

AUG 21 2008

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Division (DEQ/SHWD) and Oftedal Construction Inc., finally resolve without litigation the violations alleged in **Notice of Violation Docket No. 4268-08, dated May 5, 2008**. The Notice of Violation alleges that Oftedal Construction Inc., is in violation of the Wyoming Solid (SWRR) Hazardous Waste Rules and Regulations (HWRR).

Wyoming Statute (W.S.) 35-11-901 (a)(ii) authorizes the DEQ to negotiate a stipulated settlement including payment of a penalty, compliance schedules, or other enforcement conditions, in lieu of litigation. To that end, Oftedal Construction Inc., and the DEQ/SHWD hereby stipulate and agree as follows.

1. The DEQ/SHWD is responsible for enforcing the Wyoming SWRR and HWRR.
2. Oftedal Construction Inc. owns and operates a construction contracting facility located at 2376 7 Mile Road, Casper, Wyoming.
3. Wyoming SWRR, Chapter 1, Section 1(f)(i) and Section 1(1)(xviii), requires a permit or a one-time or emergency disposal authorization for the capacity to store more than 2,000 gallons of used oil on site. The March 12, 2008, and April 14, 2008, inspections of Oftedal Construction Inc., revealed that the combined used oil storage capacity at the facility exceeded 30,000 gallons of used oil and the facility did not have a solid waste permit.
4. Wyoming HWRR, Chapter 12, Section 11(c), states that used oil generators are subject to all applicable Spill Prevention, Control and Countermeasures (SPCC) (40CFR) in addition to the requirements of Chapter 11 of this chapter. A review of the SPCC plan onsite during the March 12, 2008, inspection, revealed that Oftedal Construction Inc. was in violation of HWRR, Chapter 12, section 11(c), for not complying with the applicable SPCC requirements.
5. Chapter 12, Section 11(c)(iv) of the HWRR, requires that upon detection of a release of used oil to the environment, a generator must perform the following cleanup steps: A) Stop the release; B) Contain the released used oil; C) Cleanup and manage properly the released used oil and other materials; and D) If necessary to prevent future releases, repair or replace any leaking used oil storage containers or tanks prior to returning them to service. During the March 12, 2008, inspection, Oftedal Construction, Inc., was in violation of HWRR, Chapter 12, Section 11(c)(iv), for not performing the required used oil spill cleanup steps.
6. The April 14, 2008, inspection of Oftedal Construction Inc. confirmed that ~~SPCC~~ Condition #5 has now been adequately addressed.

7. Within sixty (60) days from the date of this Settlement Agreement, Oftedal Construction Inc. shall submit a current and up-to-date SPCC plan copy that is properly certified by a Professional Engineer (P.E.) as required under Condition #4.

8. Within one hundred twenty (120) days from the date of this Settlement Agreement, Oftedal Construction Inc. shall have submitted the required solid waste permit application to obtain the required solid waste permit to address Condition #3.

9. Oftedal Construction agrees that in lieu of paying the stipulated penalty amount of four thousand, two hundred eighty-one dollars (\$4281) as a penalty, Oftedal Construction Inc. shall within sixty (60) days from the effective date of this Settlement Agreement, donate \$4281, the total penalty amount, to the Natrona County Fire Department to implement a Supplemental Environmental Project (SEP) involving the purchase of safety supplies and gear for county employees while working with used oil and other petroleum products as specified in the 7/14/2008 email attachment from Shawn Coffen.

10. Upon completion of its obligation under paragraph 9, Oftedal Construction Inc. shall promptly notify the DEQ/SHWD in writing to confirm that the SEP has been implemented and that payment to the Natrona County Fire Department has been made. This notification in writing shall include written documentation showing that Oftedal Construction Inc. requested the Natrona County Fire Department to use such funding to purchase the safety supplies and gear.

11. Oftedal Construction Inc.'s full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all present and future claims by DEQ against Oftedal Construction Inc. based on the acts or omissions alleged to be violations in Notice of Violation Docket No. 4268-08. Contingent on Oftedal Construction Inc.'s compliance with the terms of this Settlement Agreement, DEQ will refrain from taking further enforcement action against Oftedal Construction Inc. for these particular alleged acts or omissions.

12. Oftedal Construction Inc. waives any statute of limitations which may apply to an enforcement action by the DEQ/SHWD involving the specific matters described in Notice of Violation No. 4268-08 in the event that Oftedal Construction Inc. fails to fulfill its obligations under this Settlement Agreement.

13. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.

14. Each party shall bear its own attorney fees and costs, if any, incurred through the date this Settlement Agreement is signed by both parties.

15. This Settlement Agreement is binding upon Oftedal Construction Inc., its successors and assigns, and upon the DEQ.

16. This Settlement Agreement may only be amended in writing, signed by both parties.

17. The State of Wyoming and the Department of Environmental Quality, Solid and Hazardous Waste Division, do not waive sovereign immunity by entering into this Settlement Agreement, and specifically retain all immunity and all defenses to them as sovereigns pursuant to Wyo. Stat. §1-39-104(a) and all other state law.

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

19. This agreement is not binding until fully executed by all parties to this Agreement.

FOR: OFTEDAL CONSTRUCTION, INC.

Signed: Shawn T. Cottin

Date: 8-19-08

Typed: Shawn T. Cottin

Title: H.R. Mgr

FOR: THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

James A. Hyatt, Director

Date: 8/13/08

Department of Environmental Quality (DEQ)

Shay Khan, Administrator Date: 12 Aug 08

DEQ/Solid & Hazardous Waste Division