

# Department of Environmental Quality



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

Dave Freudenthal, Governor

John Corra, Director

April 9, 2008

**FILED**

MAY 15 2008

Mark Larson, Executive Director  
 Colorado Wyoming Petroleum Marketer's Association  
 4465 Kipling Street, Suite 104  
 Wheatridge, CO 80033

Terri A. Lorenzon, Director  
 Environmental Quality Council

Dear Mr. Larson:

The entire point of the federal law that was passed in 2005 entitled the "Underground Storage Tank Compliance Act of 2005" was to insure that on-site operators were fully trained in the requirements of this program. Those on-site operators play a key role in complying with the regulations, since it is the on-site operators who must collect most of the information required for compliance. The Class C Operator is a service station clerk, who is not usually in charge of the station. The Class C operators requirements in the proposed rules do not require those clerks to be trained in the regulations themselves. The only thing EPA requires for Class C Operators is the handling of emergency situations.

A close look at the compliance record for the largest chain stores does not support your contention that the status quo is working. Last year, Kum and Go, and Loaf N' Jug were each fined \$30,000.00 for failure to comply with the storage tank regulations. Red Eagle Oil Company was fined \$12,000 for failure to comply. The violations cited in those documents were all violations that should not have occurred if the on-site operator had understood the requirements of the program. Incidentally, Kum and Go and Loaf N' Jug were cited for 24 violations each and Red Eagle was cited for 14 violations. I will attach the Settlement Agreements for each of those cases. The Settlement Agreements were global agreements to preclude the issuance of many more Notices of Violation. I have attached five Settlement Agreements signed by companies that operate chains of stores. There were many others issued to smaller companies for the same violations.

Incidentally, our penalties are very reasonable by national standards. EPA Region III recently fined a regional company named Euclid a total of \$3,164,555 for violations at 23 stations in Maryland, Virginia and the District of Columbia. Many of the violations cited by EPA are the same kinds of violations that we cited these three companies for. It is the department's position that requiring Class B Operators will significantly reduce the necessity for these types of enforcements in the future. I am also attaching the press release on that enforcement action by EPA Region III.

Sincerely,

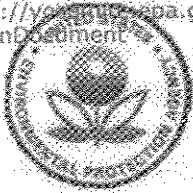
Robert F. Lucht, P.E. & P.G.  
 Compliance Supervisor  
 Storage Tank Program

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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nDocument Last updated on Tuesday, April 8th, 2008.



## Region 3: The Mid-Atlantic States

You are here: [EPA Home](#) [EPA Newsroom](#) [News Releases By Date](#) [Precedent-Setting Penalty Upheld for Underground F...](#)

### **Precedent-Setting Penalty Upheld for Underground Fuel Storage Tank Violations at 23 Gas Stations in Maryland, Virginia and District of Columbia; Owner of Gas Stations to Pay \$3.16 Million for Violations**

Release date: 03/18/2008

Contact Information: Donna Heron 215-814-5113 /heron.donna@epa.gov

**PHILADELPHIA (March 18, 2008)** – EPA's Environmental Appeals Board (EAB) has upheld the agency's enforcement action against the owner of Lowest Price gas stations in Maryland, Virginia and the District of Columbia. In cooperation with state and D.C. officials, EPA filed a complaint in September 2002 against gas station owner, Euclid of Virginia, Inc. for violating regulations designed to detect and prevent fuel leaks from underground storage tanks (USTs).

In a March 11, 2008 decision, the EAB ruled against every issue raised in an appeal filed by Euclid of Virginia, Inc. The board ordered the company to pay a \$3,164,555 penalty for violations involving 72 underground storage tanks at 23 gas stations. The company had appealed an administrative law judge's November 2006 assessment of a \$3.08 million penalty for these violations – the largest penalty ever assessed by an EPA administrative law judge for violations of any federal environmental law.

The board ruled in favor of EPA's cross-appeal against Euclid, increasing this precedent-setting penalty to \$3,164,555. The EAB overturned the administrative law judge's rulings against EPA on three counts involving inventory control violations, and imposed the proposed \$79,262 penalty for these counts.

"With millions of gallons of gasoline, oil, and other petroleum products stored in underground tanks, leaving them unchecked can cause major soil and groundwater contamination," said Donald S. Welsh, regional administrator of EPA's mid-Atlantic region. "This decision should send a strong message to owners of underground storage tanks that it is not only in the public's best interest but in their own, too, to comply with leak detection and prevention requirements."

The violations involved 14 gas stations in Maryland (in Baltimore, Brentwood, Camp Spring, District Heights, Frederick, Hyattsville, two facilities in Landover Hills, Langley Park, Mitchellville, Palmer Park, Pasadena, Silver Spring, Trappe), two in Virginia (located in Chantilly and Ruckersville) and seven in the District of Columbia.

The EAB ruled that EPA had proven that Euclid failed to maintain required leak detection and control equipment, failed to perform required leak detection activities, failed to comply with corrosion-prevention standards and conduct cathodic protection testing, failed to properly install or maintain equipment to prevent releases of gasoline due to the overfilling of tanks or other spills when tanks are being filled, and failed to maintain required financial assurances.

The size of the penalty was due not only to the large number of facilities and underground storage tanks involved, but also to Euclid's repeated non-compliance with the same regulations over periods that often lasted for several years. The administrative law judge also cited the breadth of the violations, Euclid's "high degree of negligence" and its overall record of non-compliance in allowing violations to continue despite numerous warnings from EPA and the Maryland, Virginia and District of Columbia state environmental agencies as further justification for a substantial penalty. The state and D.C. agencies coordinated with EPA to conduct numerous inspections of Euclid-owned gas stations, and inspectors from each agency served as witnesses at the trial.

With millions of gallons of gasoline, oil, and other petroleum products stored in underground tanks throughout the U.S., leaking tanks are a major source of soil and groundwater contamination. EPA and EPA-authorized state regulations are designed to reduce the risk of underground leaks, and thus avoid the costs of major cleanups.

EPA's mid-Atlantic region has recently focused enforcement on owners of underground storage tanks at multiple facilities. In several instances, owners of multiple facilities have entered into agreements with EPA to conduct audits of their facilities, with reduced penalties for violations discovered during such audits. For more on EPA's UST program, including compliance assistance information, visit <http://www.epa.gov/swerust1/overview.htm>

The gas stations involved included: in Maryland (Baltimore, Brentwood, Camp Spring, District Heights, Frederick, Hyattsville, Landover Hills, Langley Park, Mitchellville, Palmer Park, Pasadena, Silver Spring, and Trappe), in Virginia (Chantilly and Ruckersville); and in the District of Columbia.

