BEFORE THE

DEPARTMENT OF ENVIRONMENTAL QUALITY

STATE OF WYOMING

IN THE MATTER OF THE NOTICE OF VIOLATION ISSUED TO:	)	
Fresh Start Convenience Stores, Inc. P.O. Box 1180 Spearfish, SD 57783	)	DOCKET NUMBER 4754-10

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. Fresh Start Convenience Stores, Inc., owns and operates underground storage tank facility number 0-000948, which is known as the Fresh Start Convenience Store #12, located at 522 Cleveland Street, Sundance, Wyoming. This facility has three underground storage tanks. The underground tanks are connected to steel pressurized piping.

   On October 13, 2010, personnel from the Wyoming Department of Environmental Quality (DEQ) discovered that there was an increase of product in the monitoring wells at the Fresh Start convenience store. They contacted Fresh Start Convenience Store, Inc., and informed them that there was a suspected release at this facility and told them they were required to perform tank tightness and line tightness testing. They also requested that Fresh Start Convenience Stores, Inc., submit copies of the previous year's tank leak detection records to the DEQ.

   When Fresh Start Convenience Stores, Inc., preformed line tightness testing on October 22, 2010, they found that there was a leak in the piping connected to the premium tank.

   Fresh Start Convenience Stores, Inc., submitted copies of the tank leak detection records to the DEQ. When reviewing the inventory control records for the premium tank system, DEQ personnel discovered that during each month from January through September 2010 there were over 20 days where the inventory was short. They also discovered that the premium inventory control records had failing results for each month from May through September 2010.

   Fresh Start Convenience Stores, Inc., has never reported a suspected release at this facility.

2. DEQ has determined that the following violations of Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17 have occurred:

   Count 1: Failure to report and investigate a suspected release when a tank's daily inventory control readings are negative more than 20 times for two consecutive months [WWQRR, Chapter 17, Section 16(a)(viii)(B)]. As owner and operator of underground storage tanks, Fresh Start Convenience Stores, Inc., violated WWQRR, Chapter 17, Section 16(a)(viii)(B), when it failed to report a suspected release when the premium tank's daily inventory control readings were negative more than 20 times for January and February 2010.

Count 2: Failure to report and investigate a suspected release when a tank's daily inventory control readings are negative more than 20 times for two consecutive months [WWQRR, Chapter 17, Section 16(a)(viii)(B)]. As owner and operator of underground storage tanks, Fresh Start Convenience Stores, Inc., violated WWQRR, Chapter 17, Section 16(a)(viii)(B), when it failed to report a suspected release when the premium tank's daily inventory control readings were negative more than 20 times for March and April 2010.

Count 3: Failure to report and investigate a suspected release when a tank's daily inventory control readings are negative more than 20 times for two consecutive months [WWQRR, Chapter 17, Section 16(a)(viii)(B)]. As owner and operator of underground storage tanks, Fresh Start Convenience Stores, Inc., violated WWQRR, Chapter 17, Section 16(a)(viii)(B), when it failed to report a suspected release when the premium tank's daily inventory control readings were negative more than 20 times for May and June 2010.

Count 4: Failure to report and investigate a suspected release when a tank's daily inventory control readings are negative more than 20 times for two consecutive months [WWQRR, Chapter 17, Section 16(a)(viii)(B)]. As owner and operator of underground storage tanks, Fresh Start Convenience Stores, Inc., violated WWQRR, Chapter 17, Section 16(a)(viii)(B), when it failed to report a suspected release when the premium tank's daily inventory control readings were negative more than 20 times for July and August 2010.

Count 5: Failure to report and investigate a suspected release when a tank's daily inventory control readings failed to balance within 1% of the throughput plus 130 gallons during two consecutive months [WWQRR, Chapter 17, Section 16(a)(viii)(A)]. As owner and operator of underground storage tanks, Fresh Start Convenience Stores, Inc., violated WWQRR, Chapter 17, Section 16(a)(viii)(A), when it failed to report a suspected release when the premium tank's daily inventory control readings failed in April and May 2010.

Count 6: Failure to report and investigate a suspected release when a tank's daily inventory control readings failed to balance within 1% of the throughput plus 130 gallons during two consecutive months [WWQRR, Chapter 17, Section 16(a)(viii)(A)]. As owner and operator of underground storage tanks, Fresh Start Convenience Stores, Inc., violated WWQRR, Chapter 17, Section 16(a)(viii)(A), when it failed to report a suspected release when the premium tank's daily inventory control readings failed in June and July 2010.

Count 7: Failure to report and investigate a suspected release when a tank's daily inventory control readings failed to balance within 1% of the throughput plus 130 gallons during two consecutive months [WWQRR, Chapter 17, Section 16(a)(viii)(A)]. As owner and operator of underground storage tanks, Fresh Start Convenience Stores, Inc., violated WWQRR, Chapter 17, Section 16(a)(viii)(A), when it failed to report a suspected release when the premium tank's daily inventory control readings failed in August and September 20010.

3. Any person who violates any provision of the Environmental Quality Act, or any rule, standard, permit, license, or variance adopted there under, is liable for a penalty of ten thousand dollars ($10,000.00) for each day of violation, which penalty may be recovered in a civil action brought by the Attorney General in the name of the people of Wyoming.

4. This Notice is being sent to you pursuant to W.S. 35-11-701(c)(i), which requires that in any case of the failure to correct or remedy an alleged violation, the director of the Department of Environmental Quality shall cause a written notice to be issued and served upon the person alleged to be responsible.

NOTHING IN THIS NOTICE OF VIOLATION shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this Notice of Violation be interpreted as being a condition precedent to any other enforcement action.

SIGNED this 2nd day of December, 2010.

John V. Corra
Director
Department of Environmental Quality

Carl Anderson, PhD
Administrator
Solid and Hazardous Waste Division

PLEASE DIRECT ALL INQUIRES TO: Oma Gilbreth, Storage Tank Program Compliance Supervisor at 122 West 25th Street, Fourth Floor, West Wing, Cheyenne, WY 82002, (307) 777-7097 or (307) 777-5973 FAX for technical matters.

JVC/CA/KH/OG