

FIRE SUPPRESSION SERVICES, INC.
REG. AGENT: BARD N. HOLBROOK
3802 S 2300 E
MILLCREEK, UT 84109

Case # 160932

Notice of Violation
and
Order of Compliance

This Notice of Violation and Order of Compliance is issued by the Salt Lake County Health Department (hereinafter the Health Department) pursuant to the authority contained in Utah Code Ann. § 26A-1-101 et seq. and Title 9, Chapter 9.04, Salt Lake County Code of Ordinances. Pursuant to Utah Code Ann. § 26A-1-101 et seq., Section 9.04.060, Salt Lake County Code of Ordinances, the Health Department has adopted Regulation #13, "Wastewater Disposal", as adopted in section 9.32.010 of the Salt Lake County Code of Ordinances. Furthermore, based on the authority contained in Utah Code Ann. §§ 19-5-107, 19-5-115(2) and 26A-1-114(1) (a), the Health Department has the authority to enforce state laws, local ordinances, department rules and local health department standards and regulations.

STATEMENT OF LAW

1. "Waters of the State" means (a) all streams, lakes, ponds, marshes, water-courses, waterways, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion of the state; and (b) does not include bodies of water confined to and retained within the limits of private property, and which do not develop into or constitute a nuisance, or a public health hazard, or a menace to fish or wildlife. Utah Code Ann. § 19-5-102 (23).
2. "Discharge" means the addition of any pollutant to any waters of the state. Utah Code Ann. § 19-5-102 (7).
3. "Waste" or "Pollutant" means dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water. Utah Code Ann. § 19-5-102 (22)

FINDINGS OF FACT

1. On information and belief, Fire Suppression Services, Inc. ("Fire Suppression Services"), is a domestic corporation in good standing, organized and existing under the laws of the State of Utah and doing business in Salt Lake County as Fire Suppression Services.
2. On information and belief, Bard N. Holbrook is the registered agent of Fire Suppression Services.
3. On or about 27 February 2019, the Health Department received a report from Gual Bertos restaurant ("the restaurant") in which restaurant's owner of record, Martina Cervantes, reported an illicit wastewater discharge by Fire Suppression Services that had occurred at the Gual Bertos restaurant located at 478 East 12300 South in Draper, Utah. Ms. Cervantes added that Fire Suppression Services cleans the restaurant's vent hood and that the discharge had impacted the storm drain system.
4. On or about 27 February 2019, John Hoggan, a Health Department representative, notified Draper City Storm Water of this incident then drove to the incident location. Mr. Hoggan spoke there with Ms. Cervantes and Fernando Alanis, of South Valley Sewer, about the reported incident. Ms. Cervantes and Mr. Alanis showed Mr. Hoggan the impacted storm drain box, photos taken of the discharge the morning after it occurred, and an area of landscaping where wastewater appeared to have discharged from the roof via a drain line. Mr. Hoggan observed that no inlets entered the impacted storm drain box and that grease and oil were visible in the two storm drain boxes downstream of the initially impacted storm drain box.
5. On or about 27 February 2019, Draper City Storm Water personnel arrived on-site and Mr. Hoggan spoke with them about this case. The Draper City Storm Water personnel informed Mr. Hoggan that they believed the section of storm drain system impacted by the discharge drained to a retention area southeast of the restaurant.
6. On or about 27 February 2019, Mr. Hoggan observed that the restaurant had security cameras on the outside of the building and asked Ms. Cervantes if any of the cameras likely captured the area near the impacted storm drain. Ms. Cervantes allowed Mr. Hoggan to view footage from the time Fire Suppression Service was last there: the night of 25 February 2019 from camera time 00:00 to 03:05. Ms. Cervantes informed Mr. Hoggan that the camera's clock had not been adjusted for daylight savings time last autumn and thus showed a time one hour ahead of actual time. While screening the camera footage, Mr. Hoggan observed:
 - a. One camera placed near the drive-through window captured the dumpster enclosure and part of the area near the impacted storm drain box;
 - b. Two individuals who Ms. Cervantes stated were Fire Suppression Service personnel and not restaurant employees;
 - c. One of the two individuals place vent hood baffles against the base of the north