Euclid has the right to appeal the EAB decision to the federal circuit court. The board's decision is available at: [http://yosemite.epa.gov/oa/EAB\\_Web\\_Docket.nsf/Recent-Additions/AA99D35BC3FC069085257409006D2BD5/\\$File/Final...pdf](http://yosemite.epa.gov/oa/EAB_Web_Docket.nsf/Recent-Additions/AA99D35BC3FC069085257409006D2BD5/$File/Final...pdf)

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(DEQ) and Powell Valley Oil Company (PVOC), enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 4144-07, dated September 19, 2007. PVOC is the owner and operator of the underground storage tanks (USTs) located at 328 East Main, Byron, Wyoming. This UST facility is registered with the DEQ as facility 0-003853. The Notice of Violation alleges that: 1) PVOC failed to report a suspected release within 24 hours, when the automatic tank gauge (ATG) test result was not obtained on 121 instances during the past three years. 2) PVOC failed to investigate a suspected release when the automatic tank gauge failed to report a passing result. These acts are violations of the Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Sections 16 (c), 19 (c), and 20.

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, PVOC and the DEQ hereby stipulate and agree as follows:

1. The DEQ is responsible for enforcing the Storage Tank Act of 2007 and Chapter 17, WWQRR.

Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Section 16 (c), states: "Owners and/or operators using automatic tank gauging shall also: (ii) report a suspected release and follow the requirements of Section 19(c) of this chapter whenever: (A) Any calendar month goes by when a passing result cannot be obtained from the ATG sometime during the month..."

WWQRR, Chapter 17, Section 19 (c), states: "Section 19. *Reporting of Suspected Releases.* Owners and/or operators of storage tank systems shall orally report to the department within twenty-four (24) hours all releases or suspected releases."

WWQRR, Chapter 17, Section 20, states: "Release Investigation and Confirmation for Eligible Owners and/or Operators, Owners and/or operators of storage tanks who are eligible for cleanup under the Corrective Action Account shall immediately investigate and confirm all suspected releases of regulated substances requiring reporting under Section 19 within seven (7) days of detection."

2. Since receiving Notice of Violation No. 4144-07 on or about September 25, 2007, PVOC has corrected the cited violations.
3. PVOC agrees to pay a total of Thirty Five Thousand Dollars (\$35,000.00) to the DEQ as a stipulated penalty for the cited violations. Payment of Five Thousand Dollars (\$5,000.00) shall be made within 30 days after execution of 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: Robert Lucht, Herschler Building, 4<sup>th</sup> Floor West Wing, 122 W. 25<sup>th</sup> Street, Cheyenne, WY 82002.
4. Thirty Thousand Dollars (\$30,000.00) of this penalty is stayed pending full compliance with Chapter 17 for three (3) years from the date of this Settlement Agreement. For purposes of this Settlement Agreement only, full compliance means:
  - a. Payment in full of all storage tank fees no later than January 1, 2008, and January 1 of each year thereafter.
  - b. Performance of any one of the tank leak detection methods found in Chapter 17, Section 16 within thirty (30) days of the date of this settlement agreement and again every thirty (30) days thereafter. This means that passing automatic tank gauging records are to be maintained for every tank for every month. In addition, PVOC shall perform inventory control in accordance with Chapter 17, Section 16(a). Records of all of these tests shall be maintained by PVOC for three (3) years.
  - d. Providing an Operator's Annual Inspection (OAI) of this facility no later than July 24, 2008, and every year thereafter no later than July 24. The OAI includes: A physical inspection of the entire facility, calibration of the ATG,

these tests shall be maintained by PVOC for three (3) years.

e. In the event that any month passes without a passing result on the automatic tank gauge for each compartment of each tank, a release may have occurred, as defined by Chapter 17, Section 16 (c). PVOC agrees to immediately report and investigate a suspected release, following all procedures in Chapter 17, Section 19(c) and Section 20.

f. In the event that any two (2) consecutive months pass with the inventory control failing for any compartment for any tank, a release may have occurred, as defined by Chapter 17, Section 16 (a). PVOC agrees to immediately report a suspected release and follow all procedures in Chapter 17, Section 19 (c) and Section 20.

g. Providing a test by a cathodic protection tester of the sacrificial anode system on these tanks no later than July 24, 2009. Records of this test, and the preceding test done on October 18, 2006, shall be kept for six years.

h. If these tanks are removed, notification to the department and inspection by the department as required by statute. If, as a result of the removal, the site is a contaminated site, payment of all contaminated site fees by January 1 of each year.

If PVOC complies fully with Chapter 17 for three (3) years from the date of this Settlement Agreement, Thirty Thousand Dollars (\$30,000.00) of this penalty shall be forgiven.

5. PVOC's full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against PVOC based on the violations alleged in Notice of Violation No. 4144-07. Contingent upon PVOC's compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against PVOC for these particular violations.
6. PVOC waives any statute of limitations which may apply to an enforcement action by the DEQ involving the specific matters described in Notice of Violation No. 4144-07 in the event that PVOC 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 PVOC and all of its 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 Department of Environmental Quality or any federal law or regulation.
11. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR POWELL VALLEY OIL COMPANY:

parties to this Settlement Agreement.

FOR RED EAGLE LC:

  
Dale Hinze, President

Date: 1-3-08

FOR POWELL VALLEY OIL COMPANY:

  
Dale Hinze  
President


1-3-08  
Date

FOR HINZE, INC.:


  
Dale Hinze  
President

1-3-08  
Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

  
John V. Corra, Director

Date: 1/8/08

  
LeRoy C. Feusner, P.E. BCEE,  
Administrator

Date: 7 Jan 08

Solid and Hazardous Waste Management Division

December 3, 2007

Division (DEQ) and Hinze, Inc. (Hinze), enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 4145-07, dated August 31, 2007. Hinze is the owner and operator of the underground storage tanks (USTs) located at 17<sup>th</sup> Street and Beck Avenue, Cody, Wyoming. This UST facility is registered with the DEQ as facility 0-000350. The Notice of Violation alleges that: 1) Hinze operated the unleaded gasoline tank without an overfill device until that was discovered on August 28, 2007. That act is a violation of the Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Sections 6 (c) (ii) (B).

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, Hinze and the DEQ hereby stipulate and agree as follows:

1. The DEQ is responsible for enforcing the Storage Tank Act of 2007 and Chapter 17, WWQRR.
2. Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Section 6 (c) (i) (B), states: “(c) Spill and overfill prevention equipment. (i) Except as provided in Section 6 (c) (ii), to prevent spilling and overfilling associated with regulated substance transfer to the UST system, owners and/or operators shall use the following spill and overfill prevention equipment: (B) Overfill prevention equipment that will: (I) Automatically shut off flow into the tank when the tank is no more than ninety-five percent (95%) full; or (II) Alert the transfer operator when the tank is no more than ninety percent (90%) full by restricting the flow into the tank or triggering a high-level alarm.”

