

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Air Quality Division (DEQ/AQD), Herschler Building, 122 West 25th Street, Cheyenne, Wyoming 82002, and College Heights Baptist Church, (College Heights), 1927 S. Walnut Street, Casper, WY 82601, enter into this Settlement Agreement (Agreement) to fully and finally resolve without litigation the alleged violations cited in DEQ Notice of Violation Docket No. 4749-10 (NOV). The NOV alleged that College Heights failed to: thoroughly inspect for the presence of asbestos prior to renovation; provide prior written notification of the demolition/renovation project to DEQ/AQD; use trained individuals to remove Asbestos Containing Wastes Materials (ACWM); and properly dispose of ACWM during the renovation of the College Heights Baptist Church facility (Facility) located at 1927 S. Walnut Street, Casper, 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) authorizes stipulated settlement, including payment of a penalty, implementation of compliance schedules, or other settlement conditions in lieu of litigation. To that end, College Heights and DEQ/AQD hereby stipulate and agree as follows:

1. College Heights is a Wyoming non-profit corporation.
2. DEQ/AQD is the executive branch agency of Wyoming government responsible for enforcing the Act and the WAQSR.
3. Wyo. Stat. Ann. § 35-11-201 states, “[n]o 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 for demolition, renovation, manufacturing, spraying and fabricating that apply to owners and operators of facilities where renovation or demolition activities are taking place.
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 DEQ/AQD with “written notice

of the intention to demolish or renovate” at least ten working days before the commencement of demolition or renovation.

7. Chapter 3, Section 8(i)(iii)(H) of the WAQSR prohibits the stripping, removal, handling, or otherwise disturbing ACWM unless “the individuals supervising and performing the operation have been trained in the provisions of this regulation and the means of complying with them.”

8. Chapter 3, Section 8(m)(ii) of the WAQSR requires owners or operators to deposit all asbestos-containing waste material as soon as is practicable at an approved waste disposal site.

9. On August 5, 2010, DEQ/AQD conducted an inspection of the renovation of the College Heights Baptist Church located at 1927 S. Walnut Street, Casper, Wyoming. While conducting the inspection, DEQ/AQD determined the renovation included the removal of approximately 100 square feet of layered plaster wall material and 450 square feet of 9” floor tile with mastic. Approval was granted for DEQ/AQD to collect and analyze samples of the suspect materials. The sample results revealed that the floor tile contained 6% chrysotile asbestos.

10. On October 18, 2010, DEQ/AQD issued the NOV to College Heights, alleging that College Heights failed to comply with certain provisions of Chapter 3, Section 8 of the WAQSR prior to and during the renovation of the Facility, including failure to: thoroughly inspect for the presence of asbestos prior to renovation; provide prior written notification of the demolition/renovation project to DEQ/AQD; use trained individuals to remove ACWM; and properly dispose of ACWM during the renovation of the Facility.

11. Without admitting liability and in lieu of litigation under Wyo. Stat. Ann. § 35-11-901(a)(ii), DEQ/AQD and College Heights agree to resolve the alleged violations described above and set forth in the NOV for the total amount of three thousand five hundred and seventy five dollars and no cents (\$3,575.00), payable as follows:

A. College Heights shall pay the DEQ/AQD one thousand four hundred fifty two dollars and no cents (\$1,452.00) as a stipulated cash penalty. Within thirty (30) days after College Heights has been notified that the final signature has been affixed to this Agreement, College Heights shall make full payment by check made payable to the Wyoming Department of Environmental Quality, Air Quality Division. College Heights shall mail payment to Nancy Vehr, Sr. Asst. Attorney General, 123 Capitol Building, Cheyenne, Wyoming 82002.

B. In lieu of paying the additional amount of two thousand, one hundred twenty three dollars and no cents (\$2,123.00) (Additional Amount), College Heights agrees to the following:

i. Provide asbestos training to two employees where such training will be provided by a Model Accreditation Plan Trainer as listed on the National Directory of AHERA Accredited Courses (NDAAC), which will include the following:

a. 16-hour Operations and Maintenance Course. This training provides information on the types of suspect materials and appropriate sampling protocol needed to prove asbestos content.

ii. By December 31, 2013, College Heights shall provide DEQ/AQD with notification of completion and the employee's certificate of completion. College Heights shall send this information to DEQ/AQD, Attention: Karen Godman, 122 West 25th Street, Herschler Building 2-E, Cheyenne, WY 82002.

iii. By December 31, 2013, College Heights shall conduct an asbestos inspection of the church and provide DEQ/AQD with evidence of such inspection.

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

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

15. This Agreement shall be admissible by either College Heights or DEQ/AQD (hereinafter College Heights and DEQ/AQD may be referred to individually as Party and collectively as Parties) without 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 College Heights of liability or fault.

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

19. This Agreement, consisting of six (6) 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 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 dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement:

COLLEGE HEIGHTS BAPTIST CHURCH:

By: Nicole Rodolph _____ Date 2/16/2013
~~Isaiah Rodolph~~ Nicole Rodolph
College Heights Baptist Church
Board of Directors

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY:

By: Steven A. Dietrich _____ Date 2-26-13
Steven A. Dietrich, AQD Administrator

By: Todd Parfitt _____ Date 2/27/13
Todd Parfitt, DEQ Director

Approval as to Form by: Nancy S. Vetter, Sr. Assistant Attorney General,
Attorney for DEQ/AQD, 2/25/2013