

SETTLEMENT AGREEMENT



The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Management Division (DEQ) and Triangle X Ranch (Triangle X) enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 3929-06, dated September 11, 2006. Triangle X is the owner and operator of the underground storage tanks located at 2 Triangle X Road, near Moran, Wyoming. This underground storage tank facility is registered with the DEQ as facility 0-003925. The Notice of Violation alleges that: 1) Triangle X failed to have passing results on file for the automatic tank gauge for the entire months of May 2005, through June 2006; 2) Triangle X removed, or allowed someone else to remove, the overfill device from one of the tanks sometime between August 24 and September 5, 2006. These acts are violations of the Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Sections 6(c)(i)(B), 16 (c)(i) & (ii), and 19(c).

W.S. 35-11-901(a)(ii) authorizes the DEQ to negotiate a stipulated settlement, including payment of a penalty, in lieu of litigation. To that end, Triangle X and the DEQ hereby stipulate and agree as follows:

1. The DEQ is responsible for enforcing the Act and Chapter 17, WWQRR.

WWQRR, Chapter 17, Section 16 (c)(ii), states: "(c) *Automatic tank gauging (ATG)*. Equipment for automatic tank gauging which tests for the loss of a regulated substance shall detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains a regulated substance. Owners and/or operators using automatic tank gauging shall also: (i) conduct inventory control in conformance with paragraph (a)(i) of this section, unless: (A) the regulated substance is placed in the UST in batches of twenty five (25) gallons or less; (B) a passing result is obtained monthly from the Automatic Tank Gauge with the tank at least 85% full; (C) the automatic tank gauge itself reconciles the inventory to the same levels as required by paragraph (a)(i) of this section; or (D) a method of equivalent performance to inventory control is also used. (ii) report a suspected release and follow the requirements of Section 19(c) of this chapter whenever: (A) Any calendar month goes by when a passing result cannot be obtained from the ATG sometime during the month; or (B) A pattern becomes evident that the ATG produces a failing result whenever the level of a regulated substance in the tank is high, even if passing results can be obtained when the level is low. (C) Inventory control fails for the second consecutive month."

WWQRR, Chapter 17, Section 19 (c), states: "Section 19. *Reporting of Suspected Releases*. Owners and/or operators of storage tank systems shall orally report to the department within twenty-four (24) hours all releases or suspected releases in accordance with Section 22 and follow the procedures of Section 22. Owners of sites where storage tanks were formerly located shall also report within seven (7) days after discovering any new evidence of a release. These reports shall be made for any of the following conditions: (c) Monitoring results: Monitoring results from a release detection method required under Section 14 through 17 that indicate a release may have occurred unless the monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result."

WWQRR, Chapter 17, Section 6 (c)(i)(B), states: (i) Except as provided in Section 6 (c) (ii), to prevent spilling and overfilling associated with regulated substance transfer to the UST system, owners and/or operators shall use the following spill and overfill prevention equipment: (B) Overfill prevention equipment that will: (I) Automatically shut off flow into the tank when the tank is no more than ninety-five percent (95%) full;"

2. Triangle X owns and operates tanks located at 2 Triangle X Ranch Road, Moose, Wyoming and registered with the DEQ, as facility 0-003925. As part of an inspection conducted August 24, 2006, Triangle X could only produce ATG results for July and August of 2006. No results were available for the period May, 2005 through June, 2006. Triangle X has since submitted some of the required ATG results. Triangle X was also not conducting inventory control for these tanks.

SETTLEMENT AGREEMENT

3. The underground storage tanks at this location are equipped with butterfly valves in the drop tubes. On September 5, 2006, Triangle X reported that one of these devices was removed during the last delivery.
4. Since receiving Notice of Violation No. 3929-06 on or about September 20, 2006, Triangle X has corrected the cited violations.
5. Triangle X agrees to pay a total of Five Thousand Dollars (\$5,000.00) to the Solid and Hazardous Waste Management Division as a stipulated penalty for the cited violations. Payment of Two Hundred Fifty Dollars (\$250.00) shall be made within 30 days after execution of this Settlement Agreement. Payment shall be by check made payable to the Wyoming Department of Environmental Quality and addressed to the Wyoming Department of Environmental Quality, Attention: Robert Lucht, Herschler Building, 4th Floor West Wing, 122 W. 25th Street, Cheyenne, WY 82002.
6. Four Thousand Seven Hundred Fifty Dollars (\$4,750.00) of this penalty is stayed pending full compliance with Chapter 17 for one (1) year from the date of this Settlement Agreement. For purposes of this Settlement Agreement only, full compliance means:
 - a. Payment in full of all storage tank fees no later than July 1 of each year;
 - b. Registration of these tanks every year no later than July 1 and every time there is a change in status of these tanks as required by statute;
 - c. Performance of the required tank leak detection methods found in Chapter 17, Section 16 within thirty days of the date of this settlement agreement and again every thirty days thereafter. This means that Automatic Tank Gauging records are to be maintained for every tank for every month. In addition, Triangle X shall perform inventory control in accordance with Chapter 17, Section 16(a). Records of all of these tests shall be maintained by Triangle X for three (3) years;
 - d. Providing an Operator's Annual Inspection (OAI) of this facility no later than November 16 of each year. The OAI includes: Having a functional test of the Automatic Line Leak Detectors on the pressurized lines no later than November 16, 2006 and every year thereafter no later than November 16. Records of these tests shall be maintained by Triangle X for three (3) years;
 - e. As defined by Chapter 17, Section 16, a suspected release has occurred if any month passes without a passing result on the ATG for each compartment of each tank. Triangle X agrees to immediately report a suspected release and follow all procedures in Chapter 17, Section 19(c) and Section 20;
 - f. As defined by Chapter 17, Section 16, a suspected release has occurred if any two consecutive months pass with the inventory control failing for any compartment for any tank. Triangle X agrees to immediately report a suspected release and follow all procedures in Chapter 17, Section 19(c) and Section 20;

SETTLEMENT AGREEMENT

g. If these tanks are removed, notification to the department and inspection by the department, as required by statute. If, as a result of the removal, the site is a contaminated site, payment of all contaminated site fees by July 1 of each year.

If Triangle X complies fully with Chapter 17 for one (1) year from the date of this Settlement Agreement, Four Thousand Seven Hundred Fifty Dollars (\$4,750.00) of this penalty shall be forgiven.

7. Triangle X's full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Triangle X based on the violations alleged in Notice of Violation No. 3929-06. Contingent upon Triangle X's compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Triangle X for these particular violations.
8. Triangle X waives any statute of limitations which may apply to an enforcement action by the DEQ involving the specific matters described in Notice of Violation No. 3929-06 in the event that Triangle X fails to fulfill its obligations under this Settlement Agreement.
9. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
10. Each party shall bear its own attorney fees and costs, if any, incurred through the date this Settlement Agreement is signed by both parties.
11. This Settlement Agreement is binding upon Triangle X Ranch and all of its successors and assigns, and upon the DEQ.
12. Nothing in this Settlement Agreement supersedes any provision found in any Wyoming State law, or any regulation issued by the Department of Environmental Quality or any federal law or regulation.

SETTLEMENT AGREEMENT

13. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR TRIANGLE X RANCH:

Don Turner
Don Turner

Oct. 15, 2006
Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

John V. Corra
John V. Corra,
Director

10/10/06
Date

LeRoy C. Feusner
LeRoy C. Feusner, PE, BCEE
Administrator
Solid and Hazardous Waste Management Division

9 Oct 06
Date

Penalty Check of \$250⁰⁰
Received 10/23/06 [Signature]