

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Management Division (DEQ) and Big Horn Co-Operative Marketing Association (Big Horn CO-OP), enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 4044-07, dated March 14, 2007. The Notice of Violation alleges that: 1) Big Horn CO-OP failed to report a suspected release within 24 hours, when inventory control losses for their unleaded tank for December 2006 and January 2007 exceeded 1% of throughput plus 130 gallons; 2) Big Horn CO-OP failed to report a suspected release within 24 hours, when inventory control losses for their unleaded tank for December 2006 and January 2007 exceeded 1% of throughput plus 130 gallons; 3) Big Horn CO-OP failed to investigate a suspected release within seven days of detection; and 4) Big Horn CO-OP failed to report and investigate suspected releases whenever a calendar month passed with no passing ATG result or any two consecutive months passed with failing inventory control results. These acts are violations of the Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Sections 6(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, Big Horn CO-OP and the DEQ hereby stipulate and agree as follows:

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

WWQRR, Chapter 17, Section 16 (a) (viii), states: "Owners and/or operators using inventory control shall report a suspected release under Section 19 (c) of this chapter whenever: (A) the inventory control fails to balance within 1.0 percent (1%) of total throughput plus one hundred thirty (130) gallons 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."

WWQRR, Chapter 17, Section 20, states: "*Release Investigation and Confirmation for Eligible Owners and/or Operators.* Owners and/or operators of storage tanks who are eligible for cleanup under the Corrective Action Account shall immediately investigate and confirm all suspected releases of regulated substances requiring reporting under Section 19 within seven (7) days of detection."

2. Big Horn CO-OP is the owner and operator of the underground storage tanks located at 311 South Bent Street, Powell, Wyoming. This underground storage tank facility is registered with the DEQ as facility 0-003798. The United States Environmental Protection Agency received reports of fuel vapors in residences within the City of Powell and sent a response team to investigate. It was determined that the source of the contamination was a tank at Big Horn CO-OP. Personnel from the DEQ requested tank leak detection records from the Big Horn CO-OP. When these records were reviewed, it was discovered that the monthly inventory control records for December 2006 and January 2007 failed on the unleaded tank. These records indicated a loss of 3,665 gallons, or 5.4% of the total throughput for the unleaded tank for these two months. DEQ personnel informed Big Horn CO-OP that they were required to investigate a suspected release. On February 27, 2007, an investigation was conducted and a leak was found in one of the unleaded lines.
3. Since receiving Notice of Violation No. 4044-07 on March 16, 2007, Big Horn CO-OP has corrected the cited violations.
4. Big Horn CO-OP agrees to pay a total of Twenty Thousand Dollars (\$20,000.00) to the Solid and Hazardous Waste Management Division as a stipulated penalty for the cited violations. Payment of Eight Thousand Dollars (\$8,000.00) shall be made within thirty (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.
5. Twelve Thousand Dollars (\$12,000.00) of this penalty is stayed pending full compliance with Chapter 17 for three (3) years from the date of this Settlement Agreement. For purposes of this Settlement Agreement only, full compliance means:

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a. Payment in full of all storage tank fees no later than July 1, 2007; January 1, 2008, and January 1 of each year thereafter.

b. Performance of any one of the tank leak detection methods found in Chapter 17, Section 16 within thirty (30) days of the date of this settlement agreement and again every thirty (30) days thereafter. This means that at least one passing Automatic Tank Gauging record is to be maintained for every tank for every month. In addition, Big Horn CO-OP shall perform inventory control in accordance with WWQRR, Chapter 17, Section 16(a). Records of all of these tests shall be maintained by Big Horn CO-OP for three (3) years;

d. Providing an Operator's Annual Inspection (OAI) of this facility no later than June 19 of each year and every year thereafter no later than June 19. The OAI includes: a physical inspection of the entire facility; checking the calibration of the ATG; performing a functional test of the Automatic Line Leak Detectors on the pressurized lines; and submittal to the department of the last 12 months leak detection records. Records of all these tests shall be maintained by Big Horn CO-OP for three (3) years.

e. If any month passes without a passing result on the automatic tank gauge for each compartment of each tank, a release may have occurred as defined by WWQRR, Chapter 17, Section 16. Big Horn CO-OP agrees to immediately report and investigate a suspected release, following all procedures in WWQRR, Chapter 17, Section 19(c) and Section 20.

f. If any two consecutive months pass with the inventory control failing for any compartment for any tank, a release may have occurred as defined by Chapter 17, Section 16. Big Horn CO-OP agrees to immediately report a suspected release and follow all procedures in WWQRR, Chapter 17, Section 19(c) and Section 20.

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 January 1 of each year.

If Big Horn CO-OP complies fully with WWQRR, Chapter 17 for three (3) years from the date of this Settlement Agreement, Twelve Thousand Dollars (\$12,000.00) of this penalty shall be forgiven.

6. Big Horn CO-OP's full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Big Horn CO-OP based on the violations alleged in Notice of Violation No. 4044-07. Contingent upon Big Horn CO-OP's compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Big Horn CO-OP for these particular violations.
7. Big Horn CO-OP 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. 4044-07 in the event that Big Horn CO-OP fails to fulfill its obligations under this Settlement Agreement.
8. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
9. This Settlement Agreement constitutes an acceptance of the DEQ's position as to the underlying facts to provide a factual basis for the imposition of a fine, but does not constitute an admission by Big Horn CO-OP which may be relied on by any party not a signator to this agreement.
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.

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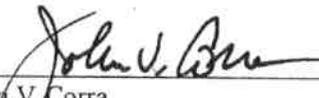
11. This Settlement Agreement is binding upon Big Horn CO-OP and all of its successors and assigns, and upon the DEQ.
12. Nothing in this Settlement Agreement supersedes any provision found in any Wyoming State law, or any regulation issued by the Department of Environmental Quality or any federal law or regulation.
13. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR BIG HORN CO-OPERATIVE ASSOCIATION:


Mike Hanser
General Manager

5-8-07
Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:


John V. Corra,
Director

4/26/07
Date


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

26 Apr 07
Date

Penalty check for \$8000⁰⁰ received
w/ this document 5/11/07 