Since receiving Notice of Violation No. 4145-07 on or about September 1, 2007, Hinze has corrected the cited violations.

3. Hinze agrees to pay a total of Two Thousand Five Hundred Dollars (\$2,500.00) to the DEQ as a stipulated penalty for the cited violations. Payment of One Thousand Dollars (\$1,000.00) shall be made within 30 days after execution of 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: Robert Lucht, Herschler Building, 4<sup>th</sup> Floor West Wing, 122 W. 25<sup>th</sup> Street, Cheyenne, WY 82002.
4. One Thousand Five Hundred Dollars (\$1,500.00) of this penalty is stayed for one (1) year. If Hinze fully complies with WWQRR, Chapter 17 for one (1) year from the date of this settlement agreement, the stayed portion of this penalty shall be forgiven. For purposes of this Settlement Agreement only, full compliance with WWQRR, Chapter 17 means:
  - (A) Hinze shall pay storage tank fees in the amount of Two Hundred Dollars (\$200.00) per tank per calendar year, no later than January 1 of each year.
  - (B) Hinze shall conduct automatic tank gauging and inventory control as required in WWQRR Chapter 17, Section 16 (c).
  - (C) Hinze shall report a suspected release and investigate that release whenever required by Chapter 17, Sections 16, 19 and 20.
  - (D) Hinze shall maintain all spill prevention and overfill devices in working condition as required by WWQRR, Chapter 17, Section 6 (c).

than January 17, 2008, and every year thereafter by January 17.

- (F) Hinze shall conduct an Operator's Annual Inspection no later than January 17 of each year.
  - (G) If this facility is sold, Hinze shall file the change of ownership form with the department with the signatures of both Hinze and the new owner within 30 (thirty) days of the closing date of the sale. Since this Settlement Agreement is binding on Hinze's successors, Hinze shall disclose this Settlement Agreement to any potential purchaser of the property prior to any sale.
  - (H) If any of the tanks at this location are removed, Hinze shall coordinate the removal with the Lander Office of DEQ, so that a tank removal inspection may be conducted while the excavation is still open and the tank is available for inspection. Hinze shall decommission any tank removed in accordance with DEQ regulations.
  - (I) If any additional tanks are installed at this location, Hinze shall follow all of the requirements in the Storage Tank Act of 2007 and Chapter 17, WWQRR.
5. Hinze's full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Hinze based on the violations alleged in Notice of Violation No. 4145-07. Contingent upon Hinze's compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Hinze for these particular violations.
  6. Hinze waives any statute of limitations that may apply to an enforcement action by the DEQ involving the specific matters described in Notice of Violation No. 4145-07 in the event that Hinze 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 Hinze and all of its 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 Department of Environmental Quality or any federal law or regulation.



FOR RED EAGLE LC:

Dale A. Hinze  
Dale Hinze, President

Date: 1-3-08

FOR POWELL VALLEY OIL COMPANY:

Dale A. Hinze  
Dale Hinze  
President

1-3-08  
Date

FOR HINZE, INC.:

Dale A. Hinze  
Dale Hinze  
President

1-3-08  
Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

John V. Corra  
John V. Corra, Director

Date: 1/8/08

LeRoy C. Feusner  
LeRoy C. Feusner, P.E. BCEE,  
Administrator  
Solid and Hazardous Waste Management Division

Date: 7 Jan 08

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Management Division( DEQ) and Powell Valley Oil Company (PVOC), enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 4144-07, dated September 19, 2007. PVOC is the owner and operator of the underground storage tanks (USTs) located at 328 East Main, Byron, Wyoming. This UST facility is registered with the DEQ as facility 0-003853. The Notice of Violation alleges that: 1) PVOC failed to report a suspected release within 24 hours, when the automatic tank gauge (ATG) test result was not obtained on 121 instances during the past three years. 2) PVOC failed to investigate a suspected release when the automatic tank gauge failed to report a passing result. These acts are violations of Chapter 17, Sections 16(c), 19(c) and 20 of the Wyoming Water Quality Rules and Regulations(WWQRR); and

DEQ and Hinze, Inc. (Hinze), enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 4145-07, dated August 31, 2007. Hinze is the owner and operator of the underground storage tanks (USTs) located at 17<sup>th</sup> Street and Beck Avenue, Cody, Wyoming. This UST facility is registered with the DEQ as facility 0-000350. The Notice of Violation alleges that: 1) Hinze operated the unleaded gasoline tank without an overfill device until that was discovered on August 28, 2007. That act is a violation of the Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Sections 6 (c) (ii) (B); and

DEQ and Red Eagle LC, (Red Eagle), enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 4146-07, dated September 24, 2007. Red Eagle is the owner and operator of the underground storage tanks (USTs) located at the Quik Mart Cenex at 1826 17<sup>th</sup> Street, Cody, Wyoming registered with the DEQ as Facility #0-001945. The Notice of Violation alleges that: 1) the cathodic protection system on the tanks operated by Red Eagle were due to be tested on January 8, 2007 and they were not tested until March 23, 2007; 2) the cathodic protection system on the tanks operated by Red Eagle failed a routine test March 23, 2007 and that system had not been repaired. These actions or lack of actions are all violations of Chapter 17, Section 11(a) and (b), Wyoming Water Quality Rules & Regulations (WWQRR).

PVOC, Hinze, and Red Eagle (the respondents) are all owned or controlled by Dale, Bryan, and Julie Hinze.

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, the respondents and the DEQ hereby stipulate and agree as follows:

1. The DEQ is responsible for enforcing the Act and Chapter 17, WWQRR.
2. Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Section 16 (c), states: "Owners and/or operators using automatic tank gauging shall also: (ii) report a suspected release and follow the requirements of Section 19(c) of this chapter whenever: (A) Any calendar month goes by when a passing result cannot be obtained from the ATG sometime during the month..."

WWQRR, Chapter 17, Section 19 (c), states: "Section 19. *Reporting of Suspected Releases.* Owners and/or operators of storage tank systems shall orally report to the department within twenty-four (24) hours all releases or suspected releases."

for cleanup under the Collective Action Account shall immediately investigate and contain all suspected releases of regulated substances requiring reporting under Section 19 within seven (7) days of detection.”

Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, Section 6 (c) (i) (B), states: “(c) Spill and overflow prevention equipment. (i) Except as provided in Section 6 (c) (ii), to prevent spilling and overflowing associated with regulated substance transfer to the UST system, owners and/or operators shall use the following spill and overflow prevention equipment: (B) Overflow prevention equipment that will: (I) Automatically shut off flow into the tank when the tank is no more than ninety-five percent (95%) full; or (II) Alert the transfer operator when the tank is no more than ninety percent (90%) full by restricting the flow into the tank or triggering a high-level alarm.”

