UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 9

75 Hawthorne Street
San Francisco, CA 94105-3901

June 18, 2007

In reply, refer to: WST-8
Certified mail 7000 0520 0021 6109 8979

Mr. Kyle Prior, Chairman
Shoshone-Paiute Tribes of Duck Valley Reservation
P.O. Box 219
Owyhee, NV 89832

Re: No Further Action for the Underground Storage Tank (UST) Site at the Former Manning's Texaco (DUCV-004), Owyhee, Nevada .

Dear Chairman Prior:

The U.S. Environmental Protection Agency (EPA) Region 9, Underground Storage Tanks Program Office (USTPO) has reviewed the case file for the former Manning's Texaco (DUCV-004). This is part of the national effort to review all outstanding underground storage tank (UST) case files and close out open UST sites, where warranted.

My office has reviewed this case file and determined that there were four underground storage tanks (USTs) on the site – two 2,000-gallon gasoline USTs, one 1,000-gallon gasoline UST and one 10,000 gallon diesel UST. Mr. Larry Manning, a former operator of Manning's Texaco, submitted a self-certification letter of compliance to EPA on December 23, 1992 which stated that the three gasoline USTs were last used in 1983 and were removed from the site in November of 1999. It was also stated in the letter that the 10,000-gallon diesel UST was never used and was closed in-place in November 1999.

EPA has not been able to locate a copy of the UST closure report to document the condition of the tanks or the open pit at the time of removal/closure. There had been several failed attempts by EPA to get a copy of the UST closure report from the Tribe. Our record of communication between Larry Manning and Arthur Boone, a former EPA circuit rider, in November 1999 indicated that Marcie Hunter-Philips of the Tribal EPA oversaw the removal. The records indicated that there was minor soil staining in the area of UST excavation, and that the stained soil was removed before backfilling the excavation with clean fill material.

Ms. Hunter-Philips, in a telephone conversation with Tess Salire of my staff on March 19, 2007, stated that this site is clean and should be closed. She also stated that her computer hard drive had recently crashed destroying all of her files pertaining to this case and other cases. Ms. Hunter-

Philips reiterated that site should be closed without further investigation because of her personal observations at the time of UST removal that indicated no noticeable evidence of contamination beyond the minor soil staining. She stated that the minor stained soil was removed during the site assessment and removal operation.

After reviewing all the available site information including tank use history and discussions with Ms. Hunter-Philips, EPA has determined that this site does not appear to pose a threat to human health and the environment at this time. Therefore, EPA requires no further action at this time. If additional information is found in the future indicating that contamination at the site is above regulatory levels, EPA will reopen this case file and work with the Tribe to resolve the issues. If you have any questions regarding the information contained in this letter, please contact Ms. Salire of my staff at (415) 972-3376.

Sincerely,

Steven C. Linder, Manager
Underground Storage Tanks Program Office

Cc: Marcie Hunter-Philips, Director, Tribal Environmental Protection Program
USTPO file DUCV-004

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9
75 Hawthorne Street
San Francisco, CA 94105-3901

June 18, 2007

In reply, refer to: WST-8
Certified mail 7000 0520 0021 6109 8979

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Shoshone-Paiute Tribes of Duck Valley Reservation
P.O. Box 219
Owyhee, NV 89832

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Sincerely,

Steven C. Linder, Manager
Underground Storage Tanks Program Office

Cc: Marcie Hunter-Philips, Director, Tribal Environmental Protection Program
USTPO file DUCV-004

Chris Prokop
07/16/2003 02:41 PM

To: ShoPaiTr8@aol.com
cc:
Subject: UST sites in Duck Valley, etc.

Marcie- I appreciate the time you gave me and Walt during the inspections in Owyhee last month, and also for your input during the closeout meeting with Herman Atkins. The time I spent in Owyhee and surrounding areas was of great value to me because it enhanced my understanding of the issues from a work perspective, and it also gave me an appreciation for the beauty of the Tribal lands.

