

May 2, 2002

Notice of Violation

Reuben Bartlett
Ferraiolo Corporation
RR 5, Box 100
Gardiner, Maine 04345

Dear Mr. Bartlett:

Thank you for meeting with Department staff at the Ferraiolo Corp plant in Farmingdale on April 8, 2002. Jon Andrews of the Division of Response Services and I were on site to investigate a complaint alleging that oil discharges and other activities that pose a threat to the environment were occurring at this location.

Department staff observed a number of structures and work practices at the site that endanger groundwater and surface water on and off the site, including the Kennebec River. We observed several violations of the State's Laws for Oil Discharge Prevention and Pollution Control. The violations are described below.

1. The underground piping from the three vertical diesel and #2 fuel storage tanks is constructed of bare steel. This piping was required to be removed by July 1, 1995.

After July 1, 1995, a person may not operate an above ground oil storage facility that has underground piping not constructed of cathodically protected steel fiberglass or other noncorrosive material approved by the Department. 38 M.R.S.A. §570-K(1)

2. The following oil discharges were noted.
 - (a) The area surrounding the dispenser for the diesel tank is heavily stained from diesel fuel spills.
 - (b) Cumulative discharges of heavy oil from the liquid asphalt tanks and from the piping are present. A bucket placed under a leaking coupling in the asphalt piping has overflowed heavy oil on to the ground.
 - (c) A pit adjacent to the horizontal asphalt tanks is used as a "dike" for spills from the tanks. Water is routinely siphoned from the pit with a hose and pumped into a stream that flows directly to the Kennebec River.

The discharge of oil into or upon any coastal waters...or any public or private water supply or onto lands adjacent to, on, or over such waters of the state is prohibited. 38 M.R.S.A. § 543

Any person discharging or suffering the discharge of oil in the manner prohibited by Section 543 shall immediately undertake to remove that discharge to the commissioner's satisfaction. 38 M.R.S.A. § 548

Any person who causes or is responsible for a discharge in violation of Section 543 is not subject to any fines or civil penalties if that person:

1. **Reports within 2 hours and promptly removes the discharge in accordance with the rules and orders of the board or commissioner; and**
2. **Reimburses the department for any disbursement made from the fund in connection with the discharge pursuant to section 551, subsection 5, paragraph B, within 30 days of demand.**
38 M.R.S.A. § 551

The de-watering procedure described in item 2(c) causes oil-contaminated water to be discharged to surface water, which drains directly to the Kennebec River. While on site on April 8, Department staff ordered Ferraiolo to immediately cease this practice.

In addition to the violations noted above, the following are violations of other laws enforced by the Department or the United States Environmental Protection Agency (EPA).

3. There is no Spill Prevention Countermeasure and Control (SPCC) plan for the fuel storage tanks, as required by the EPA in accordance with Federal law 40 CFR §112.
4. Ferraiolo Corporation operates lagoons that store wastewater from gravel washing and cement truck cleaning activities. This activity may be subject to prohibitions and requirements for licensing in accordance with the Natural Resources Protection Act (NRPA) and the Department's Rules for Site Location of Development, 38 M.R.S.A §480 et seq.

To resolve these violations, Ferraiolo must do the following by May 31, 2002.

1. Submit a plan and schedule for replacement of the dike that will provide for proper spill containment. The dike must be removed and replaced with a method of spill containment that meets current SPCC requirements by July 1, 2002.
2. Remove and replace all underground piping that is not constructed of cathodically protected steel, fiberglass or other non corrosive material approved by the commissioner.

It is likely that additional petroleum contaminated soil will be encountered during removal or replacement of the tanks, piping or dike. As a result, remediation of soil or groundwater may be necessary. Any assessment or clean-up of petroleum contamination must be done under the oversight of staff from the Department.

Please respond by June 3, 2002 with a plan to address the violations described above.

Due to the serious nature of the violations, the Department will seek resolution of the violations noted above through an Administrative Consent Agreement and Enforcement Order. The Consent Agreement will include a monetary penalty. This document will be issued within the next few weeks. In the interim, Ferraiolo Corporation must take all actions necessary to cease violating Maine's environmental requirements. Ferraiolo's successful efforts to gain compliance may be considered in the amount of penalty sought.

All correspondence should be sent to me at the Department's Augusta address. Please call me at 287-7856 if you have any questions about this Notice.

Sincerely,

Diana McLaughlin
Division of Oil & Hazardous Waste Facilities Regulation
Bureau of Remediation & Waste Management

Cc Jon Andrews, Division of Response Services
Jim Cassida, BL&WQC
Scott Whittier, Director, Division of Oil & Hazardous Waste Facilities Regulation

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