

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Management Division (DEQ) and Kum & Go, L. C., enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 4317-08, dated July 30, 2008.

Kum & Go, L. C., d/b/a Kum & Go #955 is the owner and operator of the underground storage tanks (USTs) located at 1617 South Greeley Highway, Cheyenne, Wyoming. This UST facility is registered with the DEQ as facility 0-000039. Notice of Violation 4317-08 alleges that: 1) Kum & Go, L. C., received a failing Statistical Inventory Reconciliation result for the unleaded gasoline UST for the month of May 2008, 2) Kum & Go, L. C., failed to report and investigate a suspected release as soon as this result was obtained, and 3) Kum & Go, L. C. failed to investigate the suspected release. These acts are violations of the Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Sections 16 (g), 19, 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, Kum & Go, L. C., 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 (g), states: “(g) *Statistical Inventory Reconciliation (SIR)*. All SIR methods shall: (i) meet the requirements found in Section 16 (a) for inventory control; (ii) be capable of detecting a 0.2 gallon per hour leak rate or a release of one hundred fifty (150) gallons within a month with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05; and (iii) be approved, in writing, by the department prior to use. (iv) All “inconclusive” results shall be investigated by the owner and/or operator as soon as they are reported by the SIR company, including a complete audit of all input data. The owner and/or operator shall make every effort to resolve all “inconclusive” results as soon as they are reported. If the inventory for an entire month fails to balance within two thousand (2,000) gallons, that month shall be treated as inconclusive. A month with an un-resolved inconclusive result is a month when no valid leak detection was provided. (v) Owners and/or operators using SIR shall report a suspected release and follow the requirements of Section 19(c) of this chapter whenever: (A) Any single month is reported as a failure for the UST system by the SIR company; (B) Any month is reported by the SIR company as “inconclusive” unless that inconclusive result has been resolved by re-submission of audited inventory numbers to the SIR company. (vi) UST Systems with a throughput of more than 500,000 gallons per month in any single system shall not be monitored using SIR as the only release detection method.”

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 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.”

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 as follows: (a) System test. Owners and/or operators shall conduct tests, according to the requirements for tightness testing in Section 14 (g) and Section 16 (b,) that determine whether a leak exists in that portion of the storage tank system that routinely contains a regulated substance. Owners and/or operators of all storage tanks shall also audit one year’s inventory control required by Section 16(a) or 36(e). (i) Owners and/or operators shall repair, replace, or permanently close the storage tank system if the test results for the system, tank, or delivery piping indicate that a leak exists.”

2. Kum & Go, L.C., received a report on or about June 15, 2008 showing that the unleaded gasoline tank failed the SIR test for May 2008. Kum & Go, L.C., failed to report a suspected release and failed to investigate that suspected release as soon as that report was received. Kum & Go, L.C., had not performed a release investigation before Notice of Violation, Docket Number 4317-08, was issued on July 30, 2008.

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3. Since receiving Notice of Violation No. 4317-08 on or about August 5, 2008, Kum & Go, L. C., has corrected the cited violations.
4. Kum & Go, L. C., agrees to pay a total of Six Thousand Dollars (\$6,000.00) to the Solid and Hazardous Waste Management Division as a stipulated penalty for the cited violations. Payment of Six Thousand Dollars (\$6,000.00) 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. Kum & Go, L. C.'s, full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Kum & Go, L. C., existing as of the date of this Settlement Agreement for violations listed in the Notice of Violation, Docket Number 4317-08. Contingent upon Kum & Go, L.C.'s, compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Kum & Go, L. C., for these particular violations.
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 Kum & Go, L. C., 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.

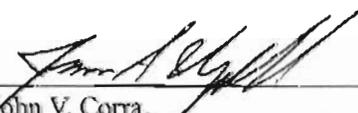
The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR KUM & GO, L.C.:


 Kyle J. Krause
 Manager

9/15/08
 Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:


 John V. Corra,
 Director

8/26/08
 Date


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

27 Aug 08
 Date

Check # 347645 drawn on LaSalle Bank NA,
 in the amount of Six Thousand Dollars (\$6000.00)
 was received with this document. 