

## SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Management Division (DEQ) and South Lincoln Hospital District enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 4339-08, dated August 12, 2008. South Lincoln Hospital District is the owner and operator of one underground storage tank (UST) located at 711 Onyx Street, Kemmerer, Wyoming. This UST facility is registered with the DEQ as facility 0-004241. The Notice of Violation alleges that: 1) South Lincoln Hospital District failed to conduct an Operators Annual Inspection (OAI) when it was due, 2) South Lincoln Hospital District has failed to conduct leak detection on the UST, and 3) South Lincoln Hospital District failed to conduct a cathodic protection (CP) test on the lines when it was due. These acts are violations of Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Sections 11 (b), 13 (e) and 14 (a).

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, South Lincoln Hospital District 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 13 (e), states: “(e) *Operator’s Annual Inspection.* Storage tank system owners and/or operators shall provide an annual report of inspection for the entire facility. An annual inspection is to be conducted either by the owner, the operator, or a qualified consultant. The inspector shall meet all of the qualifications as a CP tester if he or she inspects a CP system. This inspection shall: (i) test all of the CP systems on site which are due for testing in accordance with Section 11; (ii) provide for pressure tests of pressurized piping or U.S. Suction piping in accordance with Section 14(g); (iii) provide for tests of all Automatic Line Leak Detectors as follows; (A) provide a simulated leak test for Mechanical Line Leak Detectors which will demonstrate that the leak detector meets the requirements of Section 14(g). (B) for Electronic Line Leak Detectors a simulated leak is required which demonstrates that the leak detector meets the requirements of Section 14(g). An internal electrical test of the system is not sufficient to meet this requirement. (C) When sump sensors are used to meet the requirement for an Automatic Line Leak Detector, they shall be configured to meet the requirements of Section 14(g) and the annual inspection shall include a manual tripping of each sump sensor. The automatic device used to monitor sump sensors shall be triggered by the manual tripping of the sensors, and a record shall be made showing the date when the test was done, the facility number, and recording the fact that the sensor operated as required. (iv) document that all Automatic Tank Gauges (ATG), interstitial monitoring systems, vapor monitoring systems, or other automatic systems are properly calibrated and functioning. This includes a check to determine if probes are clean and are the proper ones for the regulated substance being stored. (v) provide an annual summary for all inventory control calculations, statistical inventory reconciliation reports, or other leak detection methods which shows compliance for each month of the preceding year. Records of the operation of all leak detection systems for the past three years are required to be kept. (vi) include a physical inspection of all sumps, manholes, dispensers, and other openings provided on the storage tank system. Any leaks found shall be immediately eliminated.”

WWQRR, Chapter 17, Section 14 (a), states: “*Release Detection.* Owners and/or operators of UST systems shall provide a method, or combination of methods, of release detection that: (i) Can detect a release from any portion of the tank and the connected piping that routinely contains a regulated substance; (ii) Is installed, calibrated, operated, and maintained in accordance with the manufacturer's instructions, including routine maintenance and service checks showing that the leak detection equipment is fully operational and in proper calibration; and (iii) Meets the performance requirements in Sections 15, 16, or 17 , with any performance claims and their manner of determination described in writing by the equipment manufacturer or installer. Methods used shall be capable of detecting the leak rate or quantity specified for that method in Sections 15, 16, or 17 with a probability of detection of 0.95 and a probability of false alarm of 0.05.”

WWQRR, Chapter 17, Section 11, states: “**Operation and Maintenance of Corrosion Protection (CP).** All owners and/or operators of steel storage tank systems with CP shall comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the storage tank system is used to store regulated substances: (b) *Periodic Inspections.* All storage tank systems equipped with CP systems shall be inspected for proper operation by a qualified CP tester in accordance with the following requirements: (i) All CP systems shall be

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tested within six (6) months of installation and at least once every three (3) years thereafter. (ii) The criteria that are used to determine that CP is adequate shall be in accordance with the NACE Standard RP0285-2002, 'Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems'."

2. Since receiving Notice of Violation No. 4339-08 on or about August 18, 2008, South Lincoln Hospital District has corrected the cited violations.
3. South Lincoln Hospital District agrees to pay a total of Five Thousand Dollars (\$5,000.00) to the Solid and Hazardous Waste Management Division as a stipulated penalty for the cited violations. Payment of One Thousand Dollars (\$1,000.00) 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, 4<sup>th</sup> Floor West Wing, 122 W. 25<sup>th</sup> Street, Cheyenne, WY 82002.
4. Four Thousand Dollars (\$4,000.00) 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, 2009, and January 1 of each year thereafter.
  - b. Performance of any one of the 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 manual tank gauging records are to be maintained for every tank for every month. Records of all of these tests shall be maintained by South Lincoln Hospital District for three (3) years.
  - d. Providing an OAI of this facility no later than August 19, 2009, and every year thereafter no later than August 19. The OAI includes: A physical inspection of the entire facility, and submittal of the last twelve (12) months leak detection records. Records of all these tests shall be maintained by South Lincoln Hospital District for three (3) years.
  - e. In the event that any month passes without a passing result on the manual tank gauging for each tank, a release may have occurred, as defined by Chapter 17, Section 16. South Lincoln Hospital District agrees to immediately report and investigate a suspected release, following all procedures in Chapter 17, Section 19(c) and Section 20.
  - f. Providing a test by a cathodic protection tester of the sacrificial anode system on these lines no later than October 15, 2008.
  - h. If this tank is 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 South Lincoln Hospital District complies fully with Chapter 17 for two (2) years from the date of this Settlement Agreement, Four Thousand Dollars (\$4,000.00) of this penalty shall be forgiven.

5. South Lincoln Hospital District's full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against South Lincoln Hospital District based on the violations alleged in Notice of Violation No. 4339-08. Contingent upon South Lincoln Hospital District's compliance with the terms of this Settlement Agreement, the DEQ

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will refrain from taking further enforcement action against South Lincoln Hospital District for these particular violations.

- 6. South Lincoln Hospital District 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. 4339-08 in the event that South Lincoln Hospital District 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 South Lincoln Hospital District 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 SOUTH LINCOLN HOSPITAL DISTRICT:

Eric Boley
Administrator

23 / sept 08
Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

John V. Corra,
Director

17 / sept 08
Date

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

17 Sept 08
Date

Check # 40217, drawn on the Bank of the West in
Kammerer, in the amount of One Thousand
Dollars (\$1000.00) was received with this
document.

[Handwritten signature]