

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Management Division (DEQ) and Fresh Start Convenience Stores, Inc. enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 4172-07, dated November 13, 2007. Fresh Start Convenience Stores, Inc. is the owner and operator of the underground storage tanks located at Fresh Start #12, Sundance, Wyoming. This underground storage tank facility is registered with the DEQ as facility 0-000948. The Notice of Violation alleges that: 1) Fresh Start Convenience Stores, Inc. failed to provide compliance records when requested by the department at a compliance inspection conducted September 26, 2007, 2) Fresh Start Convenience Stores, Inc. failed to conduct an Operators Annual Inspection when it was due, 3) Fresh Start Convenience Stores, Inc. failed to conduct mechanical line leak detector function testing when it was due, and 4) Fresh Start Convenience Stores, Inc. failed to conduct line tightness testing when it was due. These acts are violations of Wyoming Statute (WS) 35-11-1422(a) (i) and the Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Sections 11 (b), 16 (c) (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, Fresh Start Convenience Stores, Inc. 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.

WS 35-11-1422 (a) (i) states: “when requested by an authorized agent of the state the owner or operator shall: (i) provide information to determine compliance with the statutes and rules and regulations;”

WWQRR, Chapter 17, Section 13 (e), states: “Operator’s Annual Inspection. Storage tank system owners and/or operators shall provide an annual report of inspection for the entire facility. An annual inspection is to be conducted either by the owner, the operator, or a qualified consultant.”

WWQRR, Chapter 17, Section 14 (g), states: “Piping. Connected piping that routinely contains regulated substances shall be monitored for releases in a manner that meets one (1) of the following requirements: (i) Pressurized piping systems shall: (A) be monitored in accordance with Section 14 (g) (i) (B) below. Whenever pressure systems have multiple dispensers hooked up to dispense product through a single meter, the pressurized piping between the first dispenser and the slave dispenser must also be monitored and tested; and (B) be equipped with an automatic line leak detector in accordance with the following: Methods which alert the owner and/or operator to the presence of a leak by restricting or shutting off the flow of regulated substances through piping or triggering an audible or visual alarm, may be used only if they detect leaks of three (3) gallons per hour at ten (10) pounds per square inch line pressure within one (1) hour. An annual test of the operation of the leak detector shall be conducted. Manufacturers are required to recommend procedures to be used for testing their own equipment, but all automatic line leak detectors shall be tested annually. No manufacturer shall recommend that its equipment not be tested nor interfere with the testing of its equipment in any way. In addition all underground pressurized piping shall: (1) have an annual line tightness test. A periodic test of piping may be conducted only if it can detect a 0.1 gallon per hour leak rate at one and one-half (1-1/2) times the operating pressure. Tests performed by automatic systems are specifically allowed in meeting this requirement;”

2. Since receiving Notice of Violation No. 4172-07 on or about November 15, 2007, Fresh Start Convenience Stores, Inc. has corrected the cited violations.
3. Fresh Start Convenience Stores, Inc. agrees to pay a total of Two Thousand Dollars (\$2,000.00) to the Solid and Hazardous Waste Management Division as a stipulated penalty for the cited violations. Payment of One Thousand Dollars (\$1,000.00) 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.

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4. One Thousand Dollars (\$1,000.00) 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 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, Fresh Start Convenience Stores, Inc. shall perform inventory control in accordance with Chapter 17, Section 16 (a). Records of all of these tests shall be maintained by Fresh Start Convenience Stores, Inc. for three (3) years.
 - d. Providing an Operator's Annual Inspection (OAI) of this facility no later than March 22, 2008, and every year thereafter no later than March 22. The OAI includes: A physical inspection of the entire facility, calibration of the ATG, having a functional test of the Automatic Line Leak Detectors on the pressurized lines, and submittal of the last twelve (12) months leak detection records. Records of all these tests shall be maintained by Fresh Start Convenience Stores, Inc. for three (3) years.
 - e. 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. Fresh Start Convenience Stores, Inc. agrees to immediately report and investigate a suspected release, following all procedures in Chapter 17, Section 19(c) and Section 20.
 - f. 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. Fresh Start Convenience Stores, Inc. agrees to immediately report a suspected release and follow all procedures in Chapter 17, Section 19(c) and Section 20.
 - g. Providing a test by a cathodic protection tester of the sacrificial anode system on these tanks no later than March 22, 2008.
 - h. 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 Fresh Start Convenience Stores, Inc. complies fully with Chapter 17 for one (1) year from the date of this Settlement Agreement, One Thousand Dollars (\$1,000.00) of this penalty shall be forgiven.

5. Fresh Start Convenience Stores, Inc.'s full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Fresh Start Convenience Stores, Inc. based on the violations alleged in Notice of Violation No. 4172-07. Contingent upon Fresh Start Convenience Stores, Inc.'s compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Fresh Start Convenience Stores, Inc. for these particular violations.
6. Fresh Start Convenience Stores, Inc. waives any statute of limitations that may apply to an enforcement action by the DEQ involving the specific matters described in Notice of Violation No. 4172-07 in the event that Fresh Start Convenience Stores, Inc. fails to fulfill its obligations under this Settlement Agreement.

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6. Fresh Start Convenience Stores, Inc. waives any statute of limitations that may apply to an enforcement action by the DEQ involving the specific matters described in Notice of Violation No. 4171-07 in the event that Fresh Start Convenience Stores, Inc. fails to fulfill its obligations under this Settlement Agreement.
7. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
8. Each party shall bear its own attorney fees and costs, if any, incurred through the date this Settlement Agreement is signed by both parties.
9. This Settlement Agreement is binding upon Fresh Start Convenience Stores, Inc. and all of its successors and assigns, and upon the DEQ.
10. 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.
11. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR FRESH START CONVENIENCE STORES, INC.:

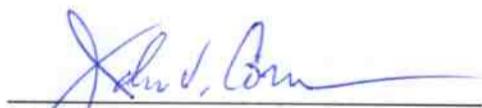


Mark Schwartz
Fresh Start Convenience Stores, Inc.

12/08/07

Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:



John V. Corra,
Director

12/8/07

Date



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

7 Dec 07

Date

Check # 2065 drawn on First National Bank
of Lead, SD in the amount of One Thousand
Dollar (\$1,000⁰⁰) was received w/ this document.