Before addressing the closed underground storage tank (UST) sites in Duck Valley, I'd like to discuss an issue of concern for me at the Duck Valley Gas & Go station. Although I didn't list this as a violation during my inspection, the potentially-damaged spill bucket for Tank #3 could be a significant problem if it is indeed damaged. If the base of the spill bucket is cracked, it could result in fuel releases to the soil every time there's a slight overfilling of the UST. Over time, this could become a significant problem for the Tribe given the relatively shallow groundwater table. As such, the Tribe should check this spill bucket as soon as possible for any damage (e.g., fill the bucket with water and monitor the liquid level). I'm also more than a little concerned about the possibility of lightning strikes on the 4 free-standing vent lines at this station. As such, the Tribe should determine if these vent lines are properly grounded.

Per our discussion following the inspection, I also appreciate your willingness to send me closure documentation on the following 5 UST sites:

1) Manning's Texaco (EPA ID# DUCV-004)
2) Wildhorse Marina (DUCV-006)
3) J & W Store (DUCV-007)
4) Tribal Farm (DUCV-008)
5) Archuleta Ranch (DUCV-009)

At present, the only closure documentation in the EPA files for these sites is a report dated 5/12/98 for the Tribal Farm. Please send me documentation for each of these sites on the UST closure parameters listed below at your earliest convenience. For the Tribal Farm, I only need documentation for a few of the listed parameters. I've included Archuleta Ranch, which had "farm tanks", in order to assess the agreement between the reported UST volumes in our data base and the actual volumes, based on measured dimensions, obtained during the UST removals. Unfortunately, I'm finding that the reported UST volumes in our data base don't always agree with reality. It's also important for me to have this documentation in the file for Archuleta Ranch in order to support any subsequent determinations about UST regulatory status.

<u>Closure parameters</u>

- Date of removal(s).
- Name and address of the firm(s) performing the removal(s) and soil sampling.
- Observations of UST/piping integrity, presence of hydrocarbon vapors, other evidence of contamination in soil/groundwater, etc.
- Locations of soil/groundwater samples.
- Methods of sample collection.
- Extent of overexcavation, if applicable.
- In-situ measurements, if applicable (e.g., photo-ionization detector readings, etc.)
- Laboratory results and QA reports.
- Manifests for the recycling/disposal of USTs/piping, UST/piping contents (including any sludge), hydrocarbon-impacted soil/groundwater/debris, and other investigation-derived wastes.

<u>A few comments about the above 5 sites</u>

Manning's Texaco

During my recon of Manning's Texaco, I noticed some piping at the southeastern corner of the station building that could have been associated with the USTs. In addition, as I mentioned during my visit, there appeared to be a third dispenser based on the existence of a third square cutout in the concrete dispenser island that had piping/conduit rising vertically upward through it. Please discuss these matters in your closure documentation. Even though the 10,000 gallon UST sitting on the ground surface at this site never contained fuel, I believe you said it would be removed as part of a city beautification effort.

Wildhorse Marina

Based on our discussions, this site is **OFF** the Duck Valley Reservation, but the Tribe has what I believe is a long-term, renewable lease with BIA for this land. I've spoken with an EPA attorney about this site, and it was her position that the State of Nevada and the federal government have dual jurisdiction with regard to the former UST. Assuming this site is closed in the not-too-distant future, the closure letter could be jointly issued by the Nevada Department of Environmental Protection (NDEP) and EPA, or EPA could issue the letter if NDEP deferred the matter to EPA. If the latter occurred, the Tribe would probably want something in writing from NDEP that it was indeed deferring the closure to EPA. I believe you indicated that your contractor who performed the UST removal and sampling at this site didn't follow through appropriately on the closure paperwork.

J & W Store

I believe you indicated that when removal of the 2 known USTs began, 3 additional ("orphan") USTs were discovered, and that 2 of the orphan USTs had to be left in-place out of concern for the building's foundation. Please keep me apprized of the additional UST closure activities that will occur for the 2 orphan USTs. Based on the 18,000 ppm TPH (gas) and elevated BTEX concentrations remaining in soil at this site (per your comments to me), there will also be some additional site characterization and corrective action work at this site. Please keep me apprized of your schedule on these activities as well. I'm assuming that the legal issues surrounding this site, which involve a Tribal credit firm, the previous operators (Chester & Louis Cleveland), BIA and the Tribe, won't preclude progress on the environmental issues. Walt and I noticed some largely buried piping near the base of a wooden stairway on the northern side of the store building. Is this piping association with the former or still in-place USTs? Lastly, was there a waste oil UST associated with the tire and oil change shop just south of the J & W Store that was also operated by the Clevelands until 2000 or so? As I indicated previously, Walt and I noticed a little oil-stained soil near a concrete oil changing structure at the rear of the tire and oil change shop.