WWQRR, Chapter 17, Section 11 (a) states that: “(a) *Continuous Operation*. All CP systems shall be operated and maintained to continuously provide corrosion protection to the metal components of that portion of the tank and piping that routinely contain regulated substances and are in contact with the ground. Once installed, CP systems shall not be removed, even if the tank has also been internally lined, as long as steel tanks or connected piping exist on that site. This does not preclude replacement of parts of the CP system which have become defective.”

WWQRR, Chapter 17, Section 11 (b) states that: “(b) *Periodic Inspections*. All storage tank systems equipped with CP systems shall be inspected for proper operation by a qualified CP tester in accordance with the following requirements: (i) All CP systems shall be tested within six (6) months of installation and at least once every three (3) years thereafter. (ii) The criteria that are used to determine that CP is adequate shall be in accordance with the NACE Standard RP0285-2002, ‘Control of External Corrosion on Metallic Buried, Partially Buried, or Submerged Liquid Storage Systems.’”

Since receiving Notice of Violation No. 4144-07 on or about September 25, 2007, PVOC has corrected the cited violations. Since receiving Notice of Violation No. 4145-07 on or about September 1, 2007, Hinze has corrected the cited violations. Since receiving of Notice of Violation No. 4146-07 on or about September 28, 2007, Red Eagle has corrected the cited violations.

3. The respondents have also been cited in Letters of Violation for a number of other violations. Any or all of these other violations could be the subject of a Notice of Violation at the DEQ’s discretion. In the interest of efficiency, this Settlement Agreement will also cover the following additional violations that have not yet been enforced through the Notice of Violation process:

TABLE 1:

<u>Date</u>	<u>Red Eagle Store</u>	<u>Storage Tank Facility #</u>	<u>Location and type of Violation</u>	<u>Violation citation</u>
6-8-07	12	0-004139	1801 Highway 310, Lovell, Wyoming OAI did not include tank leak detection records	WWQRR, Chapter 17, Section 13(e)(v)
7-11-07	7	0-004010	555 Fair Street, Powell, Wyoming OAI did not include tank leak detection records	WWQRR, Chapter 17, Section 13(e)(v)

	<u>Eagle</u>	<u>Bank</u>		
	<u>Store</u>	<u>Facility #</u>		
9-17-07	2	0-003574	<b>221 Yellowstone, Cody, Wyoming</b> Failure to monitor CP rectifier every 60 days	WWQRR Chapter 27, Section 9(c)
5-14-07	17	0-001743	<b>2490 N. Main, Sheridan, Wyoming</b> Line Leak Detectors (Sump Sensors) not operational	WWQRR, Chapter 17, Section 14(g)(i)
12-1-06	16	0-001563	<b>1968 East Yellowstone, Casper, Wyoming</b> Broken Spill Bucket	40 CFR 280.30(a)
4-30-07	14	0-001561	<b>3600 W. Yellowstone, Casper, Wyoming</b> Inspector was unable to complete inspection because facility was closed and no-one from Red Eagle was in attendance	WWQRR, Chapter 17, Section 13(b)(vi)
5-31-07	18	0-000508	<b>1229 Brundage, Sheridan, Wyoming</b> Passing ATG results not on file for 2 months	WWQRR, Chapter 17, Section 14 & 16
2-16-07	21	0-000502	<b>200 W. Whalen, Guernsey, Wyoming</b> Annual mechanical line leak detector function testing conducted after due date Compliance records not on sight Failure to assist inspector	WWQRR Chapter 17, Section 14(g)(i) WS35-11-1422(a)(i) WWQRR Chapter 17, Section 13(b)(vi)
9-18-07	4	0-000350	<b>17<sup>th</sup> Street and Beck, Cody, Wyoming</b> No overfill protection No hour meter on cathodic protection rectifier	WWQRR Chapter 17, Section 6(c)(i) WWQRR Chapter 17, Section 11(c)
9-18-07	3	0-000349	<b>1545 Depot Drive, Cody, Wyoming</b> Leak detection (sump sensors) disabled Overfill prevention device not operational	WWQRR Chapter 17, Section 14(a)(j) WWQRR Chapter 17, Section 6(c)(i)
9-24-07		0-001945	<b>Quik Mart Cenex, 17<sup>th</sup> &amp; Beck, Cody, Wyoming</b> CP testing conducted late and failed and was not repaired for longer than 6 months	WWQRR Chapter 17, Section 11(a) and (b)

for the cited violations. Payment of thirteen thousand, seven hundred, fifty dollars (\$13,750.00) shall be made within 30 days after execution of this Settlement Agreement. Payment shall be made by check made payable to the Wyoming Department of Environmental Quality and addressed to the Wyoming Department of Environmental Quality, Attention: Bob Lucht, Herschler Building, 4th Floor West Wing, 122 W. 25th Street, Cheyenne, WY 82002.

5. The respondents' full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against the respondents based on the violations alleged in Notices of Violation Nos. 4144-07, 4145-07, 4146-07 and any of the violations listed in the Letters of Violation shown in Table 1. Contingent upon the respondents' compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against the respondents for these particular violations.
6. Red Eagle waives any statute of limitations which may apply to an enforcement action by the DEQ, involving the specific matters described in Notice of Violation No. 4146-07 in the event that Red Eagle 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 Red Eagle LC, Red Eagle LC, and their 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 Department of Environmental Quality or any federal law or regulation.

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parties to this Settlement Agreement.

FOR RED EAGLE LC:

  
\_\_\_\_\_  
Dale Hinze, President

Date: 1-3-08

FOR POWELL VALLEY OIL COMPANY:

  
\_\_\_\_\_  
Dale Hinze  
President


1-3-08  
\_\_\_\_\_  
Date

FOR HINZE, INC.:


  
\_\_\_\_\_  
Dale Hinze  
President

1-3-08  
\_\_\_\_\_  
Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

  
\_\_\_\_\_  
John V. Corra, Director

Date: 1/8/08

  
\_\_\_\_\_  
LeRoy C. Feusner, P.E. BCEE,  
Administrator  
Solid and Hazardous Waste Management Division

Date: 7 Jan 08

Division (DEQ) and Mini Mart, Inc., enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation, Docket Number 4058-07, dated April 26, 2007. DEQ has issued numerous Letters of Violation (Table 1) to Mini Mart, Inc. over the past three (3) years. This Settlement Agreement is intended to cover the violations cited in Docket Number 4058-07, and the violations sited in the following list of Letters of Violation. A Letter of Violation is the first step in the enforcement process, and any of the violations listed could be the subject of a Notice of Violation.

