

## SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Management Division (DEQ) and Powell Valley Oil Company (PVOC), enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 4144-07, dated September 19, 2007. PVOC is the owner and operator of the underground storage tanks (USTs) located at 328 East Main, Byron, Wyoming. This UST facility is registered with the DEQ as facility 0-003853. The Notice of Violation alleges that: 1) PVOC failed to report a suspected release within 24 hours, when the automatic tank gauge (ATG) test result was not obtained on 121 instances during the past three years. 2) PVOC failed to investigate a suspected release when the automatic tank gauge failed to report a passing result. 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, PVOC 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.

Wyoming Water Quality Rules and Regulations (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. Since receiving Notice of Violation No. 4144-07 on or about September 25, 2007, PVOC has corrected the cited violations.
3. PVOC agrees to pay a total of Thirty Five Thousand Dollars (\$35,000.00) to the DEQ as a stipulated penalty for the cited violations. Payment of Five Thousand Dollars (\$5,000.00) 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.
4. Thirty Thousand Dollars (\$30,000.00) 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:

- 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, PVOC shall perform inventory control in accordance with Chapter 17, Section 16(a). Records of all of these tests shall be maintained by PVOC for three (3) years.

- d. Providing an Operator's Annual Inspection (OAI) of this facility no later than July 24, 2008, and every year thereafter no later than July 24. 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

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lines, and submittal of the last 12 months leak detection records. Records of all these tests shall be maintained by PVOC 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 (c). PVOC 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 (a). PVOC 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 July 24, 2009. Records of this test, and the preceding test done on October 18, 2006, shall be kept for six years.

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 PVOC complies fully with Chapter 17 for three (3) years from the date of this Settlement Agreement, Thirty Thousand Dollars (\$30,000.00) of this penalty shall be forgiven.

5. PVOC's full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against PVOC based on the violations alleged in Notice of Violation No. 4144-07. Contingent upon PVOC's compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against PVOC for these particular violations.
6. PVOC 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. 4144-07 in the event that PVOC 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 PVOC 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 POWELL VALLEY OIL COMPANY:

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

FOR RED EAGLE LC:

Dale A. Hinze  
Dale Hinze, President

Date: 1-3-08

FOR POWELL VALLEY OIL COMPANY:

Dale A. Hinze  
Dale Hinze  
President

1-3-08  
Date

FOR HINZE, INC.:

Dale A. Hinze  
Dale Hinze  
President

1-3-08  
Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

John V. Corra  
John V. Corra, Director

Date: 1/8/08

LeRoy C. Feusner  
LeRoy C. Feusner, P.E. BCEE,  
Administrator

Date: 7 Jan 08

Solid and Hazardous Waste Management Division