

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Air Quality Division (DEQ/AQD), Herschler Building, 122 West 25th Street, Cheyenne, WY 82002, and the City of Casper, 200 North David Street, Casper, Wyoming 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. 5145-13. As more fully set forth below, the Notice of Violation alleged that the City of Casper failed to thoroughly inspect for asbestos materials that were disturbed as part of a demolition project, thereby violating the Wyoming Environmental Quality Act (Act) and applicable Wyoming Air Quality Standards and Regulations (Air Quality Rules).

Wyo. Stat. Ann. § 35-11-901(a)(ii) (West 2012) authorizes stipulated settlement, including payment of a penalty, implementation of compliance schedules or other settlement conditions in lieu of litigation. To that end, the City of Casper and the DEQ/AQD hereby stipulate as follows:

1. The City of Casper is a Wyoming incorporated municipality.
2. The DEQ/AQD is the executive branch agency of Wyoming government responsible for enforcing the Act and the Air Quality Rules.
3. Chapter 3, Section 8(i)(i) of the Air Quality Rules requires owners and operators, prior to demolishing or renovating a facility, to “thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos, including Category I and Category II non friable [asbestos containing material].”
4. On February 28, 2013, DEQ/AQD staff inspected a demolition project being performed by Robinson Contracting, Inc., on property located at 1427 Oakcrest Avenue in Casper, Wyoming, which the City of Casper ordered demolished as per the 1988 Uniform Code for the Abatement of Dangerous Buildings.
5. DEQ/AQD had received a Notification of Demolition and Renovation Form from Robinson Contracting, Inc., stating that, based on laboratory analysis, no asbestos-containing materials were present in the building to be demolished.
6. During the February 28, 2013 inspection, DEQ/AQD staff obtained a copy of a laboratory analysis report directed to Recycled Materials, LLC, compiled from the project site on behalf of the City of Casper.

7. The report did not include sufficient numbers of sample collection and analysis for lathe and plaster material or spray-on acoustic material that had been located in the building. The report also indicated that no samples had been collected of red floor tile with black mastic that was in the basement of the building or of asphalt-based roofing that was lying on the ground around the demolition site.

8. Laboratory analysis of samples collected during the site visit found 15% chrysotile asbestos in the floor tile and 5% chrysotile asbestos in the black mastic.

9. Accordingly, on March 27, 2013, DEQ/AQD issued Notice of Violation docket number 5145-13 to the City of Casper for failing to thoroughly inspect the facility for the presence of asbestos containing materials prior to demolition in violation of the Air Quality Rules.

10. Without admitting liability, and to resolve the violations alleged in Notice of Violation number 5145-13 in lieu of litigation pursuant to Wyo. Stat. Ann. § 35-11-901(a)(ii), the City of Casper agrees to send two (2) employees of the City who are involved in demolition or renovation of City controlled properties to one of the asbestos training courses listed below and given by a training provider approved by the United States Environmental Protection Agency or accredited through another State's asbestos program. The City of Casper agrees to provide DEQ/AQD with documentary proof of the employees' completion of the training within six (6) months of the date that final signature is attached to this Agreement by mailing proof to DEQ/AQD, Attention: Linda Dewitt, 122 West 25th Street, Herschler Building 2-E, Cheyenne, Wyoming 82002.

- A. 24-hour Building Inspector Initial Course. This training provides information on the types of suspect materials and appropriate sampling protocol needed to prove asbestos content.
- B. 40-hour Contractor/Supervisor Initial Course. This training provides information on regulatory requirements and state of the art work practices used in the performance of asbestos abatement projects.

11. The City of Casper, by entering into this Agreement, does not concede or admit to any liability or fault, and this Agreement constitutes no admission of liability, fault or noncompliance with any allegations, findings, determinations or conclusions contained in this Agreement or in Notice of Violation number 5145-13.

12. Full compliance with this signed Agreement shall constitute full satisfaction for all claims by the DEQ/AQD against the City of Casper based on Notice of Violation number 5145-13, and solely in reliance on this Agreement, the DEQ/AQD will refrain from taking further enforcement action against the City of Casper for these particular

alleged violations. By this Settlement Agreement, the Parties intend to resolve all allegations that were asserted in Notices of Violation number 5145-13.

13. In the event that the City of Casper fails to fulfill its obligations under this Agreement, the City of Casper waives any statute of limitation claims that may apply in an enforcement action by the DEQ/AQD involving the specific matters described in Notice of Violation number 5145-13.

14. This Agreement shall be admissible by either the City of Casper or the DEQ/AQD (hereinafter the City of Casper and 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.

15. Neither Party hereto shall have any claim against the other for attorneys' 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 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.

16. 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.

17. 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.

18. 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.

19. The State of Wyoming and the DEQ/AQD and the City of Casper 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.

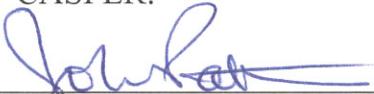
20. The Parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the Parties to this Agreement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

21. 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:

CITY OF CASPER:

By:  7-11-2014
John C. Patterson Date
City Manager

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY

By:  7-22-14
Steven A. Dietrich, AQD Administrator Date

By:  7/29/14
Todd Parfitt, DEQ Director Date

APPROVAL AS TO FORM:

 7/21/14
Jeremiah J. Williamson Date
Attorney for DEQ/AQD

 7/9/14
Will Chambers Date
Attorney for the City of Casper