Table 1

Facility	Loaf N' Jug Store Number	Address	City	Date of Letter of Violation
0-001054	Loaf N' Jug #107	703 North McKinley	Casper	May 30, 2007
0-002336	Loaf N' Jug #192	3920 East 12 <sup>th</sup>	Cheyenne	November 7, 2006
0-002337	Loaf N' Jug #193	2414 Dell Range Boulevard	Cheyenne	January 4, 2006
0-002340	Loaf N' Jug #102	933 North Center	Casper	June 1, 2007
0-002343	Loaf N' Jug #106	4380 South Poplar Street	Casper	June 4, 2007
0-002345	Loaf N' Jug #109	1199 South Beverly	Casper	June 4, 2007
0-002347	Loaf N' Jug #111	3830 East Second Street	Casper	June 4, 2007
0-002350	Loaf N' Jug #116	5539 Yellowstone	Cheyenne	January 3, 2006
0-002352	Loaf N' Jug #118	1922 East Lincolnway	Cheyenne	December 29, 2005
0-002354	Loaf N' Jug #121	352 North Third	Laramie	February 4, 2005
0-002355	Loaf N' Jug #122	818 South Third	Laramie	March 6, 2006
0-002356	Loaf N' Jug #123	2318 Grand Avenue	Laramie	April 11, 2007
0-002358	Loaf N' Jug #125	714 South Fourth	Douglas	June 26, 2007
0-002361	Loaf N' Jug #134	109 Highway 189	Marbleton	October 10, 2006
0-002364	Loaf N' Jug #150	1310 Dewar Drive	Rock Springs	June 4, 2007
0-002365	Loaf N' Jug #151	2558 Foothill Boulevard	Rock Springs	June 4, 2007
0-002367	Loaf N' Jug #153	895 Uinta Drive	Green River	June 4, 2007
0-002370	Loaf N' Jug #156	305 North Federal	Riverton	April 3, 2006
0-003576	Loaf N' Jug #130	938 South Poplar	Casper	June 4, 2007
0-003902	Loaf N' Jug #115	820 Randall Avenue	Cheyenne	December 22, 2005
0-004144	Loaf N' Jug #119	534 Vandehei Avenue	Cheyenne	August 30, 2005
0-005068	Loaf N' Jug #158	40 Yellowcreek Road	Evanston	October 19, 2006
0-005081	Loaf N' Jug #195	4373 Lincolnway	Cheyenne	January 31, 2006

Mini Mart, Inc. is the owner and operator of the underground storage tanks (USTs) located at Loaf N' Jug #121, 352 North Third, Laramie, Wyoming. This UST facility is registered with the DEQ as facility 0-002354. Notice of Violation 4058-07 alleges that: 1) Mini Mart, Inc., failed to obtain a passing inventory control (IC) result for each compartment of each tank for each month; 2) Mini Mart, Inc., failed to properly perform inventory control; and 3) Mini Mart, Inc., failed to report and investigate suspected releases whenever any two consecutive months passed with failing inventory control results. Mini Mart, Inc., is also the owner and operator of the UST facilities shown on Table 1. All of the violations alleged in the letters of violation listed in Table 1 are also covered by this Settlement Agreement. These acts are violations of the Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, 16 (c)(i) & (ii), 19(c), and 20.

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, Mini Mart, Inc., and the DEQ hereby stipulate and agree as follows:

1. The DEQ is responsible for enforcing the Storage Tank Act of 2007 and Chapter 17, WWQRR.

WWQRR, Chapter 17, Section 16 (a), states: "(a) *Inventory control*. Inventory control is never acceptable as a leak detection method except when it is combined with another method. Product inventory control (or another test of equivalent performance) shall be conducted monthly to detect a release of at least 1.0 percent (1%) of throughput plus one

be recorded each operating day; (ii) The equipment used shall be capable of measuring the depth of regulated substance over the full range of the USTs height to the nearest one-eighth (1/8) of an inch; (iii) The regulated substance inputs shall be reconciled with delivery receipts by measurement of the UST inventory volume before and after delivery; (iv) Deliveries shall be made through a drop tube that extends to within one (1) foot of the UST bottom; (v) Dispensing of regulated substances shall be metered and recorded within the local standards for meter calibration or an accuracy of six (6) cubic inches for every five (5) gallons of regulated substance withdrawn; and (vi) Water in the bottom of the UST shall be measured to the nearest one-eighth (1/8) of an inch at least once a month. (vii) Owners and/or operators using inventory control may combine this method with tank tightness testing at least every five (5) years until December 22, 2008, or until ten (10) years after the UST itself first met the requirements of Section 6(a), whichever is sooner; (viii) Owners and/or operators using inventory control shall report a suspected release under Section 19(c) of this chapter whenever: (A) the inventory control fails to balance within 1.0 percent (1%) of total throughput plus one hundred thirty (130) gallons for the second consecutive month; (B) More than 20 daily readings are either positive or negative for the second consecutive month; or (C) A graph of the daily over/short readings shows a consistent non-zero trend for two consecutive months. (ix) The following methods are methods of equivalent performance to inventory control: (A) Vapor Monitoring conducted in accordance with section 16(d) of this chapter; (B) Groundwater Monitoring conducted in accordance with section 16(e) of this chapter; (C) Interstitial Monitoring conducted in accordance with Section 16(f) of this chapter; (D) Statistical Inventory Reconciliation conducted in accordance with Section 16(g) of this chapter; (E) Tracer Surveys conducted in accordance with Section 16(h) of this chapter; (F) Passive Acoustical Sensing conducted in accordance with Section 16(k) of this chapter; and (G) Other methods approved under Section 16(j) of this chapter, providing that the approval of the method specifically states that the method is of equivalent performance to inventory control.”

WWQRR, Chapter 17, Section 19 (c), states: “Section 19. *Reporting of Suspected Releases.*

Owners and/or operators of storage tank systems shall orally report to the department within twenty-four (24) hours all releases or suspected releases in accordance with Section 22 and follow the procedures of Section 22. Owners of sites where storage tanks were formerly located shall also report within seven (7) days after discovering any new evidence of a release. These reports shall be made for any of the following conditions: (c) Monitoring results: Monitoring results from a release detection method required under Section 14 through 17 that indicate a release may have occurred unless the monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result.”