- wall of the dumpster enclosure, spray the vent hood baffles with an unidentified material from a pump sprayer, and power wash vent hood baffles;
- d. One of the two individuals use what appeared to be a power washer to spray clean the area where the vent hood baffles had been then direct the wastewater toward the impacted storm drain box;
 - e. Both individuals carry a grey plastic garbage can toward the impacted storm drain box and one of the two individuals return with an empty grey plastic garbage can;
 - f. One of the individuals push a second grey plastic garbage can toward the impacted storm drain box and return with the wheel base that had been attached to said garbage can; and
 - g. One of the individuals use what appeared to be a power washer to again spray clean the area where the vent hood baffles had been cleaned then direct the wastewater toward the impacted storm drain box.
7. On or about 27 February 2019, Mr. Hoggan requested a copy of the abovementioned camera footage from Ms. Cervantes and Ms. Cervantes agreed to provide the footage. Ms. Cervantes called the camera company the restaurant contracts with, High Mark Intermountain, for assistance recording the requested footage. High Mark Intermountain sent a technician to assist in recording the camera footage. Mr. Hoggan provided a DVD which the High Mark Intermountain technician recorded the camera footage on.
8. On or about 27 February 2019, Mr. Hoggan collected wastewater samples from the impacted storm drain box. Mr. Hoggan also collected a sample of solid material from the impacted area of landscaping. These samples were taken to Chemtech Ford Labs in Sandy, Utah for analysis.
9. On or about 27 February 2019, Mr. Hoggan called Fire Suppression Service and spoke with Bard Holbrook who informed Mr. Hoggan that he (Holbrook) was the owner of Fire Suppression Service. Mr. Hoggan outlined this case and its supporting evidence to Mr. Holbrook. Mr. Hoggan informed Mr. Holbrook that, as the responsible party, Fire Suppression Service was required to hire a permitted liquid waste hauler to clean the impacted section of storm drain system. Mr. Holbrook agreed to have this done and requested a list of permitted companies which Mr. Hoggan emailed to Mr. Holbrook. Mr. Holbrook also informed Mr. Hoggan that:
- a. He (Holbrook) was unaware of the discharge to the storm drain system, but did know about the discharge to the landscaping from the roof drain;
 - b. Wastewater from the roof had combined with snow on the roof and could not be recovered the night of 25 February 2019;
 - c. The restaurant's insurance company contacted him about the discharge to the landscaping;
 - d. Fire Suppression Service personnel were scheduled to return to the restaurant to clean up the impacted landscaping material;
 - e. Fire Suppression Service personnel are trained/instructed to leave the

wastewater with the restaurant where they can discharge it to the sanitary sewer and not the storm drain system; and

f. He will speak with Fire Suppression Service employees about this discharge to the storm drain system.

10. On or about 28 February 2019, Mr. Holbrook called and informed Mr. Hoggan that he (Holbrook) had arranged with Renegade Oil and that Renegade Oil had sent a vac-truck to clean the impacted storm drain system that day. Mr. Holbrook then stated that:
 - a. He had spoken with the employee responsible for the discharge;
 - b. The employee responsible had admitted that he knew he should not have dumped wastewater into the storm drain system, but did it anyway;
 - c. The employee responsible reported that he discharged the wastewater because the restaurant's drains were inaccessible;
 - d. Grease cleaned from the hood on the roof ran into snow on the roof and could not be captured;
 - e. Roof snow later melted and allowed the grease to flow into the landscaped area;
 - f. He believes this case to be an isolated incident as no other reports of such a discharge occurring; and
 - g. The restaurant's hood should be cleaned quarterly due to the amount of grease buildup, but they only contract for cleaning to be performed every six months.
11. On or about 28 February 2019, Mr. Holbrook called and informed Mr. Hoggan of the time that the Renegade Oil truck would be to the restaurant. Mr. Hoggan drove to the restaurant and spoke with Arthur, the Renegade Oil operator. Mr. Hoggan showed Arthur the impacted storm drain boxes and explained that all three needed to be cleaned and the storm drain lines between them jetted. Arthur stated that there was not a jet nozzle on his truck and that he would have to return to jet the lines, but that he could clean out the impacted storm drain boxes today. Mr. Hoggan observed Arthur clean out the storm drain boxes. Mr. Holbrook arrived on-site while Arthur was cleaning the storm drain boxes.
12. On or about 28 February 2019, while cleaning the discharged material from the storm drain boxes, Arthur found in the third storm drain box (SW corner of grassy area at neighboring building), a layer of old grease several inches beneath the material discharged on or about 25 February 2019. Based on this evidence, it is likely that restaurant wastewater had been discharged here in the past, perhaps by Fire Suppression Service personnel, as they have been Gual Bertos' vent hood cleaning contractor for more than a year. Arthur and Mr. Hoggan informed Mr. Holbrook that it appears his crew had discharged wastewater and grease here more than once. Mr. Holbrook apologized that this incident had occurred and insisted that he trains his employees to discharge to sanitary sewer connections at customer locations.
13. On or about 28 February 2019, Mr. Hoggan pointed out to Mr. Holbrook that security camera footage showed his crew had washed the vent hood baffles outside with

