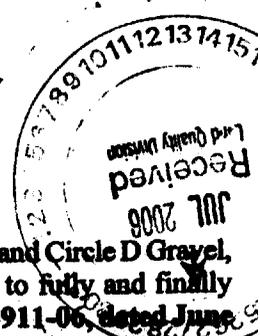


WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY  
LAND QUALITY DIVISION

SETTLEMENT AGREEMENT



The Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and Circle D Gravel, a company 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 (NOV) Docket No. 3911-06, dated June 16, 2006. The NOV alleges that Circle D Gravel conducted mining activities without surface owner permission and failed to properly salvage topsoil at Limited Mining Operation (LMO) 1341ET. The site of this violation is in the NE ¼ NE ¼ Section 1 of Township 20 North, Range 93 West and the W ½ NW ¼ NW ¼ Section 6, Township 20 North, Range 92 West in Sweetwater County about 2 miles north of Interstate 80. This is a violation of the Wyoming Statutes and the Non-Coal Rules and Regulations.

Wyoming Statute (W.S.) §35-11-901(a)(ii) authorizes the WDEQ/LQD to negotiate a stipulated settlement in lieu of litigation. To that end, Circle D Gravel and the WDEQ/LQD hereby stipulate and agree as follows:

1. The WDEQ/LQD, 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 including all provisions of the WDEQ/LQD Rules and Regulations.
2. Circle D Gravel is the operator of a sand and gravel mining operation located in Sweetwater County, Wyoming, in the NE ¼ NE ¼ Section 1 of Township 20 North, Range 93 West and the W ½ NW ¼ NW ¼ Section 6, Township 20 North, Range 92 West. As part of its operation, Circle D Gravel mines mineral from this site and distributes or sells the mineral mined for commercial use.
3. Conducting mining operations in the State of Wyoming without surface owner permission is a violation of W. S. §35-11-401(e)(vi). Failure to properly salvage topsoil in the State of Wyoming is a violation of Chapter 10, Section 4(b) of the Noncoal Rules and Regulations.
4. Subject to the waiver hereafter set forth, Circle D Gravel agrees to pay a total of five thousand (\$5,000.00) as a stipulated settlement as partial resolution to this matter in lieu of litigation under W.S. §35-11-901(a)(ii). Circle D Gravel shall pay five thousand (\$5,000.00) directly to the WDEQ/LQD. Payment is due and payable no later than 30 days after this agreement is signed by all parties. Payment to WDEQ/LQD shall be by check and made payable to the Wyoming Department of Environmental Quality/Land Quality Division and shall be sent to: Richard A. Chancellor, Administrator, Wyoming Department of Environmental Quality, Land Quality Division, Herschler Building, 3rd Floor-West, 122 West 25<sup>th</sup> Street, Cheyenne, Wyoming 82002.
5. All of the land that was affected the NE ¼ NE ¼ Section 1 of Township 20 North, Range 93 West was on private land owned by Anadarko. Anadarko has explained to the WDEQ/LQD that all mining activities at this location shall be suspended and that the site shall be reclaimed immediately. Circle D Gravel agrees to suspend mining in the NE ¼ NE ¼ Section 1 of Township 20 North, Range 93 West. Circle D also agrees to fully reclaim the portion of the mining operation in the NE ¼ NE ¼ Section 1 of Township 20 North, Range 93 West immediately. Once that land is fully reclaimed, it will be inspected by a representative of the LQD. Reclamation shall include removal of mineral stockpiles, grading to approximate the original contours at the site and respreading topsoil evenly on the site. Seeding of the reclamation is not authorized until September 1, 2006 but must not be done after October 15, 2006.
6. Continued mining activities will only be allowed in the federally owned land at this site in Section 6 Township 20 North, Range 92 West, if and when an authorization from the Bureau of Land Management (BLM) is acquired for that area and when a new Form 10 (with the correct legal description) is filed with and approved by the LQD. Currently, Circle D Gravel is not authorized to remove gravel from Section 6 Township 20 North, Range 92 West. Until BLM permission to remove gravel from Section 6 is granted, no mining may occur there. If BLM permission is not obtained then Circle D Gravel shall reclaim the affected lands.

7. Circle D Gravel may affect a maximum additional acreage of 2.3 acres in the SW ¼ SW ¼ Section 32, Township 21 North, Range 93 West, as that location is the area that is authorized to be mined under LMO 1341ET. Circle D Gravel must keep track of the total acres affected under 1341ET, including the acreage affected on Anadarko land (which was approximately 7 acres), such that the total area affected under 1341ET does not exceed 10 acres. If Circle D Gravel has any questions regarding the total affected area at 1341ET, they should have the site surveyed by a professional. If the site's total affected area exceeds 10 acres ever, throughout the life of 1341ET, enforcement action will be taken by the State of Wyoming.

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**Docket No. 3911-06 PAGE 1 of 2**

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8. In doing reclamation at the site, Circle D Gravel must salvage (and respread) all of the topsoil that was pushed to the site's perimeter during past work at the site. At the time this agreement was written, the most recent LQD inspection of the 1341ET site had been conducted on June 29, 2006 by Mark Moxley. As indicated in the report that resulted from that inspection, there was still some topsoil stockpiled (but not respread) along the site's perimeter (refer to Figure 5 of the June 29<sup>th</sup> inspection report). If Circle D Gravel has any questions on reclamation standards and/or expectations, do not hesitate to contact the Lander LQD office.
  9. This signed Settlement Agreement and payment by Circle D Gravel as specified above shall constitute full satisfaction for and resolution of all claims by the WDEQ/LQD on Circle D Gravel based on the violations alleged in NOV, Docket No. 3911-06. Contingent upon Circle D Gravel's compliance with the terms of this Settlement Agreement, the WDEQ/LQD will refrain from taking further enforcement action against Circle D Gravel for these particular violations cited in this Settlement Agreement. By this Settlement Agreement, the parties intend to resolve with prejudice all allegations that were asserted in NOV Docket No. 3911-06.
  10. Circle D Gravel waives any statute of limitations which may apply to an enforcement action by the WDEQ/LQD involving the specific matters described in NOV Docket No. 3911-06 in the event that Circle D Gravel fails to fulfill its obligations under this Settlement Agreement.
  11. Nothing in this agreement precludes WDEQ/LQD from taking additional enforcement action, including the issuance of a Notice of Violation, and/or pursuing additional penalties, should Circle D Gravel violate the Wyoming Statutes or applicable R&R in the future.
  12. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
  13. Notwithstanding any other language in this Settlement Agreement, the State of Wyoming and WDEQ do not waive sovereign immunity by entering into this Settlement Agreement with Circle D Gravel and specifically retain all immunity and all defenses available as sovereigns under state and federal law.
  14. Each party shall bear its own attorney fees and costs, if any, incurred through the date this Settlement Agreement is signed by both parties.
  15. **This Settlement Agreement is binding upon Circle D Gravel, its successors and assigns, and upon the WDEQ/LQD.**
  16. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.
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**FOR CIRCLE D GRAVEL:**

Signed: Roy D. Emfinger

Date: 7-25-06

Typed: Roy D. Emfinger

Title: owner

**FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:**

John V. Corra  
John V. Corra, Director  
Wyoming Department of Environmental Quality

Date: 7/28/06

Richard A. Chancellor  
Richard A. Chancellor, Administrator  
Land Quality Division

Date: 28 July 06