2. Mini Mart, Inc., owns and operates tanks located at 352 North Third, Laramie, Wyoming, and registered with the DEQ as facility 0-002354. On March 9, 2007, the Wyoming Storage Tank Program conducted an inspection of UST facility 0-002354. During the inspection, there were no passing IC records for the period February 2006 through February 2007. A suspected release must be reported and investigated anytime IC records fail to balance within 1% of throughput plus 130 gallons for two consecutive months. No suspected releases were reported, nor was there any documentation of investigations to determine if releases had occurred.
3. All of the problems with inventory control will be resolved for all Wyoming Loaf N' Jug locations by October 1, 2007.
4. Mini Mart, Inc., agrees to pay a total of Thirty Thousand Dollars (\$30,000.00) to the Solid and Hazardous Waste Management Division as a stipulated penalty for the cited violations.



Wyoming Department of Environmental Quality and addressed to the Wyoming Department of Environmental Quality, Attention: Robert Lucht, Herschler Building, 4<sup>th</sup> Floor West Wing, 122 W. 25<sup>th</sup> Street, Cheyenne, WY 82002.

5. Mini Mart, Inc.'s, full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Mini Mart, Inc., existing as of the date of this Settlement Agreement for violations listed in the Notice of Violation, Docket Number 4058-07 and in Table 1 of this Settlement Agreement. Contingent upon Mini Mart, Inc's compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Mini Mart, Inc., for these particular violations.
6. Mini Mart, Inc., waives any statute of limitations which may apply to an enforcement action by the DEQ involving the specific matters described in the Notice of Violation, Docket No. 4058-07, or for any of the violations listed in Table 1 of this Settlement Agreement, in the event that Mini Mart, 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 Mini Mart, Inc., and all of its 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 Department of Environmental Quality or any federal law or regulation.
11. Nothing in this Settlement Agreement supersedes any provision found in any Wyoming State law, or any regulation issued by the Department of Environmental Quality or any federal law or regulation.
12. Violations not specifically covered in Docket Number 4058-07 and Table 1 are not covered by this Settlement Agreement.

13. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR MINI MART, INC.:

Bill Jones  
Bill Jones  
Operations Manager

8/3/07  
Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

John V. Corra  
John V. Corra,  
Director

7/18/07  
Date

LeRoy C. Feusner  
LeRoy C. Feusner, PE, BCEE  
Administrator  
Solid and Hazardous Waste Management Division

16 Jul 07  
Date

Check number 100106637 drawn on  
Caldwell State Bank, Caldwell, KS  
in the amount of Thirty Thousand Dollars  
was received 8/6/07.

[Signature]

Division (DEQ) and Kum & Go, L. C., enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation No. 4014-07, dated May 2, 2006. DEQ has issued numerous Letters of Violation (Table 1) to Kum & Go, L.C., over the past three (3) years.

Table 1

Facility	Kum and Go Store Number	Address	City	Date of Letter of Violation
0-000033	Kum and Go #967	104 Desert Boulevard	Rock Springs	9/1/2006
0-000034	Kum and Go #959	719 West Highway 14-16	Gillette	9/1/2006
0-000039	Kum and Go #955	1617 South Greeley	Cheyenne	12/29/2004
0-000417	Kum and Go #958	Three North Curtis Street	Evansville	9/1/2006
0-000766	Kum and Go #946	1232 East 12th	Casper	12/3/2004
0-000766	Kum and Go #946	1232 East 12th	Casper	5/10/2007
0-001355	Kum and Go #969	1520 Ninth Street	Rock Springs	5/25/2007
0-001554	Kum and Go #961	310 Skyline Drive	Gillette	1/17/2005
0-001591	Kum and Go #953	109 North Main	Buffalo	3/16/2006
0-002461	Kum and Go #954	1455 South McKinley	Casper	9/1/2006
0-002464	Kum and Go #963	1209 Beech Avenue	Kemmerer	9/1/2006
0-002468	Kum and Go #966	Murray Street and Highway 287	Rawlins	9/1/2006
0-003475	Kum and Go #956	215 East Lincolnway	Cheyenne	2/5/2007
0-003923	Kum and Go #945	3476 East Second Street	Casper	12/8/2004
0-004104	Kum and Go #943	501 E Hart Street	Buffalo	3/7/2006

Kum & Go, L. C., d/b/a Kum & Go #956 is the owner and operator of the underground storage tanks (USTs) located at 215 East Lincolnway, Cheyenne, Wyoming. This UST facility is registered with the DEQ as facility 0-003475. Notice of Violation 4014-07 alleges that: 1) Kum & Go, L. C., failed to obtain a passing automatic tank gauge (ATG) result for each compartment of each tank for each month; 2) Kum & Go, L. C., failed to perform inventory control; and 3) Kum & Go, L. C., failed to report and investigate suspected releases whenever a calendar month passed with no passing ATG result or any two consecutive months passed with failing inventory control results. Kum & Go, L.C., d/b/a Kum & Go #946 is the owner and operator of the USTs shown on Table 1. All of the violations alleged in the letters of violation listed in Table 1 are also covered by this Settlement Agreement. These acts are violations of the Wyoming Water Quality Rules and Regulations (WWQRR), Chapter 17, 16 (c)(i) & (ii), 19(c), and 20.

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, Kum & Go, L. C., and the DEQ hereby stipulate and agree as follows:

1. The DEQ is responsible for enforcing the Storage Tank Act of 2007 and Chapter 17, WWQRR.

WWQRR, Chapter 17, Section 16 (a), states: “(a) *Inventory control*. Inventory control is never acceptable as a leak detection method except when it is combined with another method. Product inventory control (or another test of equivalent performance) shall be conducted monthly to detect a release of at least 1.0 percent (1%) of throughput plus one hundred thirty (130) gallons in the following manner: (i) Inventory volume measurements for regulated substance inputs, withdrawals, and the amount still remaining in the UST shall be recorded each operating day; (ii) The equipment used shall be capable of measuring the depth of regulated substance over the full range of the USTs height to the nearest one-eighth (1/8) of an inch; (iii) The regulated substance inputs shall be reconciled with delivery receipts by measurement of the UST inventory volume before and after delivery; (iv) Deliveries shall be made through a drop tube that extends to within one (1) foot of the UST bottom; (v) Dispensing of regulated substances shall be metered and recorded within the local standards for meter calibration or an accuracy of six (6) cubic inches for every five (5) gallons of regulated substance withdrawn; and (vi) Water in the bottom of the UST shall be measured to the nearest one-eighth (1/8) of an inch at least once

(10) years after the UST itself first met the requirements of Section 6(a), whichever is sooner; (viii) Owners and/or operators using inventory control shall report a suspected release under Section 19(c) of this chapter whenever: (A) the inventory control fails to balance within 1.0 percent (1%) of total throughput plus one hundred thirty (130) gallons for the second consecutive month; (B) More than 20 daily readings are either positive or negative for the second consecutive month; or (C) A graph of the daily over/short readings shows a consistent non-zero trend for two consecutive months. (ix) The following methods are methods of equivalent performance to inventory control: (A) Vapor Monitoring conducted in accordance with section 16(d) of this chapter; (B) Groundwater Monitoring conducted in accordance with section 16(e) of this chapter; (C) Interstitial Monitoring conducted in accordance with Section 16(f) of this chapter; (D) Statistical Inventory Reconciliation conducted in accordance with Section 16(g) of this chapter; (E) Tracer Surveys conducted in accordance with Section 16(h) of this chapter; (F) Passive Acoustical Sensing conducted in accordance with Section 16(k) of this chapter; and (G) Other methods approved under Section 16(j) of this chapter, providing that the approval of the method specifically states that the method is of equivalent performance to inventory control.”

