

**\*\*\*10/12/10 DRAFT\*\*\* 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 Richardson Construction, Inc. ("Richardson Construction") 101 Lexington Avenue, Suite 2, Cheyenne, WY 82007-1805, enter into this Settlement Agreement ("Agreement") to fully and finally resolve without litigation the alleged violations cited in DEQ Notice of Violation Docket No. 4739-10 ("NOV"). The NOV alleged that Richardson Construction failed to thoroughly inspect for the presence of asbestos prior to renovation, failed to provide written notification of the renovation project to the DEQ/AQD, failed to properly contain, wrap and label asbestos containing waste material ("ACWM") to be transported offsite, and, failed to placard vehicles used for loading/unloading and transporting ACWM during the renovation of a commercial building located at the corner of 815 S. Center Street and 125 E. 8<sup>th</sup> Street in Casper ("Facility"), Natrona County, Wyoming, thereby violating the Wyoming Environmental Quality Act ("Act") and applicable Wyoming Air Quality Standards and Regulations ("WAQSR").

WYO. STAT. ANN. § 35-11-901(a)(ii) (West 2010) authorizes stipulated settlement, including payment of a penalty, implementation of compliance schedules or other settlement conditions in lieu of litigation. To that end, Richardson Construction and the DEQ/AQD hereby stipulate and agree as follows:

1. Richardson Construction is a Wyoming corporation.
2. The DEQ/AQD is responsible for enforcing the Act and the WAQSR.
3. 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."
4. Chapter 3, Section 8 of the WAQSR establishes in part asbestos emission standards applicable to owners and operators of facilities undergoing renovation or demolition.
5. Chapter 3, Section 8(i)(i) of the WAQSR requires owners and operators of facilities undergoing renovation or demolition to "thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos" before "the commencement of the demolition or renovation."
6. Chapter 3, Section 8(i)(ii) of the WAQSR requires owners and operators of facilities undergoing renovation or demolition to provide the DEQ/AQD with "written notice of the intention to demolish or renovate" at least ten working days before the commencement of the demolition or renovation.

7. Chapter 3, Section 8(m)(i)(A)(V) of the WAQSR requires owners and operators of facilities undergoing renovation to “label containers or wrapped [ACWM] materials with the name of the waste generator and the location at which the waste was generated.”

8. Chapter 3, Section 8(m)(iii) of the WAQSR requires owners and operators of facilities undergoing renovation to “[m]ark vehicles used to transport [ACWM] during loading and unloading of waste so that signs are visible[.]”

9. On or about June 29, 2010, the DEQ/AQD Asbestos Program Coordinator was driving past the Facility, noticed the renovation activity, and stopped and inspected the Facility. The DEQ/AQD Asbestos Coordinator observed and collected samples from areas where suspect materials appeared to be disturbed. The sampling results indicated the silver paint/roofing material contained 10% chrysotile asbestos. During her site investigation, the DEQ/AQD Asbestos Coordinator also observed ACWM piled into an unmarked dump truck to be transported offsite. Upon further investigation, the DEQ/AQD Asbestos Coordinator also determined that Richardson Construction had not conducted an asbestos inspection prior to renovating the Facility, nor had Richardson Construction provided DEQ/AQD with notification of intent to renovate the Facility.

10. On September 28, 2010, the DEQ/AQD issued the NOV to Richardson Construction alleging that Richardson Construction failed to comply with certain provisions of Chapter 3, Section 8 of the WAQSR prior to and during renovation of the Facility.

11. The DEQ/AQD and Richardson Construction agree to resolve the alleged violations, described above and set forth in the NOV, in lieu of litigation under WYO. STAT. ANN. § 35-11-901(a)(ii) by having Richardson Construction pay the DEQ/AQD two thousand five hundred dollars and no cents (\$2,500.00) as a stipulated cash penalty. Richardson Construction shall make full payment by check made payable to the Wyoming Department of Environmental Quality, Air Quality Division, within thirty (30) days after Richardson Construction has been notified that the final signature has been affixed to this Agreement. Richardson Construction shall mail the payment to Nancy Vehr, Sr. Asst. Attorney General, 123 Capitol Building, Cheyenne, WY 82002.

12. Richardson Construction, by entering into this Agreement, does not concede or admit to any liability or fault, and this Agreement constitutes no admission of liability or fault.

13. Full compliance with this signed Agreement shall constitute full satisfaction for all claims by the DEQ/AQD against Richardson Construction based on

the NOV and solely in reliance on this Agreement, the DEQ/AQD will refrain from taking further enforcement action against Richardson Construction for these particular violations.

14. In the event that Richardson Construction fails to fulfill its obligations under this Agreement, Richardson Construction waives any statute of limitation claims which may apply in an enforcement action by the DEQ/AQD involving the specific matters described in the NOV.

15. This Agreement shall be admissible by either Richardson Construction or the DEQ/AQD (hereinafter the DEQ/AQD may be referred to individually as "Party" and collectively as "Parties") without objection by the other Party only in an action between these Parties relating to the violations alleged herein; provided, however, that nothing herein constitutes an admission by Richardson Construction of liability or fault.

16. Neither Party shall have any claim against the other for attorney fees or other costs incurred with the allegations resolved hereby, including costs incurred in the preparation of this Agreement. Each Party shall bear its own attorney fees and costs, if any, incurred through the date this Agreement is signed by the 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 that 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.

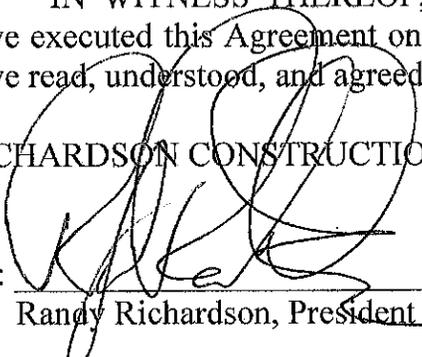
21. The Parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create

such status. The rights, duties and obligations contained in this 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 any 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.

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:

RICHARDSON CONSTRUCTION, INC.:

By:   
Randy Richardson, President

10/27/10  
Date

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY:

By: Steven A. Dietrich  
Steven A. Dietrich, AQD Administrator

11-2-10  
Date

By: John Corra  
John Corra, DEQ Director

11/3/10  
Date

APPROVAL AS TO FORM:

Nancy E. Vehr  
Nancy E. Vehr, Sr. Asst. Attorney General  
Attorney for DEQ/AQD

11/1/10  
Date