

## SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality Solid and Hazardous Waste Management Division (DEQ), Farson, LLC (Farson), and Valley Mart, Inc. (Valley), enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 4375-08, dated October 23, 2008. Farson is the owner and Valley is the operator of the underground storage tanks located at #2 Highway 28, Farson, Wyoming. This underground storage tank facility is registered with the DEQ as facility 0-002838. The Notice of Violation alleges that: 1) Farson owned and Valley operated three (3) Underground Storage Tanks (USTs) without obtaining a passing result from the Automatic Tank Gauge (ATG) for any month for twelve (12) months. 2) No report of a suspected release was made for any of these failures, nor was any investigation done for any of these failures. These acts are violations of the Wyoming Water Quality Rules and Regulations (WWQRR) Chapter 17, Sections 16 (c) and 19 (c).

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, Farson, Valley, and the DEQ hereby stipulate and agree as follows:

1. The DEQ is responsible for enforcing the Environmental Quality Act and Chapter 17, WWQRR.
2. WWQRR, Chapter 17, Section 16 (c) states: “(c) *Automatic tank gauging (ATG)*. Equipment for automatic tank gauging that tests for the loss of a regulated substance shall detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains a regulated substance. Owners and/or operators using automatic tank gauging shall also: (i) conduct inventory control in conformance with paragraph (a) of this section, unless: (A) the regulated substance is placed in the UST in batches of twenty-five (25) gallons or less; (B) the tank is used only to fuel an emergency power generator; (C) a passing result is obtained monthly from the Automatic Tank Gauge with the tank at least 85% full; (D) the automatic tank gauge itself reconciles the inventory to the same levels as required by paragraph (a)(i) of this section; or (E) a method of equivalent performance to inventory control is also used. (ii) report a suspected release and follow the requirements of Section 19(c) of this chapter whenever: (A) Any calendar month goes by when a passing result cannot be obtained from the ATG sometime during the month; or (B) A pattern becomes evident that the ATG produces a failing result whenever the level of a regulated substance in the tank is high, even if passing results can be obtained when the level is low. (C) Inventory control fails for the second consecutive month.”
3. Farson owns and Valley operates tanks located at #2 Highway 28, Farson, Wyoming and registered with the DEQ, as facility 0-002838. During an inspection conducted September 18, 2008, it was discovered that Farson and Valley did not have passing ATG results for either of the USTs for October 2007 through September 2008. No suspected releases were ever reported or investigated.
4. Since receiving the Notice of Violation No. 4375-08 on or about October 25, 2008, Farson and/or Valley have corrected the cited violations.
5. Farson and Valley agrees to pay a total of Ten Thousand Dollars (\$10,000.00) to the Solid and Hazardous Waste Division as a stipulated penalty for the cited violations. Payment of One Thousand Dollars (\$1,000.00) shall be made within 30 days after execution of this Settlement Agreement. Payments shall be made 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.

## SETTLEMENT AGREEMENT

6. Nine Thousand Dollars of this penalty is stayed pending Farson and Valley's full compliance with the requirements of Chapter 17, WWQRR for one (1) year from the date of this Settlement Agreement. For purposes of this Settlement Agreement full compliance means:
  - a. Collect at least one (1) passing result from the ATG for every currently in use tank for every calendar month;
  - b. Conduct inventory control for every currently in use tank for every calendar month;
  - c. Report and investigate a suspected release whenever any calendar month passes without a passing ATG result;
  - d. Report and investigate a suspected release whenever any two consecutive months pass without passing inventory control records;
  - e. Conduct an Operator's Annual Inspection before September 18, 2009;
  - f. Conduct a functional test of all sump sensors before September 18, 2009;
7. Farson and Valley's full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Farson - Valley based on the violations alleged in Notice of Violation No. 4375-08. Contingent upon Farson and Valley's compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Farson and Valley for these particular violations.
8. Farson and Valley waive any statute of limitations that may apply to an enforcement action by the DEQ involving the specific matters described in Notice of Violation No. 4375-08 in the event that Farson and Valley fails to fulfill their 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 Farson and Valley and all of their successors and assigns, and upon the DEQ.

SETTLEMENT AGREEMENT

- 12. 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.
- 13. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR FARSON, LLC.

  
\_\_\_\_\_  
Boris Vukovich

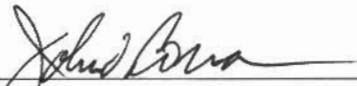
11.12.08  
\_\_\_\_\_  
Date

FOR VALLEY MART, INC.

  
\_\_\_\_\_  
Dustin Eaton

11-21-08  
\_\_\_\_\_  
Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

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

11/26/08  
\_\_\_\_\_  
Date

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

25 Nov 08  
\_\_\_\_\_  
Date

*Check # 0959 drawn on Beck Springs National Bank in the amount of One Thousand Dollars was received with this document.*