

Keith

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 Violations Docket Nos. 4549-09 and 4558-09 ("NOVs"). The NOVs allege that Thunder Basin failed to control fugitive dust in the operation of the North Rochelle Mine and 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) (West 2008) 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) 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. Various permits issued to Thunder Basin for the North Rochelle Mine require implementation of fugitive dust control measures and installation and operation of an ambient particulate monitoring network.
6. During a recent review of Thunder Basin's ambient particulate monitoring data for the 12 Met Monitor monitoring site associated with the North Rochelle Mine, the DEQ/AQD determined that there was an exceedance of the 24-hour PM₁₀ standard at the North Rochelle site on July 30, 2008. The final PM₁₀ 24-hour concentration for July 30, 2008 was measured at 175.6 µg/m³, exceeding the PM₁₀ 24-hour concentration limit of 150 µg/m³.
7. Based on a review of the monitoring data set forth in paragraph 6 above, the DEQ/AQD alleges that Thunder Basin failed to take appropriate measures to control fugitive dust emissions from the excavation, stockpiling, material handling and material hauling operations at its North Rochelle site as required by WYO. STAT. ANN. § 35-11-201, Chapter 3, Section 2 of the WAQSR and the various permits issued to Thunder Basin for the North Rochelle Mine.

8. Various permits issued to Thunder Basin for the Black Thunder Mine require implementation of fugitive dust control measures and installation and operation of an ambient particulate monitoring network.

9. During a recent review of Thunder Basin's ambient particulate monitoring data for the 36 Monitor monitoring site associated with the Black Thunder Mine, the DEQ/AQD determined that there was an exceedance of the 24-hour PM₁₀ standard at the Black Thunder site on July 30, 2008. The final PM₁₀ 24-hour concentration for July 30, 2008 was measured at 233.1 µg/m³, exceeding the PM₁₀ 24-hour concentration limit of 150 µg/m³.

10. Based on a review of the monitoring data set forth in paragraph 9 above, the DEQ/AQD alleged that Thunder Basin failed to take appropriate measures to control fugitive dust emissions from the excavation, stockpiling, material handling and material hauling operations at its Black Thunder site as required by WYO. STAT. ANN. § 35-11-201, Chapter 3, Section 2 of the WAQSR and the various permits issued to Thunder Basin for the Black Thunder Mine.

11. Thunder Basin agrees to pay the DEQ/AQD ten thousand dollars and no cents (\$10,000.00) as a stipulated settlement amount. Thunder Basin shall make full payment of the 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 by DEQ/AQD that the final signature has been affixed to the Agreement. Thunder Basin shall mail the payment to John S. Burbridge, Senior Assistant Attorney General, 123 Capitol Building, Cheyenne, WY 82002.

12. 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's and this Agreement constitutes no admission of fault or noncompliance.

13. 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's. Full compliance with the signed Agreement shall constitute full satisfaction for all claims by the DEQ/AQD against Thunder Basin based on the NOV's 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's, as no judicial determination has been made proving the violation occurred or not.

14. 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's for the period of time identified herein for complying with this Agreement.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

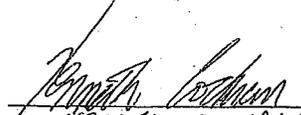
21. The Parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in the Agreement shall operate only between the Parties to this Agreement, 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.

22. 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.

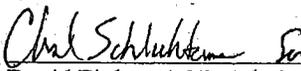
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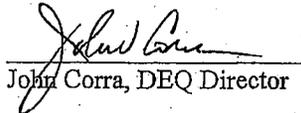
IN WITNESS THEREOF, the Parties, by their duly authorized representatives, have executed this Agreement on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement:

THUNDER BASIN COAL COMPANY, LLC

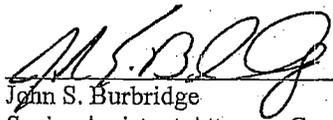
By:  3/29/10
KENNETH COCHRAN Date
President

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY:

By:  3/31/10
David Finley, AQD Administrator Date

By:  3/31/10
John Corra, DEQ Director Date

APPROVAL AS TO FORM:

By:  3-31-10
John S. Burbridge Date
Senior Assistant Attorney General
Attorney for DEQ/AQD