A few comments about other UST/hydrocarbon matters

Elko County School District (Owyhee Combined Schools) UST site (DUCV-003)

Hopefully, you've received the District's closure documentation package dated 7/1/03 for the two USTs that were removed at the District's school maintenance facility in Owyhee in 1996. As you know, I requested this documentation in a letter dated 6/10/03. In 1996, the District's consultant mistakenly sent its closure documentation to NDEP, and NDEP mistakenly issued a no further action (NFA) letter to the District on 9/19/96. EPA and the Tribe should review this newly-submitted documentation and make a determination on the closure status of the District's USTs. Per your comment, I spoke with Steve Bowers (Building Operations and Construction Manager for the District) about the former 4,000 gallon UST that was originally located in the center of the "U"-shaped school building. One BIA map dated 11/2/94 indicates this UST was removed in "late 1980", but the most recent, comprehensive BIA map for the area dated 10/20/99 (from the May 2000 Subsurface Investigation Report) shows a 1989 removal date. Mr. Bowers indicated this UST was a heating oil tank for the school's boilers and that it was replaced with another heating oil UST (possibly the 10,000 gallon UST located just east of the U-shaped school building). I asked Mr. Bowers to provide me documentation on the closure of the 4,000 gallon heating oil

UST and he said he'd try to obtain this documentation from the District's archives.

BIA Roads Shop (DUCV-001, incorrectly listed in EPA's data base as DUCV-005)

Based on a BIA map dated 5/15/96, it appears that the gasoline plume in groundwater downgradient from the Road Shop was the result of an estimated 800 gallon gasoline spill in 1989 (apparently from a 1,500 gallon AST). Based on the May 2000 Subsurface Investigation Report, this release was caused by an act of vandalism. The only UST listed in EPA's data base near the Road Shop was a 12,000 diesel UST that was reportedly removed on 3/18/88. Reportedly, this UST showed no evidence of a release (again, based on the May 2000 report). The point I'm making is that both the gasoline and diesel plumes in groundwater downgradient of the Road Shop may potentially be linked only to the ASTs and heating oil releases (unregulated by EPA's UST program). Regardless of the regulatory program involved, however, BIA still needs to address the contamination and it makes sense, for simplicity, to keep the remediation effort under the UST program. I just want to note that the previously-mentioned BIA map dated 11/2/94 shows a 500 gallon UST at the mid-point of the southern wall of the Road Shop building. It's possible this UST was listed in error because all subsequent BIA maps don't show this UST, but instead show a 500 gallon waste oil **AST** at the southwestern corner of the Road Shop building. I've left a message with John Krause (BIA) about this apparent discrepancy.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105-3901

APR 1 5 1995

REFER TO MAILCODE H-W-4
and SITE # DUV- 004
Certified Mail Z 695 245 176

2415
(702) 757-3161

Mr. Larry M. Manning
P. O. Box 264
Owyhee, NV 89832 pl 1130

Dear Mr. Manning:

This letter refers to the former Texaco Station you operated in the past and which is located along State Highway 51 in Owyhee, NV on land of the Duck Valley Shoshone Paiute Tribes. A file review indicates that there were four Underground Storage Tanks (UST's) located at this site, two 2,000 gallon UST's, one 1,000 gallon UST and one 10,000 gallon UST which was never put into service. Furthermore, field reports indicate that the 10,000 gallon UST has been removed and is located on the surface at the former station.

In accordance with current regulations detailed in 40 CFR § 280 Subpart G, permanent out of service UST's must be properly closed and a site assessment performed. If a release has occurred, corrective action must be taken if either soil or groundwater contamination is above action levels.

Please respond to the following questions:

* The dates when the UST(s) were installed, used, and taken out of operation (if applicable).

* The size, type (i.e.. material of construction), and location of the UST.

* The type of substance(s) stored in the UST. If the UST is out of operation, provide the type and quantity of the substance left stored in the UST on the date on which it was taken out of operation.

