

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Air Quality Division (DEQ/AQD), Herschler Building, 122 West 25th Street, Cheyenne, Wyoming 82002, and JTL Group, Inc., dba Knife River (Knife River), 1461 Bryan Stock Trail, Casper, Wyoming, 82601, enter into this Settlement Agreement (Agreement) to fully and finally resolve without litigation the alleged violations cited in Notices of Violation Docket Numbers 4918-11 and 4923-11. The Notices of Violation alleged that Knife River violated the Wyoming Air Quality Standards and Regulations (Air Quality Rules) and Permit MD-1498A by failing to meet opacity requirements and by failing to obtain a permit for the Nordberg 300 Cone Crusher, JCI Screen, and Caterpillar 3412 diesel generator at the Madsen Site in Natrona County, Wyoming.

Wyo. Stat. Ann. § 35-11-901(a)(ii) (2013) authorizes stipulated settlement, including payment of a penalty, implementation of compliance schedules, or other settlement conditions in lieu of litigation. To that end, Knife River and the DEQ/AQD hereby agree as follows:

1. Knife River is a Wyoming company that owns and operates the Madsen Site, located in Natrona County, Wyoming. Knife River owned and operated the Madsen Site at the time in which the alleged violations occurred.
2. The DEQ/AQD is the executive branch agency of Wyoming government responsible for enforcing the Air Quality Rules.
3. Wyo. Stat. Ann. § 35-11-201 provides, “[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 [environmental quality] council.”
4. Wyo. Stat. Ann. § 35-11-801 states, “In granting permits, the director may impose such conditions as may be necessary to accomplish the purpose of this act which are not inconsistent with the existing rules, regulations and standards.”
5. Chapter 6, Section 2 of the Wyoming Air Quality Standards and Regulations prescribes the applicability and procedures for issuing permits to sources under Wyoming’s construction and modification permitting program.
6. On April 21, 2008, DEQ/AQD issued Permit MD-1498A to Knife River. Condition 4 establishes an opacity limit of 10% at all transfer points. Condition 5 requires Knife River to utilize a wet suppression system whenever the crusher/screen is in use.

7. On September 29, 2011, DEQ/AQD Inspector Mr. Chris Hanify recorded a 33% opacity reading at a transfer point from the product conveyor out of the Svedala cone crusher. He further observed that the wet suppression system installed below the crusher and conveyor was not in operation, causing the dust level to exceed opacity limits required under both the AQSR and Permit MD-1498A.

8. On October 19, 2011, Mr. Hanify discovered a Nordberg 300 Cone Crusher, JCI Screen, and Caterpillar 3412 diesel generator in operation on the Madsen Site, in apparent violation of the AQSR requirement to obtain a permit prior to installing and using such equipment.

9. On October 19, 2011, Mr. Hanify recorded a 33.5% opacity reading above the JCI Screen and north of the two feed conveyors, as well as a 40% opacity reading at the transfer point to the conveyor below the Nordberg 300 Cone Crusher, both in apparent violation of the 10% opacity limit required by Chapter 5, Section 2 of the AQSR.

10. Without admitting liability, and in lieu of litigation pursuant to Wyo. Stat. Ann. § 35-11-901(a)(ii), Knife River agrees to pay to the DEQ/AQD the amount of seven thousand hundred dollars (\$7,000) as a stipulated penalty to resolve the violations alleged in the aforementioned Notices of Violation. Knife River agrees to make full payment by check made payable to the Wyoming DEQ/AQD, within thirty (30) days after Knife River has been notified by DEQ/AQD that the final signature has been affixed to this Agreement. Knife River agrees to mail the payment to Ann Shed, DEQ/AQD, Herschler Building, 122 West 25th Street, Cheyenne, Wyoming 82002.

11. Knife River stipulates that it has performed a Supplemental Environmental Project, proposed during negotiations, in order to lower the penalty from fourteen thousand dollars (\$14,000) to seven thousand dollars (\$7,000). The Supplemental Environmental Project was the relocation of a crusher from the Casper Pit to the VR Pit, for the purpose of reducing fugitive dust within the City of Casper and also to minimize truck traffic, and the actual cost to Knife River was nineteen thousand three hundred two dollars and eighty-four cents. (\$19,302.84).

12. Knife River further stipulates that it received Permit CT-12652 on December 27, 2011, for the use of the following equipment at the Madsen Site: Nordberg 300 Cone Crusher, JCI Screen, and Caterpillar 3412 diesel generator.

13. Knife River, by entering into this Agreement, does not concede or admit any liability, fault, or statutory noncompliance. Except as specifically provided for herein, nothing in this Agreement shall prejudice, waive, or impair any right, remedy, or defense that Knife River may have against any entity.

14. Full compliance with this signed Agreement shall constitute full satisfaction for all claims by the DEQ/AQD against Knife River arising from the allegations contained within the Notices of Violation and this Agreement. In reliance on this Agreement, the DEQ/AQD will refrain from taking further enforcement action against Knife River for these particular alleged violations. By this Agreement, the Parties intend to resolve with prejudice all allegations that are contained within the Notices of Violation and this Agreement.

15. In the event that Knife River fails to fulfill its obligations under this Agreement, Knife River waives any statute of limitation claims that may apply in an enforcement action by the DEQ/AQD involving the specific matters described in the Notices of Violation or otherwise set forth in this Agreement.

16. This Agreement shall be admissible by either Knife River or the DEQ/AQD without objection by the other party in any action between DEQ/AQD and Knife River relating to the violations alleged herein.

17. Each party assumes the risk of any liability arising from its own conduct. Neither party agrees to insure, defend, or indemnify the other. Neither DEQ/AQD nor Knife River shall have any claim against the other for attorneys' fees, or any other costs related to the preparation and resolution of this Agreement.

18. Any changes, modifications, revisions, or amendments to this Agreement are invalid unless mutually agreed upon by both parties, incorporated by written instrument, executed, and signed by all parties to this Agreement.

19. The laws of the State of Wyoming shall govern the construction, interpretation, and enforcement of this Agreement. 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.

20. This Agreement, consisting of five (5) pages represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

21. 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.

22. 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 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.

23. In the event that Knife River assigns any or all of its proprietary interest in the Madsen Site located in Natrona County, Wyoming, DEQ/AQD reserves the right to enforce this Agreement against any and all subsequent owners and operators.

24. Each party represents that they are authorized to enter into this Agreement, agrees to comply with and to be bound by the terms of this Agreement, and further agrees that they will not contest the basis or validity of this Agreement. This Agreement shall become binding upon the parties once executed.

[INTENTIONALLY LEFT BLANK]

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:

JTL GROUP, INC.:

By:  6-20-14
David Fertig Date
Wyoming President/General Manager

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY:

By:  6-26-14
Steven A. Dietrich, AQD Administrator Date

By:  6/26/14
Todd Parfitt, DEQ Director Date

APPROVAL AS TO FORM:

 6/26/14
Jeremiah Williamson Date
Assistant Attorney General
Attorney for DEQ/AQD