

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Air Quality Division (DEQ/AQD), Herschler Building, 122 West 25th Street, Cheyenne, Wyoming 82002, and Pete Lien & Sons, Inc., P.O. Box 440, Rapid City, South Dakota 82301, enter into this Settlement Agreement (Agreement) to fully and finally resolve without litigation the alleged violations cited in DEQ Notice of Violation Docket No. 5052-12 (NOV). The NOV alleged that Pete Lien & Sons' operation of a mobile track mounted Mesto impact crusher at the Rawlins Quarry violated the Wyoming Environmental Quality Act (Act) and the Wyoming Air Quality Standards and Regulations (WAQSR). To wit, the NOV alleged that Pete Lien & Sons constructed and operated a sourcecapable of causing air pollution without a permit. Wyo. Stat. Ann. § 35-11-901(a)(ii) authorizes stipulated settlement, including payment of a penalty, implementation of compliance schedules, or other settlement conditions in lieu of litigation. To that end, Pete Lien & Sons and DEQ/AQD hereby stipulate and agree as follows:

1. Pete Lien & Sons, Inc., is a South Dakota corporation authorized to do business in the State of Wyoming.
2. DEQ/AQD is the executive branch agency of Wyoming government responsible for enforcing the Act and the WAQSR.
3. Wyo. Stat. Ann. § 35-11-801(c) provides that "A permit to construct is required before the construction or modification of any industrial facility capable of causing or increasing air or water pollution in excess of standards established by the department is commenced."
4. Chapter 6, Section 2(a)(i) provides further that "Any person who plans to construct any new facility or source, modify any existing facility or source, or to engage in the use of which may cause the issuance of or an increase in the issuance of air contaminants into the air of this state shall obtain a construction permit...before any actual work is begun on the facility."
5. On or about May 17, 2012, Chris Hanify, DEQ/AQD Engineer/Inspector, inspected the Rawlins Quarry. Mr. Hanify observed Pete Lien & Sons operating an unpermitted mobile track mounted Mesto impact crusher.
6. On August 29, 2012, DEQ/AQD issued the NOV to Pete Lien & Sons, alleging that Pete Lien & Sons failed to obtain a permit for the impact crusher in violation of Wyo. Stat. Ann. § 35-11-801(c) and WAQSR, ch. 6, § 2(a)(i).

7. DEQ/AQD and Pete Lien & Sons 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 Pete Lien & Sons pay DEQ/AQD five thousand dollars and no cents (\$5,000.00) as a stipulated cash penalty. Pete Lien & Sons shall make full payment by check made payable to the Wyoming Department of Environmental Quality, Air Quality Division, within thirty (30) days after Pete Lien & Sons has been notified that final signature has been affixed to this Agreement. Pete Lien & Sons shall mail payment to Jeremiah I. Williamson, Assistant Attorney General, 123 State Capitol, Cheyenne, Wyoming 82002.

8. Pete Lien & Sons, 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.

9. Full compliance with this signed Agreement shall constitute full satisfaction for all claims by DEQ/AQD against Pete Lien & Sons specifically alleged in the NOV, and solely in reliance on this Agreement DEQ/AQD will refrain from taking further enforcement action against Pete Lien & Sons for these particular violations.

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

11. This Agreement shall be admissible by either Pete Lien & Sons or DEQ/AQD without the objection of the other party to this Agreement only in an action between these parties relating to the violations alleged herein; provided, however, that nothing herein constitutes an admission by Pete Lien & Sons of liability or fault.

12. Neither party to this Agreement 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 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.

13. 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.

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 venue shall be the First Judicial District, Laramie County, Wyoming.

15. ~~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.~~

16. The State of Wyoming and 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.

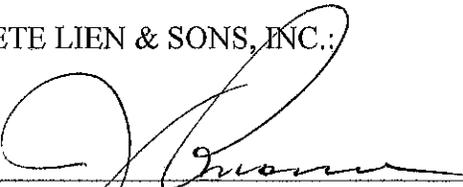
17. The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties, and obligations contained in this Agreement shall operate only between the parties to this Agreement,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

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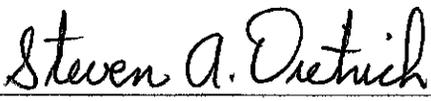
18. Each party represents that they are authorized to enter into this Agreement and agree to be bound hereby. This Agreement shall become binding upon the parties once executed by all parties.

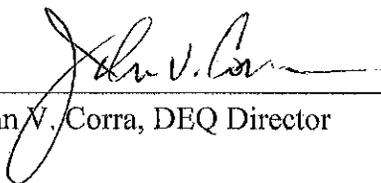
IN WITNESS THEREOF, the parties, by their duly authorized representatives, have executed this Agreement on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement:

FOR PETE LIEN & SONS, INC.:

By: 
Name: Joel BRANNAN Date: 10.3.2012
Title: Chief operating officer

FOR STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY:

By: 
Steven A. Dietrich, AQD Administrator Date: 10-15-12

By: 
John V. Corra, DEQ Director Date: 10/11/12

APPROVAL AS TO FORM:


Jeremiah J. Williamson, Assistant Attorney General Date: 10-9-12
Attorney for DEQ/AQD