WWQRR, Chapter 17, Section 16 (c) (i) & (ii), states: “(c) *Automatic tank gauging (ATG)*. Equipment for automatic tank gauging which tests for the loss of a regulated substance shall detect a 0.2 gallon per hour leak rate from any portion of the tank that routinely contains a regulated substance. Owners and/or operators using automatic tank gauging shall also: (i) conduct inventory control in conformance with paragraph (a)(i) of this section, unless: (A) the regulated substance is placed in the UST in batches of twenty five (25) gallons or less; (B) a passing result is obtained monthly from the Automatic Tank Gauge with the tank at least 85% full; (C) the automatic tank gauge itself reconciles the inventory to the same levels as required by paragraph (a)(i) of this section; or (D) a method of equivalent performance to inventory control is also used. (ii) report a suspected release and follow the requirements of Section 19(c) of this chapter whenever: (A) Any calendar month goes by when a passing result cannot be obtained from the ATG sometime during the month; or (B) A pattern becomes evident that the ATG produces a failing result whenever the level of a regulated substance in the tank is high, even if passing results can be obtained when the level is low. (C) Inventory control fails for the second consecutive month.”

WWQRR, Chapter 17, Section 16 (g), states: “(g) *Statistical Inventory Reconciliation (SIR)*. All SIR methods shall: (i) meet the requirements found in Section 16 (a) for inventory control; (ii) be capable of detecting a 0.2 gallon per hour leak rate or a release of one hundred fifty (150) gallons within a month with a probability of detection of at least 0.95 and a probability of false alarm of no more than 0.05; and (iii) be approved, in writing, by the department prior to use. (iv) All “inconclusive” results shall be investigated by the owner and/or operator as soon as they are reported by the SIR company, including a complete audit of all input data. The owner and/or operator shall make every effort to resolve all “inconclusive” results as soon as they are reported. If the inventory for an entire month fails to balance within two thousand (2,000) gallons, that month shall be treated as inconclusive. A month with an un-resolved inconclusive result is a month when no valid leak detection was provided. (v) Owners and/or operators using SIR shall report a suspected release and follow the requirements of Section 19(c) of this chapter whenever: (A) Any single month is reported as a failure for the UST system by the SIR company; (B) Any month is reported by the SIR company as “inconclusive” unless that inconclusive result has been resolved by re-submission of audited inventory numbers to the SIR company. (vi) UST Systems with a throughput of more than 500,000 gallons per month in any single system shall not be monitored using SIR as the only release detection method.”

WWQRR, Chapter 17, Section 19 (c), states: “Section 19. *Reporting of Suspected Releases*. Owners and/or operators of storage tank systems shall orally report to the department within twenty-four (24) hours all releases or suspected releases in accordance with Section

of a release. These reports shall be made for any of the following conditions: (c) Monitoring results: Monitoring results from a release detection method required under Section 14 through 17 that indicate a release may have occurred unless the monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result.”

2. Kum & Go, L. C., owns and operates tanks located at 215 East Lincolnway, Cheyenne, Wyoming, and registered with the DEQ, as facility 0-003475; 1232 East 12<sup>th</sup> Street, Casper, Wyoming, and registered with the DEQ as facility 0-000766; and 1520 9<sup>th</sup> Street, Rock Springs, Wyoming, and registered with the DEQ as facility 0-001355.
  - a. On December 13, 2006, this department conducted an inspection of UST facility 0-003475. During the inspection, there were no passing automatic tank gauging (ATG) records for the mid-grade gasoline tank for June 2006. Inventory control (IC) records for the period September 2006 through November 2006 all showed failing results for the diesel tank. IC records for the period April 2006 and May 2006 both showed failing results for the mid-grade gasoline tank. A suspected release must be reported and investigated anytime ATG fails for any tank for an entire calendar month. A suspected release must be reported and investigated anytime IC records fail to balance within 1% of throughput plus 130 gallons for two consecutive months. No suspected releases were reported, nor was there any documentation of investigations to determine if releases had occurred.
  - b. On April 30, 2007, this department conducted an inspection of UST facility 0-000766. During the inspection, there were no passing ATG records for Tank 1 for October 2006. A suspected release must be reported and investigated anytime ATG fails for any tank for an entire calendar month. No suspected releases were reported, nor was there any documentation of investigations to determine if releases had occurred.
  - c. On May 14, 2007, this department conducted an inspection of UST facility 0-001355. IC records for the period July 2006 and August 2006 both showed failing results. A suspected release must be reported and investigated anytime IC records fail to balance within 1% of throughput plus 130 gallons for two consecutive months. A suspected release was reported, but not timely. A tank tightness test was conducted and passed.
3. Since receiving Notice of Violation No. 4014-07 on or about February 16, 2006, Kum & Go, L. C., has corrected the cited violations.
4. Kum & Go, L. C., agrees to pay a total of Thirty Thousand Dollars (\$30,000.00) to the Solid and Hazardous Waste Management Division as a stipulated penalty for the cited violations. Payment of Thirty Thousand Dollars (\$30,000.00) shall be made within thirty (30) days after execution of 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: Robert Lucht, Herschler Building, 4<sup>th</sup> Floor West Wing, 122 W. 25<sup>th</sup> Street, Cheyenne, WY 82002.
5. Kum & Go, L. C.’s, full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all claims by the DEQ against Kum & Go, L. C., existing as of the date of this Settlement Agreement for violations listed in the Notice of Violation, Docket Number 4014-07 and in Tables 1 through 5 of this Settlement Agreement. Contingent upon Kum & Go, L.C.’s, compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Kum & Go, L. C., for these particular violations.