* The current status of the UST (e.g., currently in use, temporarily out of use, permanently out of use).

* The manner in which the UST was closed (if applicable) and which agency, if any, provided the oversight.

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* The nature, extent, and date of all known spills, leaks, releases, or suspected releases from the UST.

Pursuant to §9005 [42 U.S.C. §6991(d)] of the Resource Conservation and Recovery Act (RCRA), as amended, EPA requires that you furnish the above information within **45 calendar days** from your receipt of this letter. **Your immediate attention is needed in this matter.** If you have any questions, please contact Walt Guggenheimer at (415) 744-2094.

Sincerely,

Patricia Eklund

Patricia D. Eklund, Chief
Office of Underground Storage Tanks

cc: Joe Kenny, Circuit Rider
Steven D. Tibbetts, BIA
John Krause, BIA
Marvin Weber, IHS
Linsey Manning, Chairman

ATTACHMENT: LIST OF CONTACTS

Joe Kenny, Circuit Rider
23713 Vista Ramona
Ramona, CA 92065 (619)789-0546

Steven D. Tibbetts, Superintendent
Bureau of Indian Affairs
Eastern Nevada Agency
P. O. Box 5400
Elko, NV 89802 (702)738-0569

John Krause
Environmental Quality
Bureau of Indian Affairs
Phoenix Area
P. O. Box 10
Phoenix, AZ 85001 (602)379-6750

Marvin Weber
IHS District Engineer
1395 Greg Street, Suite 101
Sparks, NV 89431 (702)784-5327

Lindsey Manning, Chairman
Duck Valley Shoshone Paiute Tribe
P. O. Box 219
Owyhee, NV 89832 (702)757-3161

REFER TO MAILCODE H-W-4
and SITE # DUV- 004
Certified Mail Z 695 245 176

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P. O. Box 264
Owyhee, NV 89832

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* The manner in which the UST was closed (if applicable) and which agency, if any, provided the oversight.

SYMBOL	H.W.4	H-W-4				
SURNAME	Ekelund	F. Morio				
DATE	4/14/95	4-18-95				

U.S. EPA CONCURRENCES OFFICIAL FILE COPY

* The nature, extent, and date of all known spills, leaks, releases, or suspected releases from the UST.

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Sincerely,

Patricia D. Eklund, Chief
Office of Underground Storage Tanks

cc: Joe Kenny, Circuit Rider
Steven D. Tibbetts, BIA
John Krause, BIA
Marvin Weber, IHS
Linsey Manning, Chairman

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, Ca. 94105-3901

MAR 9 1994

Refer to Mailcode H-2-1
and Site # DUV - 004
Certified Mail P 243 067 210

Mr. Larry M. Manning
Manning's Texaco
P. O. Box 264
Owyhee, NV 89832

Dear Mr. Manning:

A file review carried out by this office indicates that there are four Underground Storage Tanks at your site, located on land of the Duck Valley Indian Community. In accordance with our data bank there is one 1000 gallon, two 2000 gallon and one 10,000 gallon tank respectively at your station and none have been operated for at least 10 years.

In accordance with current regulations (40 CFR 280 Subpart G) tanks which have not been in use for more than one year must be disposed of permanently, either by closing them in place or removing them.

For your guidance we attach a copy of API (American Petroleum Institute) Publication 1604 entitled " Removal and Disposal of Used Underground Petroleum Storage Tanks.

Please inform this office of the present status of your site.

Pursuant to §9005 [42 U.S.C. §6991(d)] of the Resource Conservation and Recovery Act (RCRA), as amended, EPA requires that you furnish the above information within **30 days** of the receipt of this letter. **Your attention is needed in this matter.** If you have any questions, please contact Walt Guggenheimer at (415) 744-2094.

Sincerely,

Matt Small

Matthew Small, Hydrogeologist
Office of Underground Storage Tanks

DUV004.IND

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SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Mr. Larry M. Manning
Manning's Texaco
P.O. Box 264
Owyhee, NV 89832

4a. Article Number DUV-004
P 243 067 210

4b. Service Type
☐ Registered ☐ Insured
☒ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery MAR. 1 8 1994

5. Signature (Addressee)

8. Addressee's Address (Only if requested and fee is paid)

6. Signature (Agent)

PS Form 3811, December 1991 ☆ U.S.G.P.O.: 1992-307-530 **DOMESTIC RETURN RECEIPT**

Is your RETURN ADDRESS completed on the reverse side?

