

**SETTLEMENT AGREEMENT**

The Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) and FMC Corporation (FMC), a corporation authorized to do business in Wyoming, enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in **Notice of Violation Docket (NOV) Numbers 3836-06 and 3842-06, dated January 12, 2006 and February 6, 2006, respectively.**

W.S. §35-11-901(a)(ii) authorizes the DEQ to negotiate a stipulated settlement, including payment of a penalty, in lieu of litigation. To that end, FMC and the DEQ hereby stipulate and agree as follows:

1. The DEQ, pursuant to W.S. §35-11-104, is a department in the executive branch of the state government of Wyoming and is principally situated in Cheyenne, Wyoming. DEQ is the agency with the responsibility for administering the Wyoming Environmental Quality Act (Act) including all provisions of the Wyoming Water Quality Rules and Regulations (WWQRR).

2. Since receiving NOV Docket Numbers 3836-06 and 3842-06, FMC has provided the WQD with documentation demonstrating the steps taken to address the violations alleged in the NOV's to have occurred in Sweetwater County, Wyoming, including the ongoing operational programs designed to prevent or minimize violations in the future.

3. FMC agrees to pay a total penalty of twenty-seven thousand dollars and no cents (\$27,000.00) as a stipulated settlement to resolve this matter in lieu of litigation under W.S. §35-11-901(a)(ii). FMC shall pay \$27,000.00 directly to the DEQ. All payments are due and payable within thirty (30) days of the full execution of this Settlement Agreement or by May 12, 2006, whichever occurs first. Payment to DEQ shall be by check(s) made payable to the Wyoming Department of Environmental Quality, Water Quality Division and shall be sent to: Mr. Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator, Wyoming Department of Environmental Quality, Water Quality Division, Herschler Building, 4<sup>th</sup> Floor-West, 122 West 25<sup>th</sup> Street, Cheyenne, Wyoming 82002. **The check(s) should reference Docket Numbers 3836-06 and 3842-06.**

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4. Except as provided in paragraph 3 above, FMC's full compliance with this signed Settlement Agreement and payment by FMC as specified above shall constitute full satisfaction for and resolution of all claims by the DEQ against FMC based on the violations alleged in Notice of Violation Docket Numbers 3836-06 and 3842-06. Contingent upon FMC's compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against FMC for these particular violations. By this Settlement Agreement, the parties intend to resolve with prejudice all allegations that were asserted in NOV Docket Numbers 3836-06 and 3842-06.

5. FMC waives any statute of limitations which may apply to an enforcement action by the DEQ involving the specific matters described in Notice of Violation Docket Numbers 3836-06 and 3842-06 in the event that FMC fails to fulfill its obligations under this Settlement Agreement.

6. Nothing in this agreement precludes DEQ from taking additional enforcement action, including the issuance of a Notice of Violation, Order, and/or pursuing additional penalties, should FMC violate the Act or applicable rules and regulations in the future.

7. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.

8. This Settlement Agreement does not constitute an admission by FMC or a retraction by the DEQ of the specific allegations in NOV Docket Numbers 3836-06 and 3842-06.

9. Notwithstanding any other language in this Settlement Agreement, the State of Wyoming and DEQ do not waive sovereign immunity by entering into this Settlement Agreement with FMC and specifically retain all immunity and all defenses available as sovereigns under state and federal law.

10. Each party shall bear its own attorney fees and costs, if any incurred, through the date this Settlement Agreement is signed by both parties.

11. This Settlement Agreement is binding upon FMC, its successors and assigns, and upon the DEQ.

12. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

13. Full execution of this Settlement Agreement shall be determined by the latest date it is signed.

**FOR: FMC Corporation**

Signed: J Pearce

Date: 4/28/06

Typed: Jo Pearce

Title: Manufacturing Director

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John V. Corra  
Director  
Department of Environmental Quality

Date: 4/17/06

  
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John F. Wagner  
Administrator  
Water Quality Division

Date: 4/13/06

  
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Richard A. Chancellor  
Administrator  
Land Quality Division

Date: 14 April 06

JVC/JFW/RAC/BRB/bb/6-0298.SA

cc: Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator  
Carol Bilbrough, LQD Program Manager  
Amy Boyle, LQD, Lander DEQ Office  
Glen Garton, WQD, Lander DEQ Office  
Brian K. Lovett ▶ Leah J. Krafft  
NOV Docket 3836-06  
NOV Docket 3842-06

**SETTLEMENT AGREEMENT BETWEEN DEQ/WQD AND FMC CORPORATION**

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**IN THE MATTER OF THE NOTICE OF  
VIOLATIONS ISSUED TO:**

**Mr. Otto Schnauber  
Environmental Superintendent  
FMC Corporation  
P.O. Box 872  
Green River, Wyoming 82935**

**DOCKET NUMBERS 3836-06 and 3842-06**

**NOTICE OF COMPLIANCE**

The Department of Environmental Quality (DEQ), Water Quality Division (WQD) issued Notice of Violations (NOVs) Docket Numbers 3836-06 and 3842-06 to FMC Corporation (FMC) on January 12 and February 6, 2006, respectively. The NOVs alleged that FMC discharged a process wastewater to waters of the state without a permit in Sweetwater County, Wyoming. These are violations of the Wyoming Environmental Quality Act (Act) and applicable Wyoming Water Quality Rules and Regulations (WWQRR).

The NOVs required FMC to pay a total penalty of twenty-seven thousand dollars and no cents (\$27,000.00) to the DEQ. Based on the November 29 and December 2, 2005 reports and receipt of the \$27,000.00 penalty by DEQ, FMC has complied with the conditions of the Settlement Agreement for Docket Numbers 3836-06 and 3842-06 and the DEQ finds that all terms have been satisfied.

Dated this 8<sup>th</sup> day of May, 2006.

  
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Brian R. Bohlmann, P.E.  
WYPDES Compliance & Enforcement Coordinator  
Water Quality Division  
Wyoming DEQ

- cc: Colleen Gillespie, 8ENF-W-NP, EPA Region 8  
Brian R. Bohlmann, P.E., WYPDES Compliance & Enforcement Coordinator  
Carol Bilbrough, LQD Program Manager  
Amy Boyle, LQD, Lander DEQ Office  
Glen Garton, WQD, Lander DEQ Office  
Bill J. DiRienzo ► Brian K. Lovett ► Leah J. Krafft  
IPS (for scanning) ► Dockets 3836-06 and 3842-06  
Keith Guille, DEQ Public Information Officer