

## SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Management Division (DEQ) and Fresh Start Convenience Stores, Inc., (Fresh Start) enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 4281-08, dated June 2, 2008. The Notice of Violation alleges that: 1) The cathodic protection systems on the steel lines operated by Fresh Start at Fresh Start Convenience Store #13 were tested on May 9, 2007, and 2) The cathodic protection system on all of the steel lines operated by Fresh Start failed. These failures are violations of Chapter 17, Section 11, Wyoming Water Quality Rules & Regulations (WWQRR).

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, Fresh Start and the DEQ hereby stipulate and agree as follows:

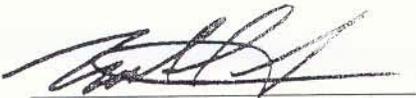
1. The DEQ is responsible for enforcing the Act and Chapter 17, WWQRR.
2. Wyoming Water Quality Rules and Regulations, Chapter 17, Section 11, states: “**Operation and Maintenance of Corrosion Protection (CP)**. All owners and/or operators of steel storage tank systems with CP shall comply with the following requirements to ensure that releases due to corrosion are prevented for as long as the storage tank system is used to store regulated substances: (a) Continuous Operation. All CP systems shall be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground. Once installed, CP systems shall not be removed, even if the tank has also been internally lined, as long as steel tanks or connected piping exist on that site. This does not preclude replacement of parts of the CP system which have become defective. (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 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". (iii) All CP systems shall be tested within six months of any repair or substantial modification to the storage tank system, or any other installation on the facility requiring excavation, in accordance with NACE Standard RP0285-2002.”
3. By failing to repair and re-test a failing cathodic protection system, Fresh Start Convenience Stores, Inc. has violated, Chapter 17, Section 11, Wyoming Water Quality Rules and Regulations.
4. Fresh Start owns and operates tanks located at Fresh Start Convenience Store #13, 301 south Main, Lusk, Wyoming, and registered with the DEQ as facility 0-000950. Since receiving of Notice of Violation No. 4281-08 on or about June 9, 2008, Fresh Start has corrected the cited violations.
5. Fresh Start agrees to pay a total of Sixty-Five Hundred Dollars (\$6,500.00) to the Solid and Hazardous Waste Management Division as a stipulated penalty for the cited violations. Payment of Sixty-Five Hundred Dollars (\$6,500.00) shall be made within thirty (30) days after execution of this Settlement Agreement. Payment shall be made by check made payable to the Wyoming Department of Environmental Quality and addressed to the Wyoming Department of Environmental Quality, Attention: Bob Lucht, Herschler Building, 4<sup>th</sup> Floor West Wing, 122 W. 25<sup>th</sup> Street, Cheyenne, WY 82002.
6. Fresh Start’s full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Fresh Start based on the violations alleged in Notice of Violation No. 4281-08. Contingent upon Fresh Start’s compliance with the terms

of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Fresh Start for these particular violations.

8. Fresh Start 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. 4281-08 in the event that Fresh Start fails to fulfill its obligations under this Settlement Agreement.
9. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
10. Each party shall bear its own attorney fees and costs, if any, incurred through the date this Settlement Agreement is signed by both parties.
11. This Settlement Agreement is binding upon Fresh Start Convenience Stores, Inc., and their successors and assigns, and upon the DEQ.
12. Nothing in this Settlement Agreement supercedes any provision found in any Wyoming State law, or any regulation issued by the Department of Environmental Quality, or any federal law or regulation.

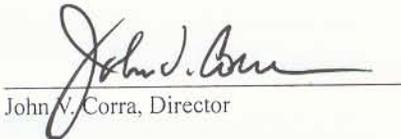
The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR FRESH START CONVENIENCE STORES, INC.:

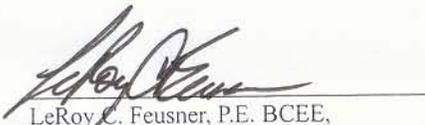
  
\_\_\_\_\_  
Mark Schwartz

Date: 9-28-08

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

  
\_\_\_\_\_  
John V. Corra, Director

Date: 10/3/08

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

Date: 30 Oct 08

*Check # 2330 drawn on the First National Bank of Pierre, SD in the amount of Six Thousand Five Hundred Dollars (\$6500<sup>00</sup>) was received with this document.* 