Thank you for using Return Receipt Service.

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U.S. EPA Region IX
Office of Underground Storage Tanks
75 Hawthorne St.
Mailcode: H-2-1
San Francisco, CA 94105-3901
Attn: W. Guggenheimer

Attachment: List of Contacts

Robert Stopp, Superintendent
Indian Health Service
P. O. Box 212
Owyhee, NV 89832 (702)757-2415

Steven Tribbets
~~William Sandoval~~, Superintendent
Bureau of Indian Affairs, Eastern Nevada Ag.
P. O. Box 5400
Elko, NV 89802 (702)738-0569

Lindsey Manning, Chairman
Duck Valley Shoshone Paiute Tribe
P. O. Box 219
Owyhee, NV 89832 (702)757-3161

P 243 067 210

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Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Addressee's Address	
TOTAL Postage & Fees	$
Postmark or Date DUV-004	

PS Form 3800, June 1991

SYMBOL	H-2-1	H-2-1				
SURNAME	Smith	T. Olson				
DATE	3/7/94	3-9-94				

U.S. EPA CONCURRENCES OFFICIAL FILE COPY

Wilmin Beck - El Aperson
(702) 757-2921

INDIAN LANDS ROUTING SLIP

DATE RECEIVED _____
BY WHOM _____
SITE NUMBER _____

DUV-004

	INITIAL	DATE
1st STOP: BOB ENTER INFO INTO RUSTI UPDATE INDIANS DBASE RECEIPT DATES	RDS	3/10/94
2A WALTER CREATE DRAFT LETTER		
2B ANASTASIA IF REMOVAL - SCHEDULE/CONFIRM REMOVAL DATE & DRAFT LETTER		
3 MATT/PAT COMMENTS & SIGN (EDITS-RETURN TO ANASTASIA/WALTER)		
4 TERESA COPY/MAIL | dated		
5A BOB SITE FILE COPY, OUTLOG INTO RUSTI DELIVERABLE RECEIVED LOG DATE INTO INDIANS DBASE		
5B ANASTASIA LOG TICKLER DUE DATE INTO INDIANS DBASE	AJ	3/9/94

ADDITIONAL NOTES:

30 Day reply

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

Certified Mail: P 869 871 067

LEROY MANNING

NOV 2 7 1992

PO BOX 172
OWYHEE, NV 89832

Dear Owner or Operator of Underground Storage Tanks:

This letter requests that you as owner/operator of an underground storage tank (UST) certify that you are in compliance with the federal requirements for release detection and financial responsibility associated with your UST(s) and return the completed letter to EPA by January 30, 1993.

Our records indicate that you own and/or operate UST system(s), located at the following address:

MANNINGS TEXACO
MAIN ST.
OWYHEE, NV 89832

These UST(s) are located on Native American Lands and, therefore, are subject to U.S. Environmental Protection Agency (EPA) Region IX jurisdiction. Accordingly, we require that you complete parts A, B, and C of the attached certification letter entitled "Self-Certification Letter of Compliance with Federal Financial Responsibility and Release Detection Requirements on Underground Storage Tank Systems". An introductory/fact sheet is included to explain the requirements and aid in the completion of the letter.

EPA is requiring you, as owner/operator, to complete the "self-certification" letter. Failure to do so may result in future enforcement actions. EPA has the right to require this information under Section §9005 [42 U.S.C. §6991(d)] of the Resource Conservation and Recovery Act (RCRA).

By signing this "self-certification" letter, you are stating that, under penalty of the law, the information listed on the self-certification letter is correct. Pursuant to §9006 [42 U.S.C. §6991(e)] of RCRA, refusal to provide the requested information by the specified deadline or falsification of information on the form may result in the issuance of an administrative compliance order or the initiation of civil action, which may include an assessment of civil penalties of up to $10,000 per UST for each day of violation. If you have any questions, please contact Walter Guggenheimer at (415) 744-2094.

Sincerely,

Patricia D. Eklund, Chief
Office of Underground Storage Tanks

Enclosure