



MICHELLE LUJAN GRISHAM
GOVERNOR

JAMES C. KENNEY
CABINET SECRETARY

Certified Mail- Return Receipt Requested (Certified #: 7021 1970 0002 0164 1667)

Notice of Intent to Red Tag: Class B Violation(s)
20.5.116 NMAC Delivery Prohibition

Date: February 23, 2024

To: George Moreck
Moreck Fuel LLC (Owner ID# 276363)
5635 Star View Dr., El Paso, TX 79912
rmoreck@hotmail.com

Meheret Alemu
Asfaw LLC (Operator ID# O13915)
845 Via De La Paz Dr., El Paso, TX 79912
asfawllc@gmail.com

Re: Dylan's LLC (Facility ID# 27612, NOV# 20 20231117 2795)
1900 N Main St, Las Cruces, NM 88001

Date of NOD: January 18, 2024

Following an inspection on November 17, 2023 by the New Mexico Environment Department's ("Department") Petroleum Storage Tank Bureau ("PSTB"), the facility noted above has been cited with Class B violation(s) pursuant to section 20.5.116.1601.B(1) and (2) of the Petroleum Storage Tank Regulations, Title 20 Chapter 5 of the New Mexico Administrative Code ("NMAC"). The Department provided you with a Notice of Violation ("NOV") with the inspection report informing you of the violation(s) that were identified during the inspection and allowing 30 days from the date of the NOV to correct them. Because the violation(s) that were outlined in the NOV and inspection report were not corrected within the required timeframe, the Department issued a Notice of Deficiency ("NOD") on the date noted above (*see* "Date of NOD") re-stating the violation(s) that were identified during the inspection and providing you with an additional 30 days from the date of the NOD to correct the violation(s).

If these violation(s) listed in the table below are not corrected, a release to the environment could occur or a release could go undetected. In order to correct the violation(s) and come into compliance, please ensure that any corrective actions taken remain in compliance with 20.5 NMAC regulations. **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.B(3) NMAC.**

SCIENCE | INNOVATION | COLLABORATION | COMPLIANCE

Violations included in this action:

Violation Code	Tank ID(s)	Violation Description
20.5.118.1801.B NMAC	23479	Failure to investigate all suspected releases of regulated substances within seven days of discovery of the suspected release.
20.5.108.805.B[1] NMAC	23477, 23478, 23479	Failure to annually test the automatic tank gauging system for required operability and serviceability when used as a method of release detection on a UST system
20.5.108.800.E NMAC	23477, 23478, 23479	Failure to provide release detection by monitoring monthly for releases on a UST system installed prior to April 4, 2008.
20.5.107.704.E[2] NMAC	23477, 23478, 23479	Failure to inspect or test overfill prevention equipment no later than 7/24/2021 and every three years thereafter
20.5.107.709.A(3) NMAC	23479	Failure to replace piping connected to a UST that was determined by the department inspector to have corrosion or signs of deterioration or failure
20.5.107.704.C(2) NMAC	23477, 23478, 23479	Failure to test either the single walled spill prevention equipment installed in a containment sump on a UST system or the containment sump every three years
20.5.108.800.A(3) NMAC	23478	Failure to provide a method of release detection on a UST system that is operated and maintained in accordance with manufacturer's instructions or a current addition of an industry standard or code of practice developed by a nationally recognized association or independent testing laboratory

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 B 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.
- (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). Owners and operators shall continue to perform leak detection, corrosion protection, and monthly inspections, in addition to any other performance requirements in 20.5 NMAC, on the tanks that have a red tag (see 20.5.116.1603.D NMAC).

This facility is not located in a rural and remote area as defined in 20.5.101.7.R(14) NMAC and continued operation of the tank is not a matter of national security. If you believe that your facility is located in a rural and remote area as it is defined in the regulations and this Notice of Intent to Red Tag does not designate it as rural and remote, please contact the Department. If this facility is operated by the United States Department of Defense ("DOD"), DOD may notify the Department that continued operation of the

tank(s) is a matter of national security. The PSTB will defer classifying this facility as ineligible for delivery for up to 180 days if it is designated as rural and remote or a matter of national security (see 20.5.116.1608 NMAC).

Please notify PSTB Inspector Elmer Smith at 575-649-2954 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: 2024.02.23 08:41:58 -07'00'

February 23, 2024

Lorena Goerger, Bureau Chief
Petroleum Storage Tank Bureau

Date

cc: Dylan's LLC, 1900 N Main St, Las Cruces, NM 88001
Jen Olson, Office of General Counsel, New Mexico Environment Department (via electronic transmission)
Jim Gibb, Program Manager, Remedial Action Program, Petroleum Storage Tank Bureau (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)
Elmer Smith, 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