degreaser before power washing the wastewater and grease to the storm drain box. Mr. Holbrook stated that he requires his employees to either 1) replace dirty filters with new, 2) take the dirty filters to Fire Suppression's building and clean them there, or 3) clean the filters inside the customer's location. Mr. Holbrook also requested copies of photos from this incident which he planned to use to train his employees. Mr. Hoggan agreed to find out if the requested photos could be sent.

14. On or about 12 March 2019, the Health Department received the analytical report dated 12 March 2019 from Chemtech Ford Laboratories (#19B1334) for analysis conducted on the samples collected by Mr. Hoggan of wastewater from the impacted storm drain box and solid material from the impacted landscaping area at 479 East 12300 South on or about 27 February 2019. The wastewater samples were analyzed for Oil & Grease, pH, Phosphate (byproduct of degreaser use), and Total Dissolved Solids. The solid material was analyzed for Oil & Grease, Total Solids, and Phosphate (byproduct of degreaser use). The Certificate of Analysis showed the following results:

478 E 12300 S, storm drain box	Sample Result	Units	Exceedance of Rule
Oil & Grease	9,800	mg/L	Narrative
pH	8.3	pH units	Narrative
Phosphate	38	mg/L	Narrative
Total dissolved Solids	18,100	mg/L	Narrative

478 E 12300 S, landscaping area	Sample Result	Units	Exceedance of Rule
Oil & Grease	31,400	mg/kg	Narrative
Total Solids	93	%	Narrative
Phosphorous	256	mg/kg	Narrative

These results violate the narrative standards outlined in Utah Admin. Code Rules sections R317-2-7 and R317-2-14, Standards of Water Quality for Waters of the State.

15. The storm drain system in this area flows into the Jordan & Salt Lake City Canal which is a 2B, 3E, 4 waterway according to Utah Admin. Code R317-2-13.
16. On or about 12 March 2019, Mr. Hoggan reviewed the security camera footage provided by Ms. Cervantes and created a photos document of still images from said camera footage.
17. On or about 16 April 2019, Mr. Hoggan met with LT Huggard this afternoon and provided LT Huggard copies of the draft Notice of Violation and security camera footage for this case. After reviewing the security camera footage, LT Huggard

informed Mr. Hoggan that he (Huggard) would schedule an interview with the Fire Suppression Services employees seen on the security camera footage. Mr. Hoggan agreed to be present for the interview.

18. On or about 17 April 2019, LT Huggard and Mr. Hoggan met with Ricky Perez, of Fire Suppression Services at the Salt Lake County District Attorney's Office. LT Huggard informed Mr. Perez of the purpose of this interview and that it would be a couple of weeks before he (Huggard) presents case information to the District Attorney. During the interview, Mr. Perez stated that:
 - a. He has worked for FSS for 12 years;
 - b. He has had no other complaints regarding his work in the 12 years he has worked for FSS;
 - c. Wastewater had been discharged to the storm drain as cited in this case;
 - d. He had assumed the storm drain was just another drain;
 - e. FSS vent hood cleaning practice is to clean components on-site and to discharge wastewater through an on-site sewer connection;
 - f. At most restaurants, he sprays vent hood baffles with degreaser, allows the degreaser to set, then washes the vent hood baffles in the restaurant's dishwasher;
 - g. Gual Bertos did not have a dishwasher and the restaurant manager refused to allow discharge through a sink drain due to pipes having been clogged in the past;
 - h. He had cleaned the vent hood and vent hood baffles in July or August 2018 and had discharged wastewater into the storm drain in the same manner as this case cites;
 - i. FSS did not provide him formal instruction regarding proper wastewater disposal, but he did have one month of on-the-job training for vent hood cleaning; and
 - j. His on-the-job training had not involved a facility where wastewater could not be discharged through a sewer connection.

