

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Management Division (DEQ) and Sonny Fraughton d/b/a The Last Chance (Fraughton), enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 4290-08, dated June 18, 2008. Fraughton is the owner and operator of the underground storage tanks (USTs) located at 49 Aspen Grove East, Evanston, Wyoming. This UST facility is registered with the DEQ as facility 0-002462. The Notice of Violation alleges that Fraughton operated one of the underground gasoline tanks with the overfill device purposely disabled until that was discovered on June 5, 2008. This act is a violation of the Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Sections 6 (c) (ii) (B).

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, Fraughton 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.
2. WWQRR, Chapter 17, Section 6 (c) (i) (B), states: “(c) Spill and overfill prevention equipment. (i) Except as provided in Section 6 (c) (ii), to prevent spilling and overfilling associated with regulated substance transfer to the UST system, owners and/or operators shall use the following spill and overfill prevention equipment: (B) Overfill prevention equipment that will: (I) Automatically shut off flow into the tank when the tank is no more than ninety-five percent (95%) full; or (II) Alert the transfer operator when the tank is no more than ninety percent (90%) full by restricting the flow into the tank or triggering a high-level alarm.”

Since receiving Notice of Violation No. 4290-08 on or about June 20, 2008, Fraughton has corrected the cited violation.

3. Fraughton agrees to pay a total of One Thousand Dollars (\$1,000.00) to the DEQ as a stipulated penalty for the cited violations. Payment of One Thousand Dollars (\$1,000.00) shall be submitted with one executed copy of this Settlement Agreement within thirty (30) days for receipt of this 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.
4. Fraughton’s full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Fraughton based on the violations alleged in Notice of Violation No. 4290-08. Contingent upon Fraughton’s compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Fraughton for this particular violation.
5. Fraughton 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. 4290-08 in the event that Fraughton fails to fulfill its obligations under this Settlement Agreement.
6. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
7. Each party shall bear its own attorney fees and costs, if any, incurred through the date this Settlement Agreement is signed by both parties.
8. This Settlement Agreement is binding upon Fraughton and all of its successors and assigns, and upon the DEQ.
9. 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.
10. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

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FOR THE LAST CHANCE:

Sonny Fraughton
Sonny Fraughton

8-19-08
Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

John V. Corra
John V. Corra,
Director

7/11/08
Date

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

11 Jul 08
Date

Check # 8084 drawn on The Tiona Valley
Community Federal Credit Union, in the
amount of One Thousand Dollars (\$1,000⁰⁰)
was received 8/22/08 with this document.

Patricia Park