

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Division (DEQ) and Fresh Start Convenience Stores, Inc., enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 4754-10, dated December 2, 2010. Fresh Start Convenience Stores, Inc., is the owner and operator of the underground storage tanks (USTs) located at 522 Cleveland Street, Sundance, Wyoming. This UST facility is registered with the DEQ as facility 0-000948. The Notice of Violation alleges that Fresh Start Convenience Stores, Inc., failed to report and investigate suspected releases. These acts are violations of the Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17.

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 Convenience Stores, Inc., and the DEQ hereby stipulate and agree as follows:

1. The DEQ is responsible for enforcing the Storage Tank Act of 2007 and WWQRR, Chapter 17.
2. Fresh Start Convenience Stores, Inc., committed the following violations of WWQRR, Chapter 17:

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.

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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)(vii)(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 2010.

When the department discovered an increase of product in monitoring wells at DEQ facility 0-000948 during October 2010, Fresh Start investigated a suspected release, whereupon discovering a leak in the piping connected to the premium tank. If Fresh Start Convenience Stores, Inc., would have followed proper release detection protocol and investigated a suspected release when it was required, the impact to the environment and the cost of cleanup at the taxpayer's expense would have been reduced.

3. The total penalty for the cited violations shall be thirty-six thousand, five hundred dollars (\$36,500.00).
 - a. Fresh Start Convenience Stores, Inc., agrees to pay a total of three thousand dollars (\$3,000.00) to the DEQ as a stipulated penalty for the cited violations. Payment of three thousand dollars (\$3,000.00) shall be made and returned with 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: Oma Gilbreth, Herschler Building, 4th Floor West Wing, 122 W. 25th Street, Cheyenne, WY 82002.
 - b. Fresh Start Convenience Stores, Inc., agrees to replace all piping connected to the underground storage tanks at DEQ facility 0-000948 by May 1, 2011. All piping will be double-wall, non-corrodible, and it is to be interstitially monitored. The cost of replacing all piping at this facility will exceed eighty thousand dollars (\$80,000.00). In return for replacement of the piping connected to the diesel and regular unleaded tanks, which is not required by regulation, DEQ will credit thirty-three thousand, five hundred dollars (\$33,500.00) as a supplemental environmental project toward the total penalty. If this piping is not fully installed by May 1, 2011, the DEQ will consider Fresh Start Convenience Stores, Inc., to be in breach of the settlement agreement, and the entire penalty will become due and payable.
4. Fresh Start Convenience Stores, Inc.'s, full compliance with the terms of this settlement agreement shall constitute satisfaction for all claims against Fresh Start Convenience Stores, Inc., based on the violations alleged in Notice of Violation Docket Number 4754-10. Contingent upon Fresh Start Convenience Stores, Inc.'s, compliance with the terms of this settlement agreement, the DEQ will refrain from taking any further action against Fresh Start Convenience Stores, Inc., for these particular violations.
5. Fresh Start Convenience Stores, Inc., 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. 4754-10 in the event that Fresh Start Convenience Stores, Inc., fails to fulfill its obligations under this Settlement Agreement.
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 Fresh Start Convenience Stores, Inc., and all 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.

Settlement Agreement between
Fresh Start Convenience Stores, Inc., and the DEQ

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Check 3223
for \$3,000.00

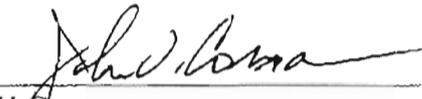
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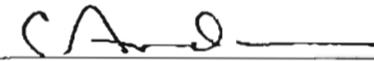
10. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR FRESH START CONVENIENCE STORES, INC.:

Signature:  Date 1-3-11
Name: Chris Schwartz

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

 Date 12/22/10
John V. Corra,
Director

 Date 12/21/10
Carl Anderson, PhD
Administrator
Solid and Hazardous Waste Division