



# Department of Environmental Quality

To protect, conserve, and enhance the Quality of Wyoming's environment for the benefit of current and future generations



Matthew H. Mead, Governor

Todd Parfitt, Director

March 24, 2015

**CERTIFIED 7013 2630 0001 0397 8659**

Mr. Ryan Cain  
Fresh Start Convenience Stores, Inc.  
P.O. Box 1180  
Spearfish, SD 57783

RE: Notice of Violation Docket Number 5546-15, Fresh Start Convenience Store #13 (Facility ID# 0-000950)

Dear Mr. Cain:

Enclosed you will find a Notice of Violation, Docket Number 5546-15, issued under the provisions of W.S. 35-11-701(c).

On January 27, 2015, Department of Environmental Quality (DEQ) personnel performed an underground storage tank compliance inspection at Fresh Start Convenience Store #13, 301 South Main, Lusk, Wyoming. The inspection revealed that: 1) the impressed current cathodic protection rectifier was turned off; 2) the rectifier hour meter was not working; 3) the drop tube had been removed from the diesel tank; 4) the butterfly/flapper valve overfill device had been removed from the diesel tank; 5) Class C operator training was not being conducted; and 6) compliance records were not onsite or at a readily accessible location within Wyoming. These are violations of Wyoming Water Quality Rules and Regulations, Chapter 17, Sections 6, 11, 13, 16, and 46.

If you would like to resolve this matter through a stipulated settlement without the need to go to District Court, the DEQ is willing to negotiate such a settlement. Please contact Oma Gilbreth at (307) 777-7097 within 30 days of receipt of this letter to arrange a date and time to negotiate a penalty amount.

Todd Parfitt  
Director  
Department of Environmental Quality

Luke Esch  
Administrator  
Solid and Hazardous Waste Division

TP/LE/KH  
Enclosure: Notice of Violation

Herschler Building · 122 West 25th Street · Cheyenne, WY 82002 · <http://deq.state.wy.us>

ADMIN/OUTREACH (307) 777-7758 FAX 777-3610	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7369 FAX 777-6937	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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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, South Dakota 57783 )

DOCKET NUMBER 5546-15

NOTICE OF VIOLATION

NOTICE IS HEREBY GIVEN THAT:

1. Fresh Start Convenience Stores, Inc., (Fresh Start) owns and operates the underground storage tanks (USTs) located at Fresh Start Convenience Store #13, 301 South Main, Lusk, Wyoming. The USTs and piping are steel and are protected from corrosion by an impressed current cathodic protection (ICCP) system. The USTs are monitored for leaks using inventory control and automatic tank gauging (ATG). The USTs receive fuel deliveries of 25 gallons or more and are registered as having drop tubes with butterfly/flapper valve overfill prevention devices.
2. ICCP systems have a rectifier that provides power to the ICCP system. ICCP systems are required to continuously protect steel USTs from corrosion.
3. In order to determine if an ICCP system is adequately protecting the USTs, owners and/or operators are required to inspect the rectifier and document the readings from the amperage meter, voltage meter, and hour meter every 60 days.
4. All USTs that use inventory control for leak detection must have a drop tube that extends to within 6 inches of the tank bottom.
5. All USTs that receive fuel deliveries of 25 gallons or more are required to have an overfill prevention device.
6. Convenience store clerks and managers are required to receive Class C operator training, which is provided by the facility's Class A or B operator.
7. UST compliance records must be kept onsite or at a readily accessible location within the boundaries of the State of Wyoming.
8. On January 27, 2015, DEQ personnel conducted an UST compliance inspection at Fresh Start Convenience Store #13. The inspection revealed that: 1) the ICCP rectifier was turned off; 2) the rectifier hour meter was not working; 3) the drop tube had been removed from the diesel tank; 4) the butterfly/flapper valve overfill device had been removed from the diesel tank; 5) Class C operator training was not being conducted; and 6) compliance records were not onsite or at a readily accessible location within Wyoming.
9. The DEQ has determined that the following violations of Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, have occurred:

**Count 1: Failure to Continuously Protect Steel USTs from Corrosion: [WWQRR, Chapter 17, Section 11(a)].** As the owner/operator of the USTs located at Fresh Start Convenience Store #13, Fresh Start violated WWQRR, Chapter 17, Section 11(a), by turning off the ICCP rectifier.

**Count 2: Failure to be Able to Record Hour Readings on an ICCP Rectifier: [WWQRR, Chapter 17, Section 11(c)].** As the owner/operator of the USTs located at Fresh Start Convenience Store #13, Fresh Start violated WWQRR, Chapter 17, Section 11(c), by not replacing or repairing the hour meter on the ICCP rectifier so that hour readings could be recorded.

**Count 3: Failure to Have a Drop Tube in the Diesel Tank When Using Inventory Control for Leak Detection: [WWQRR, Chapter 17, Section 16(a)(iv)].** As the owner/operator of the USTs located at Fresh Start Convenience Store #13, Fresh Start violated WWQRR, Chapter 17, Section 16(a)(iv), by not having a drop tube in the diesel tank when inventory control is used as a leak detection method.

**Count 4: Failure to Have a Butterfly/Flapper Valve Overfill Device for Fuel Deliveries of 25 Gallons or More: [WWQRR, Chapter 17, Section 6(c)(i)].** As the owner/operator of the USTs located at Fresh Start Convenience Store #13, Fresh Start violated WWQRR, Chapter 17, Section 6(c)(i), by not having a butterfly/flapper valve overfill device in the diesel tank when receiving fuel deliveries of 25 gallons or more.

**Count 5: Failure to Provide Class C Operator Training: [WWQRR, Chapter 17, Section 46(h)].** As the owner/operator of the USTs located at Fresh Start Convenience Store #13, Fresh Start violated WWQRR, Chapter 17, Section 46(h), by not providing Class C operator training to its store clerks and managers.

**Count 6: Failure to Maintain Compliance Records Onsite or at a Readily Available Site Within Wyoming: [WWQRR, Chapter 17, Section 13(d)].** As the owner/operator of the USTs located at Fresh Start Convenience Store #13, Fresh Start violated WWQRR, Chapter 17, Section 13(d), by not maintaining compliance records onsite or at a readily available site within Wyoming.

10. Any person who violates any provision of the Environmental Quality Act, or any rule, standard, permit, license, or variance adopted thereunder, 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.
11. 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 \_\_\_\_\_ 24th \_\_\_\_\_ day of \_\_\_\_\_ MARCH \_\_\_\_\_, 2015.

  
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Todd Parfitt  
Director  
Department of Environmental Quality

  
\_\_\_\_\_  
Luke Esch  
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.

TP/LE/KH