

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Division (DEQ) and Kinnear Store, Inc., enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 5436-14, dated July 11, 2014. Kinnear Store, Inc., is the owner and operator of the underground storage tanks (USTs) located at the Kinnear Store. This UST facility is registered with the DEQ as facility 0-001859. The Notice of Violation alleges that Kinnear Store, Inc., failed to report and investigate suspected releases and failed to inspect an impressed current cathodic protection (ICCP) system every 60 days. 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, Kinnear Store, 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. Kinnear Store, Inc., committed the following violations of WWQRR, Chapter 17:

Count 1: Failure to Report a Suspected Release When Inventory Control Fails to Balance for Two Consecutive Months: [WWQRR, Chapter 17, Section 16(a)(viii)(A)]. As owner and operator of underground storage tanks, Kinnear Store, Inc., violated WWQRR, Chapter 17, Section 16(a)(viii)(A), by failing to report a suspected release when the inventory control records for the unleaded tank failed to balance during August and September 2013.

Count 2: Failure to Investigate a Suspected Release When Inventory Control Fails to Balance for Two Consecutive Months: [WWQRR, Chapter 17, Section 20]. As owner and operator of underground storage tanks, Kinnear Store, Inc., violated WWQRR, Chapter 17, Section 20, by failing to investigate a suspected release when the inventory control records for the unleaded tank failed to balance during August and September 2013.

Counts 3 through 10: Failure to Report a Suspected Release When a Calendar Month Goes By Without Obtaining a Passing Result From an ATG System: [WWQRR, Chapter 17, Section 16(c)(ii)(A)]. As owner and operator of underground storage tanks, Kinnear Store, Inc., violated WWQRR, Chapter 17, Section 16(c)(ii)(A), by failing to report a suspected release when a passing result from the ATG system was not obtained for the premium tank during the months of May 2013, June 2013, July 2013, October 2013, November 2013, February 2014, March 2014, and April 2014.

Counts 11 through 18: Failure to Investigate a Suspected Release When a Calendar Month Goes By Without Obtaining a Passing Result From an ATG System: [WWQRR, Chapter 17, Section 20]. As owner and operator of underground storage tanks, Kinnear Store, Inc., violated WWQRR, Chapter 17, Section 20, by failing to investigate a suspected release when it failed to obtain a passing result from the ATG system for the premium tank during the months of May 2013, June 2013, July 2013, October 2013, November 2013, February 2014, March 2014, and April 2014.

~~**Counts 19 through 27: Failure to Report a Suspected Release When a Calendar Month Goes By Without Obtaining a Passing Result From an ATG System: [WWQRR, Chapter 17, Section 16(c)(ii)(A)].**~~ As owner and operator of underground storage tanks, Kinnear Store, Inc., violated WWQRR, Chapter 17, Section 16(c)(ii)(A), by failing to report a suspected release when it failed to obtain a passing result from the ATG system for the diesel tank during the months of May 2013, June 2013, August 2013, September 2013, November 2013, January 2014, February 2014, March 2014, and April 2014.

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Counts 28 through 36: Failure to Investigate a Suspected Release When a Calendar Month Goes By Without Obtaining a Passing Result From an ATG System: [WWQRR, Chapter 17, Section 20]. As owner and operator of underground storage tanks, Kinnear Store, Inc., violated WWQRR, Chapter 17, Section 20, by failing to investigate a suspected release when it failed to obtain a passing result from the ATG system for the diesel tank during the months of May 2013, June 2013, August 2013, September 2013, November 2013, January 2014, February 2014, March 2014, and April 2014.

Count 37: Failure to Inspect an ICCP Rectifier Every Sixty (60) Days: [WWQRR, Chapter 17, Section 11(c)]. As owner and operator of underground storage tanks, Kinnear Store, Inc., violated WWQRR, Chapter 17, Section 11(c), by failing to inspect an ICCP rectifier every sixty (60) days.

3. The total penalty for the cited violations shall be twelve thousand dollars (\$12,000.00). Kinnear Store, Inc., agrees to pay a total of six hundred dollars (\$600.00) to the DEQ as a stipulated penalty for the cited violations. Payment of six hundred dollars (\$600.00) 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.
4. Payment of eleven thousand, four hundred dollars (\$11,400.00) is stayed for one (1) year from the date of this Settlement Agreement. If Kinnear Store, Inc., complies with WWQRR, Chapter 17, and the Storage Tank Act of 2007 for one (1) year after this agreement has been signed, the remaining eleven thousand, four hundred dollars (\$11,400.00) 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) performance of an operator's annual inspection by April 2, 2015; 3) reporting and investigating a suspected release whenever a passing automatic tank gauge test result is not obtained during a month for the regular unleaded tank, as required by WWQRR, Chapter 17, Section 16(c)(ii); 4) reporting and investigating a suspected release whenever inventory control records fail during consecutive months in accordance with WWQRR, Chapter 17, Section 16(a)(viii), 5) inspection and documentation of the ICCP rectifier meter readings every 60 days, and 6) performance of Class C Storage Tank Operator training.
5. Kinnear Store, Inc.'s, full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Kinnear Store, Inc., based on the violations alleged in Notice of Violation Docket Number 5436-14. Contingent upon Kinnear Store, Inc.'s, compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Kinnear Store, Inc., for these particular violations.
6. Kinnear Store, 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 Docket Number 5436-14 in the event that Kinnear Store, Inc., 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 Kinnear Store, Inc., and all its successors and assigns and upon the DEQ.

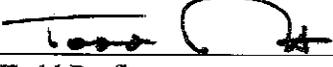
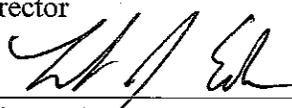
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10. Nothing in this Settlement Agreement supersedes any provision found in any Wyoming state law, or any regulation issued by the DEQ, or any federal law or regulation.
11. This Agreement may not be amended except by a written order signed by both parties.
12. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR KINNEAR STORE, INC.:

Signature:  12-31-14
Date
Name: Fred Nelson

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

 1/2/15
Date
Todd Parfitt
Director
 12-31-14
Date
Luke Esch
Administrator
Solid and Hazardous Waste Division

check # 8448 \$600.00
The Kinnearstore, Inc.