

## SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Division (DEQ), and McIntosh Oil Company enter into this Settlement Agreement to fully and finally resolve, without litigation, the violations alleged in Notice of Violation Docket Number 5175-13, dated July 2, 2013. McIntosh Oil Company is the operator of the underground storage tanks (USTs) located at the McIntosh Oil Cardlock, located at 1901 State Street, Meeteetse, Wyoming. This UST facility is registered with the DEQ as facility 0-004327. This NOV alleges that McIntosh Oil Company failed to properly monitor pressurized piping for leaks and failed to require the licensed Class A Storage Tank Operator, which is responsible for more than one facility, to perform monthly and quarterly inspections. These acts 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, McIntosh Oil Company 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. McIntosh Oil Company neither admits nor denies any alleged violation of WWQRR, Chapter 17; however, in order to avoid further litigation, McIntosh Oil Company accepts civil liability for the following alleged violations of WWQRR, Chapter 17:

**Count 1: Failure to Properly Monitor Pressurized Underground Piping: [WWQRR, Chapter 17, Section 14(g)(i)(B)].** As the operator of the USTs located at 1901 State Street in Meeteetse, McIntosh Oil Company violated WWQRR, Chapter 17, Section 14(g)(i)(B), by having a sump sensor that was improperly placed, thus negating the ability of the sensor to detect a leak of 3 gallons per hour.

**Count 2: Failure to Perform Monthly and Quarterly Inspections: [WWQRR, Chapter 17, Section 46(d)].** As the operator of the USTs located at 1901 State Street in Meeteetse, McIntosh Oil Company violated WWQRR, Chapter 17, Section 46(d), by failing to require a Class A Storage Tank Operator, that is responsible for more than one facility, to perform monthly and quarterly inspections.

3. The total penalty for the cited violations shall be two thousand dollars (\$2,000.00). McIntosh Oil Company agrees to pay a total of five hundred dollars (\$500.00) to the DEQ as a stipulated penalty for the cited violations. Payment of five hundred dollars (\$500.00) 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, 4<sup>th</sup> Floor West Wing, 122 W. 25<sup>th</sup> Street, Cheyenne, WY 82002.
4. McIntosh Oil Company's full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against McIntosh Oil Company, based on the violations alleged in Notice of Violation Docket Number 5175-13. Contingent upon McIntosh Oil Company's compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against McIntosh Oil Company for these particular violations.
5. McIntosh Oil Company 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 5175-13 in the event that McIntosh Oil Company 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 McIntosh Oil Company and all its successors and assigns and upon the DEQ.

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9. Payment of one thousand, five hundred dollars (\$1,500.00) is stayed for one (1) year from the date of this Settlement Agreement. If McIntosh Oil Company complies with WWQRR, Chapter 17, and the Storage Tank Act of 2007 for one (1) year after this agreement has been signed, the remaining one thousand, five hundred dollars (\$1,500.00) of this penalty shall be waived. Full compliance with WWQRR, Chapter 17, and the Storage Tank Act of 2007 includes, but is not limited to: 1) payment of annual tank fees by January 1, 2) performing an operator's annual inspection by May 16, 2014, 3) function testing the sump sensors by May 16, 2014, 4) investigating whenever the sump sensors are in an alarm condition and responding appropriately, 5) performance of monthly inspections by the Class A Operator, and 6) performance of quarterly inspections by the Class A Operator.
10. Nothing in this Settlement Agreement supersedes any provision found in any Wyoming state law, or any regulation issued by the DEQ, or any federal law or regulation.
11. This Agreement may not be amended except by a written order signed by both parties.
12. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR MCINTOSH OIL COMPANY:

Signature: Mike McIntosh Date: 9-18-13  
Written Name: Mike McIntosh

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

Todd Parfitt Date: 9/15/13  
Todd Parfitt,  
Director  
Alan Edwards Date: August 30, 2013  
Alan Edwards,  
Acting Administrator  
Solid and Hazardous Waste Division

Paid \$500.00  
Check # 9838