Mr. Hoggan asked Mr. Perez if, as in this case, vent hood baffles cannot be cleaned as he was trained, what other methods Fire Suppression Services instructed him to use. Mr. Perez stated that the only method he was aware of was as he stated, on-site use of a restaurant's dishwasher and sewer connection. This does not agree with information provided by Mr. Holbrook regarding alternate vent hood baffle cleaning methods.

DETERMINATION OF VIOLATIONS

Based on the investigation on or about 27 February 2019, and the foregoing Findings of Fact, Fire Suppression Service, Inc. has violated Salt Lake County Health Department Health Regulation #13, the Utah Water Quality Act, and the Utah Local Health Department Act, as follows:

1. Discharging wastewater into a storm drain system which is a water of the State of Utah in violation of Section 4.7.1 of Salt Lake County Health Department Regulation #13, and Section 9.32.020 of the Salt Lake County Code of Ordinances.
2. Violating a health regulation adopted by the Salt Lake County Board of Health pursuant to the authority contained in Section 9.04.060 of the Salt Lake County Code of Ordinances, in violation of Utah Code Ann. § 26A-1-123.
3. Discharging a waste or pollutant into the waters of the State of Utah in violation of Utah Code Ann. § 19-5-107(1) (a) and Utah Admin. Code R317-2-7.
4. Creating a public nuisance in violation of Utah Code Ann. § 76-10-804.

ORDER

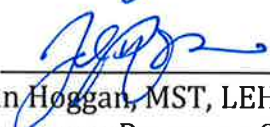
Based upon the foregoing Findings of Fact and Determination of Violations, Fire Suppression Service, Inc. is hereby ordered to:


1. Immediately cease discharging wastewater into the waters of the State of Utah and storm drains within Salt Lake County.
2. Prepare a written pollution prevention plan, which shall be submitted to the Health Department for review and approval and shall include the following:
 - a) Employee training involving response to spills, leaks, or other incidents related to the discharge of wastewater and other potentially hazardous fluids.
 - b) Health Department notification in the event wastewater or other potentially hazardous fluids enter a storm drain system or other water of the state.
3. Pay a penalty of **\$2,218.00** as determined by the Salt Lake County Health Department in conformance with Utah Code Ann § 19-5-115(2) and Utah Admin. Code R317-1-8.
4. Contact the Salt Lake County Health Department, Bureau of Water Quality and Hazardous Waste within **ten (10) calendar days from the date you receive this document**, regarding your intention to comply with this Order and to schedule a meeting to discuss this violation and associated penalties.

COMPLIANCE, OPPORTUNITY FOR HEARING

This Order shall become final without further notice unless you request a departmental conference, departmental hearing, or departmental appeal within ten (10) calendar days from the date of receipt of this Notice of Violation. The request for a conference, hearing, or appeal must be filed in writing with the Environmental Health Division, 788 East Woodoak Lane, Suite 120, Murray, Utah 84107-6379. If a conference, hearing, or appeal is not requested in writing and received within ten (10) calendar days from the date of receipt of this Notice of Violation, the foregoing Findings of Fact will be deemed true and not subject to challenge and any right to proceed with an administrative or judicial appeal will be forfeited. Failure to comply with this Order may result in civil action, penalties and criminal sanctions as provided by law.

Dated this 26th day of August, 2019

By 
John Hoggan, MST, LEHS
Emergency Response Coordinator
jhoggan@slco.org, (801) 419-5036

By 
Teresa Gray, Bureau Manager
Water Quality and Hazardous Waste Bureau

cc: Jason Rose, District Attorney
Trish DiPaola, Utah Division of Water Quality (electronic)
Lucas Fowler, Draper City Storm Water (electronic)

TG/jh

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