



**NEW MEXICO  
ENVIRONMENT DEPARTMENT**



**Petroleum Storage Tank Bureau**

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**Jennifer J. Pruett**  
Deputy Secretary

Certified Mail- Return Receipt Requested (Certified #: 7014 2120 0004 6264 4285)

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

**Date:** September 8, 2020

**To:** Greg Trujillo  
Historically Inspired Properties LLC (Owner ID# 76121/Operator ID# O10455)  
P.O. Box 259, Arroyo Hondo, NM 87513  
[greg@midtownhondo.com](mailto:greg@midtownhondo.com)

**Re:** Midtown Market & Spirits (Facility ID# 1516, NOV# 25 20200219 0002)  
680 State Hwy 522, Arroyo Hondo, NM 87513

**Date of NOD:** August 4, 2020

Following an inspection on February 19, 2020 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.**

**Violations included in this action:**

Violation Code	Tank ID(s)	Violation Description
20.5.107.705.B(1)(a) NMAC	18533 & 18534	Failure to test a cathodic protection system on a UST system within six months of installation and at least every three years thereafter.
20.5.107.705.C NMAC	18533 & 18534	Failure to inspect the equipment of an impressed current cathodic protection system installed on a UST system every 60 days.

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 Nicole Candelaria at (505) 670-2419 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.**

*Tank owners and operators are required to comply with all applicable regulations and with the Governor's current Executive Orders and Public Health Orders. If tank owners and operators are unable to comply with the regulations or need to delay activities as a result of the COVID-19 pandemic including related travel and social distancing restrictions imposed by both governments and corporations, entities should use existing procedures to request extensions or notify the Bureau in writing as soon as possible. The Bureau will evaluate each ongoing violation in consideration of continued work to protect human health and the environment. For the most up to date COVID-19 information including COVID Safe Practices please visit the New Mexico Department of Health website, <https://cv.nmhealth.org/>.*

Thank you in advance for your attention to this matter.

September 8, 2020

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Dana Bahar, Bureau Chief  
Petroleum Storage Tank Bureau

Date

cc: Midtown Market & Spirits, 680 State Hwy 522, Arroyo Hondo, NM 87513  
Mia Napolitano, Office of General Counsel, New Mexico Environment Department (via electronic transmission)  
Adrian J. Jaramillo, Supervisor, Prevention Inspection Program, Petroleum Storage Tank Bureau (via electronic transmission)  
Chris Hamilton, Compliance Assistance Coordinator, Petroleum Storage Tank Bureau (via electronic transmission)  
Nicole Candelaria, Inspector Petroleum Storage Tank Bureau (via electronic transmission)  
PSTB Master File  
PSTB Owner File