

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Air Quality Division (DEQ/AQD), Herschler Building, 122 West 25th Street, Cheyenne, Wyoming 82002, and The Gannett Group, Inc., 19 Ridge Road, PO Box 589, Lander, Wyoming, 82520 (The Gannett Group) enter into this Settlement Agreement (Agreement) to fully and finally resolve without litigation the alleged violations cited in Notice of Violation Docket Number 5501-14 (Notice of Violation). The Notice of Violation alleged that The Gannett Group violated the Wyoming Environmental Quality Act (Act) and the Wyoming Air Quality Standards and Regulations by improperly controlling fugitive dust at the construction site at the Gannet Peak Estates subdivision (the Site), located in Fremont 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, The Gannett Group and the DEQ/AQD hereby agree as follows:

1. The Gannett Group is a Wyoming corporation that owns the Gannet Peak Estates in Fremont County, Wyoming.
2. The Gannett Group controlled the construction that occurred at the Site at all times relevant to this Agreement, the Notice of Violation, and the Letter of Violation issued on June 6, 2014.
3. The Gannett Group is a “person,” as defined in the Act at Wyo. Stat. Ann. § 35-11-100(a)(vi).
4. The DEQ/AQD is the executive branch agency of Wyoming government responsible for enforcing the Air Quality Rules.
5. 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.”
6. Air Quality Rules, Chapter 3, Section 2(f)(i)(A) establishes control measures appropriate for minimizing fugitive dust that occur during construction and demolition activities. These control measures include applying water and/or chemical dust suppressants to work areas and haul roads “on a schedule sufficient to control fugitive dust.”
7. On April 18, 2014, DEQ/AQD Inspector Greg Meeker visited the Site in response to a citizen complaint to the Lander field office on that date. During his visit, he observed a thick plume of excessive dust that was impacting several homes.
8. On April 21, 2014, DEQ/AQD Inspectors Dave Selvig and Jon Walker visited the Site, in response to a separate citizen complaint received on April 18, 2014. After the site visit, DEQ/AQD sent an e-mail to The Gannett Group requesting that they establish a long-term plan to control fugitive dust emissions at the Site.

9. On June 6, 2014, DEQ/AQD issued a Letter of Violation to The Gannett Group that summarized the citizen complaints received on April 18, 2014, and April 21, 2014, and the subsequent site visits.

10. On September 3, 2014, DEQ/AQD Inspector Greg Meeker visited the Site, in response to a citizen complaint received on that date. After this visit, DEQ/AQD left a voice mail message with The Gannett Group requesting that they be more proactive in applying water to disturbed areas in order to minimize fugitive dust emissions.

11. On September 8, 2014, DEQ/AQD Inspector Greg Meeker observed fugitive dust emissions from a topsoil pile at the Site. Greg Meeker did not observe control measures in place that were sufficient to control fugitive dust.

12. On October 29, 2014, DEQ/AQD issued Notice of Violation 5501-14 to The Gannett Group. The Notice of Violation alleged that The Gannett Group was in violation of the Act and the Air Quality Rules for failing to control fugitive dust at the Site.

13. Without admitting liability, and in lieu of litigation pursuant to Wyo. Stat. Ann. § 35-11-901(a)(ii), The Gannett Group agrees to pay to the DEQ/AQD the amount of two thousand five hundred (\$2,500) as a stipulated penalty to resolve the violations alleged in the aforementioned Notice of Violation. The Gannett Group agrees to make full payment by check made payable to the Wyoming DEQ/AQD, within thirty (30) days after The Gannett Group has been notified by DEQ/AQD that the final signature has been affixed to this Agreement. The Gannett Group agrees to mail the payment to Ann Shed, DEQ/AQD, Herschler Building, 122 West 25th Street, Cheyenne, Wyoming 82002.

14. The Gannett Group, 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 The Gannett Group may have against any entity.

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

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

17. This Agreement shall be admissible by either The Gannett Group or the DEQ/AQD without objection by the other party in any action between DEQ/AQD and The Gannett Group relating to the violations alleged herein.

18. 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 The Gannett Group shall have any claim against the other for attorneys' fees, or any other costs related to the preparation and resolution of this Agreement.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. DEQ/AQD reserves the right to enforce this Agreement against any and all subsequent owners and operators.

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25. 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.

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:

THE GANNETT GROUP, INC.:

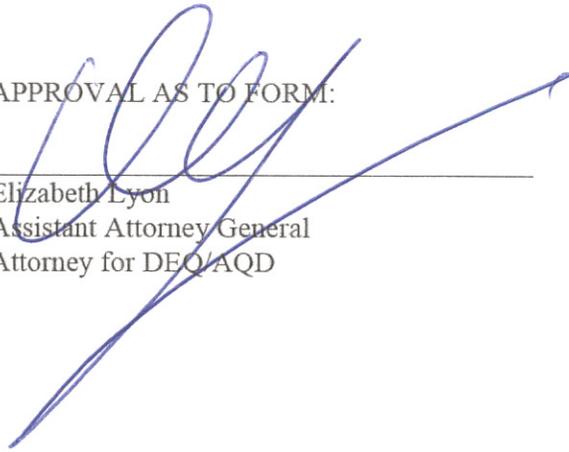
By:  4-8-2015
Steve Palmer Date
President

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY:

By:  4-14-15
Steven A. Dietrich, AQD Administrator Date

By:  4/14/15
Todd Parfitt, DEQ Director Date

APPROVAL AS TO FORM:

 4/16/15
Elizabeth Lyon Date
Assistant Attorney General
Attorney for DEQ/AQD