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**Notice of Intent to Red Tag: Class A Violation(s)**

**20.5.116 NMAC Delivery Prohibition**

**Date:** February 26, 2024

**To:** Wayne Sonchar  
BTU Block & Concrete Inc. (Owner ID# 76546/Operator ID# O14304)  
PO Box 394, Raton, NM 87740  
[wsonchar@msn.com](mailto:wsonchar@msn.com)

**Re:** BTU Block & Concrete - Raton (Facility ID# 55036, List of Class A Violations # 16 20231106 3312)  
115 Cimarron Avenue, Raton, NM 87740

**Date of LCAV:** November 06, 2023

Following an inspection on November 06, 2023 by the New Mexico Environment Department’s (“Department”) Petroleum Storage Tank Bureau (“PSTB”), this facility was cited with significant Class A violation(s) pursuant to section 20.5.116.1601.A(1) through (4) of the Petroleum Storage Tank Regulations, Title 20 Chapter 5 of the New Mexico Administrative Code (“NMAC”) that, if not corrected, could result in a release to the environment, or a release not being detected. The PSTB inspector provided you with a List of Class A Violations (“LCAV”) along with the inspection report informing you of the violation(s) that were identified during the inspection. **If the violation(s) in the table are not corrected within 30 days from the date of this Notice of Intent to Red Tag, the subject tank(s) noted in the table will be classified as ineligible for delivery, deposit or acceptance of product, in accordance with 20.5.116.1602.A NMAC.**

**Violations included in this action:**

Violation Code	Tank ID(s)	Violation Description
20.5.109.905 NMAC	39354	Failure to stop the prohibited use of a UST being used as an AST.
20.5.109.910.A (1) NMAC	39354	Failure to install spill prevention equipment on AST.
20.5.109.910.A (2) NMAC	39354	Failure to install Overfill prevention equipment on AST.

This means that, in accordance with 20.5.116.1603 NMAC, the following actions will occur:

- (a) PSTB will physically place red tag(s) prohibiting the delivery, deposit or acceptance of product on the fill port(s) of the tank(s) with the continuing Class A violation(s). The red tag(s) must remain affixed on the tank(s) until the violation(s) are corrected.
- (b) PSTB will post the name and address of this facility on its website list of facilities that are ineligible for delivery, deposit or acceptance of product.

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- (c) PSTB will post a certificate, conspicuously displayed at the facility clearly prohibiting any delivery, deposit or acceptance of product at every storage tank at the facility to which the Department has affixed a red tag.

It shall be unlawful for any person, other than an authorized representative of the Department, to remove, tamper with, destroy or damage a red tag affixed to any storage tank or certificate posted at a storage tank facility by Department personnel (see 20.5.116.1603.C NMAC).

This facility is not in a rural and remote area, which is defined in 20.5.101.7.R(14) NMAC as “a storage tank facility [which] is located in an area that is more than 20 miles from another facility that sells fuel to the public and that is open year-round.” *If you believe that your facility fits this definition and this Notice of Intent to Red Tag does not designate it as rural and remote, please contact the PSTB at 505-476-4397.* The PSTB will defer classifying this facility as ineligible for delivery for up to 180 days if it is designated as rural and remote.

Please notify PSTB Inspector Joe Godwin at 505-699-4006 if you do not understand the violation(s) cited, or to notify PSTB of the schedule of when work is planned to be done in order to correct the violation(s). You are required to notify the PSTB of any installation, replacement, repair or modification (see 20.5.116.1602.D NMAC). ***The PSTB will work with you to ensure the violation(s) are in compliance with 20.5 NMAC and are corrected as soon as possible.***

Unless the violation(s) cited in this Notice of Intent to Red Tag are corrected, the facility may not be in compliance with the requirements and provisions of the Petroleum Storage Tank Regulations as required for eligibility for reimbursement from the Corrective Action Fund if your facility has a release (see 20.5.123.2303 NMAC). ***If you have corrected the violation(s) cited in this Notice of Intent to Red Tag, please contact the PSTB inspector immediately.***

Thank you in advance for your attention to this matter.

**Lorena Goerger** Digitally signed by Lorena Goerger  
Date: 2024.02.26 10:04:13 -07'00'

February 26, 2024

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Lorena Goerger, Bureau Chief  
Petroleum Storage Tank Bureau

Date

cc: Btu Block & Concrete - Raton, 115 Cimarron Avenue, Raton, NM 87740  
Jen Olson, Office of General Counsel, New Mexico Environment Department (via electronic transmission)  
Joe Godwin, Program Manager, Prevention Inspection Program, Petroleum Storage Tank Bureau (via electronic transmission)  
Chris Hamilton, Supervisor, Prevention Inspection Program, Petroleum Storage Tank Bureau (via electronic transmission)  
Van Lewis, Compliance Assistance Coordinator, Petroleum Storage Tank Bureau (via electronic transmission)  
PSTB Master File  
PSTB Owner File