

# SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Division (DEQ) and Jim Gray enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation Docket No. 5595-15, dated July 7, 2015. Jim Gray is the owner and operator of the underground storage tanks (USTs) located at the Elkhorn Bar and Trading Post. This UST facility is registered with the DEQ as facility 0-004209. The Notice of Violation alleges that Jim Gray failed to: 1) protect steel piping from corrosion, 2) provide required records for inspection, and 3) perform or document Class C Storage Tank Operator Training. 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, Jim Gray 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. Jim Gray committed the following violations of WWQRR, Chapter 17:

**Count 1: Failure to Protect Piping from Corrosion that Routinely Contains Regulated Substances and is in Contact with the Ground [WWQRR, Chapter 17, Section 6(b)].** As the owner of the USTs at Elkhorn Bar and Trading Post, Mr. Gray violated WWQRR, Chapter 17, Section 6(b) by failing to protect the above ground piping from corrosion when it was in contact with the ground surface.

**Count 2: Failure to Provide Records for Inspection When Requested [W.S. 35-11-1422(a)].** As the owner of the USTs located at Elkhorn Bar and Trading Post, Mr. Gray violated W.S. 35-11-1422(a) by failing to provide compliance records for inspection when they were requested.

**Count 3: Failure to Perform and Document Class C Storage Tank Operator Training [WWQRR, Chapter 17, Section 46(h) and Section 46(l)].** As the owner of the USTs located at Elkhorn Bar and Trading Post, Jim Gray violated WWQRR, Chapter 17, Sections 46(h) and 46(l), by failing to provide and document Class C Storage Tank Operator training for its store clerks.

3. The total penalty for the cited violations shall be two thousand dollars (\$2,000.00). Jim Gray agrees to pay a total of four hundred dollars (\$400.00) to the DEQ as a stipulated penalty for the cited violations. Payment of four hundred dollars (\$400.00) 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. Payment of one thousand, six hundred dollars (\$1,600.00) is stayed for one (1) year from the date of this Settlement Agreement. If Jim Gray 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, six hundred dollars (\$1,600.00) 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 June 18, 2015; 3) reporting and investigating a suspected release whenever a passing automatic tank gauge test result is not obtained during a month 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) properly monitoring the pressurized underground piping; and 7) performance of Class C Storage Tank Operator training as required by WWQRR, Chapter 17, Section 46(h).
5. Jim Gray's full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Jim Gray based on the violations alleged in Notice of Violation Docket Number 5595-15. Contingent upon Jim Gray's compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Jim Gray for this particular violation.

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6. Jim Gray 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 5595-15 in the event that Jim Gray fails to fulfill his 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 Jim Gray and all of his 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 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.

Jim Gray:

Signature: Jim Gray  
Name: JIM GRAY

10-1-15  
Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

Todd Parfitt  
Todd Parfitt  
Director

9/17/15  
Date

Luke Esch  
Luke Esch  
Administrator  
Solid and Hazardous Waste Division

9-16-15  
Date

Elkhorn Lodge, LLC  
check #5404