

STATE OF WASHINGTON  
DEPARTMENT OF ECOLOGY

IN THE MATTER OF THE	)	NOTICE OF DISPOSITION
ASSESSMENT OF PENALTY AGAINST:	)	UPON APPLICATION FOR
	)	RELIEF FROM PENALTY
Burns Brothers, Incorporated	)	
516 SE Morrison, Suite 1200	)	NO. DE 92TC-C327
Portland, Oregon 97214	)	

TO: L. Kirk French, President  
Trust Service Stations Division

By "NOTICE OF PENALTY INCURRED AND DUE," dated September 16, 1992, Burns Brothers Incorporated, hereinafter referred to as Petitioner, was notified of a penalty incurred.

On February 7, 1992, representatives of the Department of Ecology (Ecology) conducted a site investigation of Bingo Fuel Stop, located in Thorp, Washington, near Interstate 90 about eight miles northwest of Ellensburg, Washington and discovered that Petitioner was in violation of Chapter 173-360 WAC, Underground Storage Tank Regulations. A penalty assessment was based upon the following violations:

- a. Operating five (5) regulated active petroleum underground storage tanks (UST) without valid permits;  
WAC 173-360-130(1)
- b. Failure to keep adequate leak detection records;  
WAC 173-360-210(1)(2) and (3)
- c. Failure to take necessary precautions to prevent overfill/spillage during transfer of product;  
WAC 173-360-315(1)
- d. Failure to report a spill/overfill; Wac 173-360-315(1) and failure to investigate and clean up a spill/overfill;  
WAC 173-360-315(2)
- e. Failure to conduct annual tank tightness testing;  
WAC 173-360-345(3)
- f. Failure to provide required release detection for pressurized underground piping; WAC 173-360-335(1) and 350(1)(2a)
- g. Failure to report suspected petroleum release information to Ecology within 24 hours; WAC 173-360-360
- h. Failure to report all confirmed releases to Ecology or delegated agency within 24 hours; WAC 173-360-372
- i. Failure to immediately contain and clean up any spill or overfill; WAC 173-360-375(1)

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- j. Failure to report a spill/overfill of petroleum to Ecology within 24 hours; WAC 173-360-375(1)(a)
- k. Failure to take appropriate actions to contain and clean up spill/overfill; WAC 173-360-375(2)
- l. Failure to take appropriate action for petroleum spill/overfill; WAC 173-360-375(3)(a)(b) and (c)
- m. Failure to document evidence of financial responsibility to Ecology within 30 days of detecting a known or suspected release; WAC 173-360-446(1)
- n. Failure to maintain evidence of financial assurance mechanism(s) used to comply with financial responsibility rule and certification that the mechanism is in compliance with the requirements of the rule at the UST site or place of business; WAC 173-360-450(1)
- o. Providing tank services without a tank services provider's license or being registered; Retrofitting UST pressurized piping with line leak detectors and performing UST system tightness test; WAC 173-360-630(3)
- p. Failure to complete a checklist for each regulated activity performed; WAC 173-360-630(12)
- q. Failure to report confirmed release to Ecology; WAC 173-360-630(13)
- r. Supervising specified activities without a valid tank services supervisor license appropriate to the activity being performed; WAC 173-360-650(1)

Petitioner was thereupon assessed the sum of \$103,052.00, pursuant to RCW 90.76.070 and .080. The Application for Relief from such penalty was filed with Ecology on October 1, 1992.

Ecology, having duly considered said Application for Relief, is of the opinion that penalty assessed should be affirmed at \$103,052.00.

WHEREFORE, IT IS ORDERED that penalty amount of \$103,052.00 is due and payable from the Petitioner within thirty (30) days of receipt of this Notice. The penalty is payable to the Fiscal Cashier, Department of Ecology, Post Office Box 5128, Lacey, Washington 98503-0210. Any person aggrieved by this Order may obtain review thereof by appeal, within thirty (30) days of receipt of this Notice, to the Washington Pollution Control Hearings Board, Post Office Box 40903, Olympia, Washington, 98504-0903. Concurrently, a copy of the appeal must be sent to

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the Enforcement Officer of the Department of Ecology, Post Office Box 47600, Olympia, Washington 98504-7600, and the Department of Ecology Central Regional Office, Toxics Cleanup Program, 106 South 6th Avenue, Yakima, Washington 98902-3387. The procedures for appealing orders issued by the Department of Ecology are set forth in Chapter 43.21B RCW and the regulations adopted thereunder.

DATED this 8<sup>th</sup> day of December, 1993 at Lacey, Washington.

Carol L. Fleskes  
Carol L. Fleskes  
Program Manager  
Toxics Cleanup Program

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