

Keith Gulle

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Air quality Division ("DEQ/AQD"), Herschler building, 122 West 25<sup>th</sup> Street, Cheyenne, WY 82002, and Santrol, 435 West Blair Avenue, Rock Springs, Wyoming 82901 enter into this Settlement Agreement ("Agreement") to fully and finally resolve without litigation the violations cited in DEQ Notice of Violation Docket No. 4343-08 ("NOV"). The NOV alleges that Santrol failed to control fugitive dust in the operation of the Santrol Haul Facility in violation of the Air Quality Act ("Act"), applicable Wyoming Air Quality Standards and Regulations ("WAQSR").

WYO. STAT. ANN. § 35-11-901(a)(ii) (West 2007) authorizes stipulated settlement, including payment of a penalty, in lieu of litigation. To that end, Santrol and the DEQ/AQD hereby stipulate and agree as follows:

1. The DEQ/AQD is responsible for enforcing the Act and WAQSR.
2. WYO. STAT. ANN. § 35-11-201 states: "No person shall cause, threaten or allow the discharge or emission of any air contaminant in any form so as to cause pollution which violates rules, regulations and standards adopted by the council."
3. Chapter 3, Section 2(f)(ii)(A) of the WAQSR states: "Any person owning, operating or maintaining a new or existing material storage, handling and/or hauling operation shall minimize fugitive dust from such operations. Such control measures may include the application of asphalt, oil, water or suitable chemicals on unpaved roads, material stockpiles and other surfaces which can give rise to airborne dust..."
4. On April 22, 2008, the DEQ/AQD received a complaint regarding excessive fugitive dust emissions at the Santrol Haul Facility and in response the DEQ/AQD conducted an inspection of the haul road and found excessive fugitive dust from trucks using the haul road.
5. The Santrol Haul Facility was again inspected by the DEQ/AQD on June 24, 2008 and July 21, 2008. On both occasions the DEQ/AQD observed the haul road to be in poor condition with significant amounts of dust generated by haul trucks with no dust control measures being observed.
6. Based on the April 22, 2008, June 24, 2008 and July 21, 2008 observations, the DEQ/AQD determined that Santrol failed to take appropriate measures to control fugitive dust emissions in violation of Chapter 3, Section 2(f) of WAQSR.
7. Santrol agrees to pay the DEQ/AQD two thousand five hundred dollars and no cents (\$2,500.00) as a stipulated settlement amount. Santrol shall pay one thousand dollars and no cents (\$1,000.00) of the settlement amount by check made payable to the Wyoming Department of Environmental Quality, Air Quality Division, within thirty (30) days after Santrol has been notified by DEQ/AQD that the final signature has been affixed to the Agreement. One thousand five hundred dollars and no cents (\$1,500.00) shall be deferred by the DEQ/AQD subject to Santrol asphaltting the Santrol Haul Facility haul road by June 30, 2009. In the event the haul road is not asphalted by June 30, 2009, Santrol shall pay one thousand five hundred dollars and no cents (\$1,500.00) to the DEQ/AQD no later than July 31, 2009. Santrol shall mail payments to John S. Burbidge, Senior Assistant Attorney General, 123 Capitol Building, Cheyenne, WY 82002.

8. Santrol, by entering into this Agreement, does not concede or admit to any liability, and this Agreement constitutes no admission of fault or noncompliance.

9. Full compliance with the signed Agreement shall constitute full satisfaction for all claims by the DEQ/AQD against Santrol based on the NOV and, solely in reliance on the Agreement, the DEQ/AQD will refrain from taking further enforcement action against Santrol for that particular violation.

10. Santrol waives any statute of limitations which may apply to an enforcement action by the DEQ/AQD involving the specific matters described in the NOV in the event that Santrol fails to fulfill its obligations under this Agreement.

11. This Agreement shall be admissible by either Santrol or DEQ/AQD (hereinafter Santrol and DEQ/AQD may be referred to individually as "Party" and collectively as "Parties") without objection by the other Party in any action between these Parties relating to the violations alleged herein.

12. Neither Party hereto shall have any claim against the other for attorney's fees or other costs incurred with the allegations resolved hereby, including costs incurred in the preparation of the Agreement. Each Party shall bear its own attorney fees and costs, if any, incurred through the date this Agreement is signed by both Parties. Each Party assumes the risk of any liability arising from its own conduct. Neither Party agrees to insure, defend or indemnify the other.

13. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by the Parties shall be incorporated by written instrument, executed and signed by all Parties to this Agreement.

14. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the Parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.

15. This Agreement, consisting of three (3) pages represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

16. The State of Wyoming and the DEQ/AQD do not waive sovereign immunity by entering into this Agreement and specifically retain immunity and all defenses available to them as sovereigns pursuant to WYO. STAT. ANN. § 1-39-104(a) and all other state law.

17. The Parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in the Agreement shall operate only between the Parties to this Agreement, and shall inure solely to the benefit of the Parties to this Agreement. The Parties to this Agreement intend and expressly agree that only Parties signatory to this Agreement shall have legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a Party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.

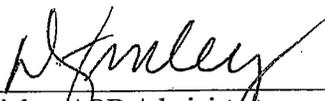
18. Each Party represents that they are authorized to enter into this Agreement and agree to be bound hereby. This Agreement shall become binding upon the Parties once executed by all Parties.

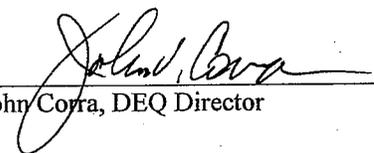
IN WITNESS THEREOF, the Parties, by their duly authorized representatives, have executed this Agreement on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement:

SANTROL

By:  \_\_\_\_\_ 11/19/08  
Date

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY:

By:  \_\_\_\_\_ 12/4/08  
David Finley, AQD Administrator Date

By:  \_\_\_\_\_ 12/1/08  
John Corra, DEQ Director Date

APPRVAL AS TO FORM:

By:  \_\_\_\_\_ 12.1.08  
John S. Burbridge Date  
Senior Assistant Attorney General  
Attorney for DEQ/AQD