

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Air Quality Division ("DEQ/AQD"), Herschler building, 122 West 25th Street, Cheyenne, WY 82002, and Thunder Basin Coal Company, LLC ("Thunder Basin"), P.O. Box 406, Wright, WY 82732 enter into this Settlement Agreement ("Agreement") to fully and finally resolve without litigation the alleged violations cited in DEQ Notice of Violation Docket No. 4330-08 ("NOV"). The NOV alleges that Thunder Basin failed to control fugitive dust from haul roads in the operation of the Black Thunder Mine in violation of the Air Quality Act ("Act"), applicable Wyoming Air Quality Standards and Regulations ("WAQSR") and various air quality permits issued to Thunder Basin.

WYO. STAT. ANN. § 35-11-701(c) authorizes the DEQ/AQD Administrator via conference and conciliation to resolve alleged violations without a judicial determination that such alleged violations actually occurred or not. WYO. STAT. ANN. § 35-11-901(a)(ii) (West 2007) authorizes stipulated settlement in lieu of litigation. To that end, Thunder Basin 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)(i)(A) of the WAQSR states: "Any person engaged in clearing or leveling of land, earthmoving, excavation, or movement of trucks or construction equipment over access haul roads or cleared land shall take steps to minimize fugitive dust from such activities. Such control measures may include frequent watering and/or chemical stabilization."
4. 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..."
5. Permit MD-295 was issued to Thunder Basin on November 18, 1996. Condition 7 of the permit states: "That all haul roads will be treated with suitable chemical dust suppressants in addition to water to control fugitive dust emissions. All treated road surfaces shall be maintained on a continuous basis to the extent that the surface treatment remains a viable control measure. Records of water truck operations, water usage, chemical usage, roads watered, roads treated, and other operational parameters shall be maintained such that an annual report on dust control measures can be filed with the Division in order to assess compliance with this condition..."
6. On June 25, 2008, a DEQ/AQD inspector observed a significant amount of dust generated by heavy haul traffic on the north end of the West Pit, just south of highway 450. The inspector observed the fugitive dust for approximately seven minutes and during that time, no dust control measures were being taken by Thunder Basin.

7. Based on the June 25, 2008 observations, the DEQ/AQD alleged that Thunder Basin failed to take appropriate measures to control fugitive dust emissions from material hauling operations at the Black Thunder Mine as required by Chapter 3, Section 2(f) of WAQSR and Thunder Basin's AQD permit MD-295.

8. DEQ/AQD and Thunder Basin agree that the total stipulated settlement amount ("Total Settlement Amount") to resolve the violations alleged in the NOV in lieu of litigation under WYO. STAT. ANN. § 35-11-901(a)(ii) is ten thousand dollars and no cents (\$10,000.00) payable as follows:

A. Thunder Basin agrees to pay the DEQ/AQD five thousand dollars and no cents (\$5,000.00) as a partial settlement amount ("Partial Settlement Amount"). Thunder Basin shall make full payment of the Partial Settlement Amount by check made payable to the Wyoming Department of Environmental Quality, Air Quality Division, within thirty (30) days after Thunder Basin has been notified in writing by DEQ/AQD that the final signature has been affixed to the Agreement. Thunder Basin shall mail the payment to John S. Burbidge, Senior Assistant Attorney General, 123 Capitol Building, Cheyenne, WY 82002 and placing such payment in the mail shall satisfy the payment obligations in this paragraph 8(A).

B. In lieu of paying the five thousand dollar and no cents (\$5,000.00) balance remaining ("Settlement Balance Amount") after payment of the Partial Settlement Amount, Thunder Basin agrees to complete the following Supplemental Environmental Project ("SEP"):

i. Thunder Basin agrees to spend at least ten thousand dollars and no cents (\$10,000.00) ("SEP Expenditure Amount") on retrofitting the Tracy NO_x lab trailer with a new inlet/manifold so that the monitor will continue to meet EPA requirements and the trailer will undergo repairs that will include rodent proofing and general repairs including the heating and air conditioning units.

ii. Thunder Basin shall complete the SEP by no later than within sixty (60) days of the full execution of this Agreement unless Thunder Basin and the DEQ/AQD mutually agree to an extension of time. Thunder Basin shall submit a SEP Completion Report to the DEQ/AQD, Attn: Mr. Robert Gill, 122 West 25th Street, Cheyenne, WY 82002 within thirty (30) days after the completion of the SEP. The SEP Completion Report shall describe the completed SEP, include itemized costs and receipts, and certify that the SEP has been fully implemented pursuant to the provisions of this Agreement. The DEQ/AQD and Thunder Basin agree that if Thunder Basin does not complete the SEP by the SEP deadline, then Thunder Basin will pay the DEQ/AQD the balance of the full Settlement Balance Amount (\$5,000.00) by the SEP Completion Report deadline. The DEQ/AQD and Thunder Basin agree that if the amount Thunder Basin actually spends in performance of the SEP is less than the SEP Expenditure Amount, then Thunder Basin will pay the DEQ/AQD a prorated amount calculated by taking the SEP Expenditure Amount and subtracting the amount Thunder Basin actually spent on the SEP and then dividing that difference by a factor

of two (2) by no later than thirty (30) days after submitting the SEP Completion Report to the DEQ/AQD.

iii. Thunder Basin hereby represents that as of the date it signs this Agreement, Thunder Basin is not required to perform or develop the SEP by any federal, state or local law or regulation; nor is Thunder Basin required to perform or develop the SEP pursuant to any other agreement or relief in any other case. Thunder Basin further represents that it has not received and is not presently negotiating to receive credit for the SEP in any other pending action.

9. Thunder Basin, by entering into this Agreement, does not concede or admit to any liability, or responsibility whatsoever with respect to the allegations contained in the NOV and this Agreement constitutes no admission of fault or noncompliance.

10. This Agreement represents the full and final settlement of any and all claims, now existing or in the future, with respect to the allegations contained in the NOV. Full compliance with the signed Agreement shall constitute full satisfaction for all claims by the DEQ/AQD against Thunder Basin based on the NOV and, solely in reliance on the Agreement, the DEQ/AQD shall not take any further enforcement action against Thunder Basin related to or arising out of the alleged violation contained in the NOV, as no judicial determination has been made proving the violation occurred or not.

11. In the event that Thunder Basin fails to fulfill its obligations under this agreement Thunder Basin and DEQ/AQD herein agree to toll any applicable statute of limitations with respect to an enforcement action by the DEQ/AQD involving the specific matters described in the NOV for the period of time identified herein for complying with this Agreement.

12. This Agreement shall be admissible by either Thunder Basin or DEQ/AQD (hereinafter Thunder Basin 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 enforcement of the agreement.

13. 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.

14. 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.

15. 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.

16. This Agreement, consisting of four (4) pages represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

17. 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.

18. 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.

19. 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.

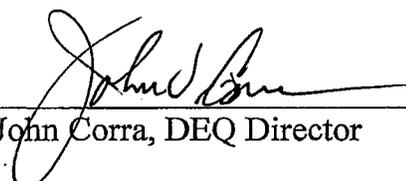
IN WITNESS THEREOF, the Parties, by their duly authorized representatives, have executed this Agreement on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement:

THUNDER BASIN COAL COMPANY, LLC

By:  4/6/09
Date

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY:

By:  4/9/09
David Finley, AQD Administrator Date

By:  4/9/09
John Corra, DEQ Director Date

APPRVAL AS TO FORM:

By:  4.9.09
John S. Burbridge Date
Senior Assistant Attorney General
Attorney for DEQ/AQD