

## SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Management Division (DEQ) and Rimrock Tire, Inc., d/b/a Rimrock Corner (Rimrock), enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 4111-07, dated July 31, 2007. Rimrock is the owner and operator of the underground storage tanks (USTs) located at 2603 Bighorn Avenue, Cody, Wyoming. This UST facility is registered with the DEQ as facility 0-001261. The Notice of Violation alleges that: 1) When passing automatic tank gauging results were not obtained for the premium unleaded gasoline UST for December 2006, January 2007 or February 2007, Rimrock failed to report a suspected release within 24 hours; 2) Rimrock failed to investigate a suspected release when the automatic tank gauge failed to report a passing result in December 2006, January 2007 or February 2007. These acts are violations of the Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Sections 16 (c), 19 (c), and 20.

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, Rimrock and the DEQ hereby stipulate and agree as follows:

1. The DEQ is responsible for enforcing the Storage Tank Act of 2007 and Chapter 17, WWQRR.

WWQRR Chapter 17, Section 16 (c), states: "Owners and/or operators using automatic tank gauging shall also: (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..."

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. During an inspection conducted June 22, 2007, personnel from the DEQ requested tank leak detection records from Rimrock. When these records were reviewed, it was discovered that there were no passing automatic tank gauging records for December 2006, January 2007 or February 2007 for the premium unleaded gasoline UST.
3. Since receiving Notice of Violation No. 4111-07 on or about August 2, 2007, Rimrock has corrected the cited violations.
4. Rimrock agrees to pay a total of Five Thousand Five Hundred Dollars (\$5,500.00) to the DEQ as a stipulated penalty for the cited violations. Payment of One Thousand Dollars (\$1,000.00) 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, 4<sup>th</sup> Floor West Wing, 122 W. 25<sup>th</sup> Street, Cheyenne, WY 82002.
5. Four Thousand Five Hundred Dollars (\$4,500.00) 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 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 passing automatic tank gauging records are to be maintained for every tank for every month. In addition, Rimrock shall perform inventory control in accordance with Chapter 17, Section 16(a). Records of all of these tests shall be maintained by Rimrock for three (3) years.
- c. Providing an Operator's Annual Inspection (OAI) of this facility no later than October 6 of each year. The OAI includes: A physical inspection of the entire facility, calibration of the ATC having a functional test of the Automatic Line Leak Detectors on the pressurized lines no later than October 6, 2007 and every year thereafter no later than October 6, and submittal of the last 12 months leak detection records. Records of all these tests shall be maintained by Rimrock for three (3) years.
- d. In the event that 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 Chapter 17, Section 16. Rimrock agrees to immediately report and investigate a suspected release, following all procedures in Chapter 17, Section 19(c) and Section 20.
- e. In the event that any two (2) 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. Rimrock agrees to immediately report a suspected release and follow all procedures in Chapter 17, Section 19(c) and Section 20.
- f. Providing a test by a cathodic protection tester of the impressed current system on these tanks no later than March 25, 2008. Inspect the rectifier and record the voltage, amperage and hour meter readings at least once every sixty (60) days. Records shall be kept showing that these requirements are met.
- 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 Rimrock complies fully with Chapter 17 for three (3) years from the date of this Settlement Agreement, Four Thousand Five Hundred Dollars (\$4,500.00) of this penalty shall be forgiven.

6. Rimrock's full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Rimrock based on the violations alleged in Notice of Violation No. 4111-07. Contingent upon Rimrock's compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Rimrock for these particular violations.

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- 7. Rimrock 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. 4111-07 in the event that Rimrock 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. Each party shall bear its own attorney fees and costs, if any, incurred through the date this Settlement Agreement is signed by both parties.
- 10. This Settlement Agreement is binding upon Rimrock and all of its successors and assigns, and upon the DEQ.
- 11. 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.
- 12. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR RIMROCK CORNER:

RIMROCK TIRE, INC.

By: *David P. Daniels* President  
 David P. Daniels, President

10-19-2007  
 Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

By: *John X. Cora*  
 John X. Cora,  
 Director

10/25/07  
 Date

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

26 Oct 07  
 Date

CHECK NUMBER 1676 DRAWN ON SHOSHONE FIRST BANK OF POWELL IN THE AMOUNT OF \$1000<sup>00</sup> RECEIVED WITH THIS DOCUMENT.

*Robert Hubert*  
 STORAGE TANK PROGRAM  
 COMPLIANCE SUPERVISOR