

## SETTLEMENT AGREEMENT

AUG 29 2013

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Division (DEQ) and Kum & Go, L.C., enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 5163-13, dated May 20, 2013. Kum & Go, L.C., is the owner and operator of the underground storage tanks (USTs) at Kum & Go #955, which is located at 1617 South Greeley Highway, Cheyenne, Wyoming. This UST facility is registered with the DEQ as facility #0-000039. The Notice of Violation alleges that Kum & Go, L.C., had: 1) failed to report multiple suspected releases to the DEQ, 2) failed to investigate multiple suspected releases, and 3) failed to perform and document Class C Storage Tank Operator training. These are violations of 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, Kum & Go, L.C., and the DEQ hereby stipulate and agree as follows:

1. The DEQ is responsible for enforcing the Wyoming Storage Tank Act of 2007 and WWQRR, Chapter 17.
2. Kum & Go, L.C., committed the following violations of WWQRR, Chapter 17:

**Count 1: Failure to Report and Investigate a Suspected Release: [WWQRR, Chapter 17, Section 16(g)(v)(B)].** As the owner and operator of the USTs located at Kum & Go #955, Kum & Go, L.C., violated WWQRR, Chapter 17, Section 16(g)(v)(B), by failing to report and investigate a suspected release when a passing SIR test result could not be obtained for tank 3 for the month of June 2012.

**Count 2: Failure to Report and Investigate a Suspected Release: [WWQRR, Chapter 17, Section 16(g)(v)(B)].** As the owner and operator of the USTs located at Kum & Go #955, Kum & Go, L.C., violated WWQRR, Chapter 17, Section 16(g)(v)(B), by failing to report and investigate a suspected release when a passing SIR test result could not be obtained for tank 3 for the month of July 2012.

**Count 3: Failure to Report and Investigate a Suspected Release: [WWQRR, Chapter 17, Section 16(g)(v)(A)].** As the owner and operator of the USTs located at Kum & Go #955, Kum & Go, L.C., violated WWQRR, Chapter 17, Section 16(g)(v)(A), by failing to report and investigate a suspected release when SIR records indicated a failing result for tank 2 for the month of November 2012.

**Count 4: Failure to Report and Investigate a Suspected Release: [WWQRR, Chapter 17, Section 16(g)(v)(A)].** As the owner and operator of the USTs located at Kum & Go #955, Kum & Go, L.C., violated WWQRR, Chapter 17, Section 16(g)(v)(A), by failing to report and investigate a suspected release when SIR records indicated a failing result for tank 3 for the month of December 2012.

**Count 5: Failure to Report and Investigate a Suspected Release: [WWQRR, Chapter 17, Section 16(g)(v)(B)].** As the owner and operator of the USTs located at Kum & Go #955, Kum & Go, L.C., violated WWQRR, Chapter 17, Section 16(g)(v)(B), by failing to report and investigate a suspected release when a passing SIR test result could not be obtained for tank 2 for the month of January 2013.

**Count 6: Failure to Report and Investigate a Suspected Release: [WWQRR, Chapter 17, Section 16(g)(v)(A)].** As the owner and operator of the USTs located at Kum & Go #955, Kum & Go, L.C., violated WWQRR, Chapter 17, Section 16(g)(v)(A), by failing to report and investigate a suspected release when SIR records indicated a failing result for tank 3 for the month of January 2013.

**Count 7: Failure to Perform and Document Class C Storage Tank Operator Training: [WWQRR, Chapter 17, Section 46(h) and (l)].** As the owner and operator of the USTs located at Kum & Go #955, Kum & Go, L.C., violated WWQRR, Chapter 17, Section 46(h) and (l), by failing to perform and document Class C Storage Tank Operator training.

3. The total penalty for the cited violations shall be six thousand dollars (\$6,000.00). Kum & Go, L.C., agrees to pay a total of six thousand dollars (\$6,000.00) to the DEQ as a stipulated penalty for the cited violation. Payment of six thousand dollars (\$6,000.00) shall be made

## SETTLEMENT AGREEMENT

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, 4<sup>th</sup> Floor West Wing, 122 W. 25<sup>th</sup> Street, Cheyenne, WY 82002.

4. The designated licensed storage tank operator for Kum & Go #955, shall re-take and pass the International Code (ICC) W-6 Exam within ninety (90) days of Kum & Go, L.C.'s signing of this settlement agreement.
5. Kum & Go, L.C.'s, full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Kum & Go, L.C., based on the violations alleged in Notice of Violation Docket Number 5163-13. Contingent upon Kum & Go, L.C.'s, compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Kum & Go, L.C., for these particular violations.
6. Kum & Go, L.C., waives any statute of limitations that may apply to an enforcement action by the DEQ involving the specific matters described in Notice of Violation Docket Number 5163-13 in the event that Kum & Go, L.C., 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 Kum & Go, L.C., and all 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 KUM & GO, L.C.:

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

\_\_\_\_\_ 85-13  
Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

\_\_\_\_\_  
Todd Parfitt,  
Director

\_\_\_\_\_ 7/17/2013  
Date

\_\_\_\_\_  
Alan Edwards  
Acting Administrator  
Solid and Hazardous Waste Division

\_\_\_\_\_ July 17, 2013  
Date

check # 0418910  
\$6,000.00