a map and the confirmation sample locations should be indicated as well. Any nearby receptors should also be indicated on the site map. Finally, the report should include any recommendations for future remedial actions.

FFC must send written notification to DEQ within two weeks of receipt of this certified letter stating its commitment to conduct the actions outlined in items 1 through 15 (above). A work plan and tentative schedule of implementation that addresses items 1 through 15 (above) must accompany the letter of commitment. The work plan should include all relevant standard operating procedures (SOPs), or reference these if DEQ has a copy the SOPs on file.

If FFC fails to comply with the requirements of this violation letter, DEQ is required by Section 75-5-617(2), MCA, to issue an administrative order or commence a civil action requiring compliance, which may include the assessment of penalties of up to \$25,000.00 per day of violation. In addition, a civil action may result in the assessment of DEQ's costs.

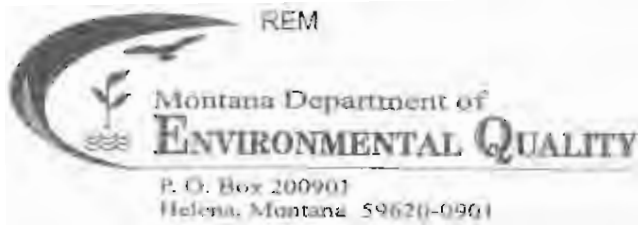
Please contact me at (406) 841-5062 or lalvey@state.mt.us if you have any questions concerning the requirements of this letter.

Sincerely,

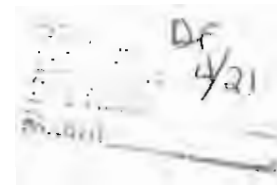


Laura Alvey
Groundwater Remediation Program
Remediation Division

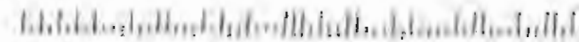
cc: Jane Amdahl, DEQ Legal Unit
Chad Anderson, DEQ Enforcement Division
Toole County Sanitarian, 226 1st Street South, Shelby, MT 59474
Sarah Shepherd, Toole County Conservation District, 1125 Oilfield Avenue, Shelby, MT 59474
Brian Ratzburg, HC 51 Box 269, Galata, MT 59474

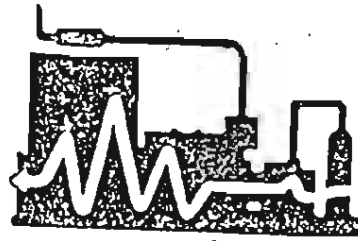
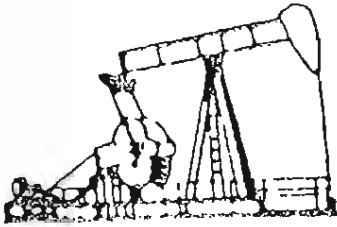


MARK HESLA
FULTON FUEL COMPANY
127 MAIN ST
SHELBY MT 59474



59474#1305





FAX TRANSMITTAL SHEET

Fulton Fuel Company

127 Main Street

P O Box 603

Shelby, MT 59474

Telephone Number: 406-434-5579

FAX Number: 406-434-5951

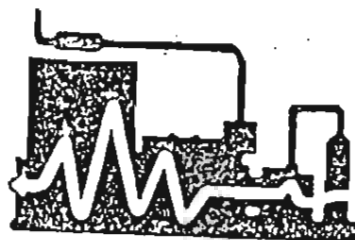
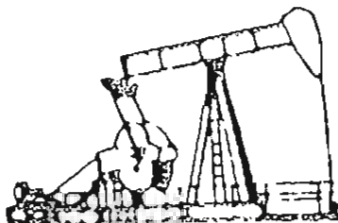
Date: 04-21-04 Time: 3PM

To: Chris Mangen 256-0277

From: Bill

Total Number of Page(s) Including Transmittal Sheet: 6

Please advise if there is a problem with this transmittal.



FAX TRANSMITTAL SHEET

Fulton Fuel Company

127 Main Street

P O Box 603

Shelby, MT 59474

Telephone Number: 406-434-5579

FAX Number: 406-434-5951

Date: 04-21-22 Time: _____

To: Renee Coppock 259-4159

From: Bill Fulton

Check with Chris Mungen regarding this fax.

Thanks.

Total Number of Page(s) Including Transmittal Sheet: 6

Please advise if there is a problem with this transmittal.