



Oregon

Theodore R. Kulongoski, Governor

Department of Environmental Quality

300 SE Reed Market Road

Bend, OR 97702

(541) 388-6146

Eastern Region

Bend Office

CERTIFIED MAIL #7007 1490 0003 6069 7962
RETURN RECEIPT REQUESTED

July 9, 2008

Mr. Dennis Beetham, Property Owner/President
D.B. Western Inc.
P.O. Box 50
North Bend, OR 97459

William F. Martson, Attorney
1600 Pioneer Tower
888 SW Fifth Avenue
Portland, OR 97204

Re: Supplemental Pre-Enforcement Notice
PEN-HW-ERB-2008-16808
Hazardous Waste Violations

Dear Mr. Beetham:

This is a supplemental Pre-Enforcement Notice (hereinafter "PEN") and includes the additional violations of Oregon's Environmental laws observed and documented during the remediation and excavation activities that took place on May 14, 2008 on your ranch property at, 1299 NW McDaniel Road, Powell Butte, Oregon.

The remediation activities on your property have with your knowledge and consent been overseen by representatives of the Oregon Department of Environmental Quality (DEQ), pursuant to Section 3007(a) of the Resource Conservation and Recovery Act (RCRA) and Oregon Revised Statutes (ORS) 466.195, 459.385 and 466.805.

The remediation/excavation activities that took place on May 14th, 2008 conducted by SMAF Environmental and PBS Engineering and Environmental provided additional evidence and documentation that additional violations have occurred on your property. Those additional violations include:



Hazardous Waste

Violation 1 - Class 1

OAR 340-102-011 and 40 CFR 262.11 require generators of solid wastes to determine if their solid wastes are hazardous waste.

- Dennis Beetham and D.B. Western Inc. failed to make a hazardous waste determination prior to disposing of an estimated 1338 pounds or two 55 gallon drums of Para formaldehyde a U122 listed hazardous waste, generated from tank cleanout activities conducted on the property. The waste was disposed of in a natural depression on the ranch property located across from the hay barn.

Violation 2 – Class 1

ORS 466.100(1) states that no person shall dispose of any hazardous waste anywhere in this state except at a hazardous waste disposal site permitted pursuant to ORS 466.110 to 466.170.

- Dennis Beetham and D. B. Western Inc. illegally disposed of an estimated 1338 pounds or two 55 gallon drums of Para formaldehyde a U122 listed hazardous waste, generated from tank cleanout activities conducted on the property. The waste was disposed of in a natural depression on the ranch property located across from the hay barn.

Violation 3 – Class 1

ORS 466.100(2) states that no person shall establish, construct or operate a hazardous waste disposal site without a permit issued pursuant to ORS 466.005 to 466.385 and 466.992.

- Dennis Beetham and D.B. Western Inc. disposed of U122 listed hazardous waste in a natural depression on the ranch property located across from the hay barn. D.B. Western disposed of this hazardous waste without first obtaining a hazardous waste permit.

Violation 4 – Class 1

OAR 340-100-002 and 40 CFR 268.1(b); states that except as specifically provided otherwise in this part or part 261 of this chapter, the requirements of 40 CFR Part 268 apply to persons who generate or transport hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal facilities. Part 268 of 40 CFR requires generators to comply with Land Disposal Restrictions.

- Dennis Beetham and D.B. Western Inc. have generated, transported, stored and disposed of an estimated 1338 pounds or two 55 gallon drums of Para formaldehyde a U122 listed hazardous waste, generated from tank cleanout activities conducted on the property, in a depression on the property across from the hay barn without complying with state and federal regulations set forth in 40 CFR 268 Land Disposal Restriction (LDR) regulations. In an effort to protect human health and the environment EPA promulgated the LDR regulations requiring hazardous wastes to be treated to specified levels in accordance with best demonstrated available technology prior to their being land disposed. D.B. Western and Dennis Beetham failed to consider these standards prior to their land disposal of this U122 listed hazardous waste from tank cleanout activities on the property.

Violation 5 – Class 1

OAR 340-100-002 and 40 CFR 262.20(a); requires generators who transport, or offer for transportation, hazardous waste for offsite treatment, storage or disposal to prepare a Uniform Hazardous Waste Manifest prior to shipment of hazardous waste offsite.

- Dennis Beetham and D.B. Western Inc., failed to prepare a manifest for an off-site shipment of two tanks containing an estimated 1,338 pounds of U122 listed hazardous waste. The origin of these tanks could not be determined as Mr. Beetham did not recall the tanks; however, it is certain that the tanks came from off-site and were not process tanks on the ranch.

The violations cited above are all Class I violations and are considered the most serious violations of Oregon's environmental laws. Your having: illegally disposed of hundreds of pounds of Para formaldehyde a U122 listed hazardous waste and your having impacted, by that disposal, thousands of pounds of contaminated soils, cinder and other debris created a significant impact to the environment and possibly human health. The MSDS you provided the Department states under section 12 Ecological Information: "Formaldehyde forms a strongly acidic aqueous solution, and this property may cause adverse environmental effects."

CORRECTIVE ACTIONS REQUESTED:

Within 10 days of receiving this letter:

1. Complete the hazardous waste characterization of the 6 container vans of material currently stored at the Beetham property ranch and properly manage that material.
2. As the cleanup of the ranch continues to progress and as long as this material is managed properly the other violations will have no corrective action. It is too late to correct the manifest and LDR violations; however, by continuing forward in the Cleanup Program the permit violations and illegal disposal violations may be corrected. However, you must make sure that when the hazardous waste currently stored on the Beetham Ranch is transported off-site you must comply with manifesting and LDR requirements at that time.
3. I will continue to ask that you inform the Department about any other areas that have been impacted by your mismanagement of your industrial wastes. This includes areas where tanks have been cleaned out and releases have occurred and/or areas where you may have buried other industrial wastes associated with your formaldehyde manufacturing businesses. The information should include any property or properties you own or have owned.
4. Further you should be aware that the 90 day storage for this material is fast approaching.

I look forward to your response within 10 days of receiving this PEN Letter. Your response should be sent to:

The Department of Environmental Quality
Eastern Region Office
300 SE Reed Market Road
Bend, OR 97702-2237

Attn: Jeff Ingalls

Your timely and responsive action in addressing the corrective action measures outlined above will be taken into consideration in any civil penalty assessment issued by the Department. All the violations cited in this PEN are Class I violations. The violations have been, or are being, referred to the Department's Office of Compliance and Enforcement for a formal enforcement action. A formal enforcement action may include a civil penalty for each day of each violation.

If additional violations are observed and documented an additional PEN will be issued to you based on those findings. Should you have any questions concerning the content of this letter, please contact me at (541) 388-6146 Ext. 238.

Sincerely,



Jeff Ingalls
Environmental Specialist
Hazardous Waste Program

cc: Jane Hickman: Office of Compliance and Enforcement, HQ Portland
Brett McKnight: Manager DEQ Hazardous Waste Program - Bend
Mitch Wolgamott: Eastern Region Administrator – Pendleton
Jeff Bachman: Office of Compliance and Enforcement, HQ Portland