action by the DEQ involving the specific matters described in the Notice of Violation, Docket No. 4014-07, or for any of the violations listed in Table 1 through 5 of this Settlement Agreement, in the event that Kum & Go, L. C., 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 Kum & Go, L. C., and all of its 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 Department of Environmental Quality or any federal law or regulation.
11. Certain other Kum & Go, L.C., locations in Wyoming were found to have the same violations cited in Docket 4014-07. The DEQ agrees not to issue Notices of Violation for any of the violations alleged in the Letters of Violation listed in Tables 1 through 5 through the date of this Settlement Agreement. The following violations reported by Kum & Go, L.C. are also covered by this settlement agreement:
  - a. Failure to report and investigate a suspected release reported in December 2006:

Kum & Go Store #	Storage Tank Facility #	Location and type of Violation	Violation citation
943	0-004104	501 E. Hart St. (I-25 & US 16), Buffalo, Wyoming	
		Inventory Control UST-4 20,000 gallon diesel 2	WWQRR, Chapter 17, Section 16 (a)
		Inventory Control UST-6 10,000 gallon diesel 1	WWQRR, Chapter 17, Section 16 (a)
		Inventory Control UST-4 20,000 gallon diesel 2	WWQRR, Chapter 17, Section 16 (a)
		Inventory Control UST-6 10,000 gallon diesel 1	WWQRR, Chapter 17, Section 16 (a)
945	0-003923	3476 E. 2nd Street, Casper, Wyoming	
		ATG UST-1 12,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-2 12,000 gallon unleaded mid-grade gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-3 12,000 gallon unleaded premium gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
955	0-000039	1617 Greeley Hwy., Cheyenne, Wyoming	
		ATG UST-1 6,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-2 6,000 gallon unleaded premium gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-3 6,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-4 6,000 gallon unleaded mid-grade gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
960	0-000035	1504 East Hwy 14-16, Gillette, Wyoming	
		ATG UST-1 10,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-2 10,000 gallon unleaded mid-grade gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
968	0-002459	2004 Dewar Drive, Rock Springs, Wyoming	
		ATG UST-1 8,000 gallon unleaded premium gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-2 6,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-3 6,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
969	0-001355	1520 Ninth Street, Rock Springs, Wyoming	
		12/1/2006 ATG UST-1 10,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		12/1/2006 ATG UST-2 10,000 gallon diesel	WWQRR, Chapter 17, Section 16 (c) (ii)
		12/1/2006 ATG UST-3 10,000 gallon unleaded premium gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)

b. failure to report and investigate a suspected release reported in January 2007:

Table 3

Kum & Go Store #	Storage Tank Facility #	Location and type of Violation	Violation citation
943	0-004104	501 E. Hart St. (I-25 & US 16), Buffalo, Wyoming	
		Inventory Control UST-4 20,000 gallon diesel 2	WWQRR, Chapter 17, Section 16 (a)
958	0-000417	3 North Curtiss, Evansville, Wyoming	
		ATG UST-1 10,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-2 6,000 gallon unleaded premium gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-3 6,000 gallon diesel	WWQRR, Chapter 17, Section 16 (c) (ii)
960	0-000035	1504 East Hwy 14-16, Gillette, Wyoming	

Kum & Go Store #	Storage Tank Facility #	Location and type of Violation	Violation Citation
		ATG UST-2 10,000 gallon premium unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
961	0-001554	310 Skyline Drive, Gillette, Wyoming	
		ATG UST-1 10,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-2 10,000 gallon unleaded mid-grade gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-3 10,000 unleaded premium gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-4 6,000 gallon diesel	WWQRR, Chapter 17, Section 16 (c) (ii)
967	0-000033	104 Desert Boulevard Rock Springs Wyoming 82901	
		ATG UST-1 10,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-2 8,000 gallon unleaded mid-grade gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-3 8,000 unleaded premium gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
969	0-001355	1520 Ninth Street Rock Springs Wyoming 82901	
		ATG UST-2 10,000 gallon diesel	WWQRR, Chapter 17, Section 16 (c) (ii)

c. Failure to report and investigate a suspected release reported in February 2007:

Table 4

Kum & Go Store #	Storage Tank Facility #	Location and type of Violation	Violation citation
943	0-004104	501 E. Hart St. (I-25 & US 16), Buffalo, Wyoming	
		Inventory Control UST-4 20,000 gallon diesel	
953	0-001591	109 North Main ST. Buffalo, Wyoming	
		ATG UST-1 10,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-2 10,000 gallon unleaded mid-grade gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-3 10,000 gallon unleaded premium gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
955	0-000039	1617 Greeley Hwy., Cheyenne, Wyoming	
		Inventory Control UST-1 6,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (a)
957	0-000038	4505 Ridge Road, Cheyenne, Wyoming	
		ATG UST-1 6,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-2 6,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-3 6,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-4 6,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
960	0-000035	1504 East Hwy 14-16, Gillette, Wyoming	
		ATG UST-1 10,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)
		ATG UST-2 10,000 gallon premium unleaded gasoline	WWQRR, Chapter 17, Section 16 (c) (ii)

d. Failure to report and investigate a suspected release reported in March 2007:



Table 5

Kum & Go Store #	Storage Tank Facility #	Location and type of Violation	Violation citation
943	0-004104	501 E. Hart St., (I-25 & US 16) Buffalo, Wyoming	
		Inventory Control UST-4 20,000 gallon diesel	WWQRR, Chapter 17, Section 16 (a)
		Inventory Control UST-5 20,000 gallon unleaded premium gasoline	WWQRR, Chapter 17, Section 16 (a)
		SIR UST-4 20,000 gallon diesel	WWQRR, Chapter 17, Section 16 (g)
		SIR UST-5 20,000 gallon unleaded premium gasoline	WWQRR, Chapter 17, Section 16 (g)
955	0-000039	1617 Greeley HWY, Cheyenne, Wyoming	
		Inventory Control UST-1 6,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (a)
		SIR UST-3 6,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (g)
957	0-000038	4505 Ridge Rd Cheyenne, Wyoming 82009	
		SIR UST-4 6,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (g)
960	0-000035	1504 East Highway 14-16, Gillette, Wyoming	
		SIR UST-1 10,000 gallon unleaded gasoline	WWQRR, Chapter 17, Section 16 (g)
		SIR UST-2 10,000 gallon premium unleaded gasoline	WWQRR, Chapter 17, Section 16 (g)
970	0-002474	312 1st Street Saratoga Wyoming	
		SIR UST-5 4,000 gallon diesel	WWQRR, Chapter 17, Section 16 (g)

e. Violations not specifically covered in Tables 1 through 5 are not covered by this Settlement Agreement.

f. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR KUM & GO, L.C.:


  
 Kyle J. Krause  
 Manager

August 9, 2007  
 Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

  
 John V. Corra,  
 Director

7/18/07  
 Date

  
 LeRoy C. Feusner, PE, BCEE  
 Administrator

16 Jul 07  
 Date

Solid and Hazardous Waste Management Division