

SETTLEMENT AGREEMENT

DEQ
Solid and Hazardous
Waste Division

JUN 18 2015

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 Docket Number 5546-15, dated March 24, 2015. Fresh Start Convenience Stores, Inc., is the owner and operator of the underground storage tanks (USTs) located at 301 South Main, in Lusk, WY. This UST facility is registered with the DEQ as facility 0-000950. This NOV alleges that on January 27, 2015, the following violations existed at Fresh Start Convenience Store #13: 1) the impressed current cathodic protection (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. 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, Fresh Start Convenience Stores, Inc., and the DEQ hereby stipulate and agree as follows:

1. The DEQ is responsible for enforcing WWQRR, Chapter 17.
2. Fresh Start Convenience Stores, Inc., neither admits nor denies any alleged violation of WWQRR, Chapter 17; however, in order to avoid further litigation, Fresh Start Convenience Stores, Inc., accepts civil liability for the following alleged violations of WWQRR, Chapter 17:

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.

3. The total penalty for the cited violations shall be two thousand, nine hundred dollars (\$2,900.00). Fresh Start Convenience Stores, Inc., agrees to pay a total of two thousand, nine hundred dollars (\$2,900.00) to the DEQ as a stipulated penalty for the cited violations. Payment of two thousand, nine hundred dollars (\$2,900.00) 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

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Environmental Quality, Attention: Oma Gilbreth, Herschler Building, 4th Floor West Wing, 122 W. 25th Street, Cheyenne, WY 82002.

4. Fresh Start Convenience Stores, Inc.'s, full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Fresh Start Convenience Stores, Inc., based on the violations alleged in Notice of Violation Docket Number 5546-15. Contingent upon Fresh Start Convenience Stores, Inc.'s, compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement 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 Docket Number 5546-15 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 DEQ, or any federal law or regulation.
10. This Agreement may not be amended except by a written order signed by both parties.
11. 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: 
Written Name: Ryan Cain

6/11/15
Date

CHECK # 6488
\$2,900.00

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:


Todd Parfitt,
Director

5/27/15
Date


Luke Esch,
Administrator
Solid and Hazardous Waste Division

5-26-15
Date