

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Management Division (DEQ) and J. H. Kaspar Oil Company enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 4166-07, dated November 7, 2007. J. H. Kaspar Oil Company is the owner and operator of the underground storage tanks located at I-80 Travel Plaza, Exit #221, Interstate Highway 80, Sinclair, Wyoming. This underground storage tank facility is registered with the DEQ as facility 0-003063. The Notice of Violation alleges that: 1) J. H. Kaspar Oil Company failed to report and investigate suspected releases of a regulated substance when inventory control failed on the premium tank in April and May 2007, and when the inventory control for tanks 4 and 7 failed in June and July 2007. 2) J. H. Kaspar Oil Company failed to provide compliance records that were requested by the department on two separate occasions. 3) J. H. Kaspar Oil Company failed to notify the department of a major modification to an UST system and operated the modified system without department authorization. These acts are violations of 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, J. H. Kaspar Oil Company 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) (i) and (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: “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.”

Wyoming Statute (WS) 35-11-1422 (a) (i) states: “(a) 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;”

WS 35-11-1420 (b) states: “No person shall install or substantially modify, or cause to be installed or substantially modified, any new or replacement tank without thirty (30) days prior notification to the department. The department shall within ten (10) days of completion, inspect the site or have the site inspected by a qualified state, local government or private inspector. No tank shall be operated until the department determines the installation or modification meets the applicable standards.”

2. J. H. Kaspar Oil Company owns and operates tanks located at I-80 Travel Plaza, Sinclair, Wyoming, and registered with the DEQ as facility 0-003063. As part of an inspection conducted September 14, 2007, J. H. Kaspar Oil Company did not provide ATG results for 2007 and cathodic protection

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monitoring logs for 2007. J. H. Kaspar Oil Company failed to report and investigate suspected releases when inventory control failed in April and May 2007.

3. Since receiving Notice of Violation No. 4166-07 on or about November 8, 2007, J. H. Kaspar Oil Company has corrected the cited violations.
4. J. H. Kaspar Oil Company agrees to pay a total of Ten Thousand Five Hundred Dollars (\$10,500.00) to the Solid and Hazardous Waste Management Division as a stipulated penalty for the cited violations. Payment of Three Thousand Dollars (\$3,000.00) 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. Seven Thousand Five Hundred Dollars (\$7,500.00) of this penalty is stayed pending full compliance with Chapter 17 for two (2) 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, J. H. Kaspar Oil Company shall perform inventory control in accordance with Chapter 17, Section 16(a). Records of all of these tests shall be maintained by J. H. Kaspar Oil Company for three (3) years.
 - d. Provide an Operator's Annual Inspection (OAI) of this facility no later than June 13, 2008, and every year thereafter no later than June 13. 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 J. H. Kaspar Oil Company 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. J. H. Kaspar Oil Company 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. J. H. Kaspar Oil Company agrees to immediately report a suspected release and follow all procedures in Chapter 17, Section 19(c) and Section 20.
 - g. Provide a test by a cathodic protection tester of the impressed current system on these tanks no later than June 13, 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.
 - 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.

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If J. H. Kaspar Oil Company complies fully with Chapter 17 for two (2) years from the date of this Settlement Agreement, Seven Thousand Five Hundred Dollars (\$7,500.00) of this penalty shall be forgiven.

6. J. H. Kaspar Oil Company's full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against J. H. Kaspar Oil Company based on the violations alleged in Notice of Violation No. 4166-07. Contingent upon J. H. Kaspar Oil Company's compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against J. H. Kaspar Oil Company for these particular violations.
7. J. H. Kaspar Oil Company 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. 4166-07 in the event that J. H. Kaspar Oil Company 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 J. H. Kaspar Oil Company 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 J. H. KASPAR OIL COMPANY:

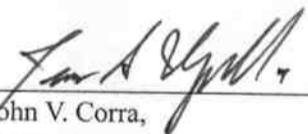


Joe Kasper, President
J. H. Kaspar Oil Company

Date

2/9/08

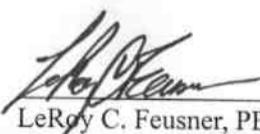
FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:



John V. Corra,
Director

Date

1/18/08



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

Date

17 Jan 08

Check # 59427 in the amount of Three Thousand Dollars (\$3,000⁰⁰), drawn on the Peoples National Bank, was received with this document.

