

**WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION**

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality / Land Quality Division (WDEQ/LQD) and McGarvin-Moberly Construction Co. (MMC), a company authorized to do business in Wyoming, enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in the **Notice of Violation (NOV), Docket Number 4105-07**. The NOV alleges: (1) MMC failed to provide adequate sediment control and as required W.S. § 35-11-415(b)(viii), and (2) native lands adjacent to disturbed area were affected by the absence of adequate sediment control. These violations are generally located in the W ½ NE ¼ of Section 14, T.47N, R.93W and the SW ¼ SE ¼ of Section 11, T.47N, R.93W of Washakie County and within the boundaries of WDEQ/LQD Permit No. 672(s).

W.S. § 35-11-901(a)(ii) authorizes the WDEQ/LQD to negotiate a stipulated settlement, including payment of a penalty, in lieu of litigation. To that end, MMC 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 Wyoming State Government and is principally situated in Cheyenne, Wyoming. The WDEQ is the agency principally responsible for administering the Wyoming Environmental Quality Act, including all provisions of the WDEQ/LQD NonCoal Rules and Regulations.
2. MMC agrees to pay a **total penalty of One Thousand Dollars (\$1,000.00)** as a stipulated settlement as partial resolution to this matter in lieu of litigation under W.S. § 35-11-901(a)(ii). MMC shall pay One Thousand Dollars (\$1,000.00) directly to the WDEQ/LQD. Payment is due and payable within thirty (30) days of full execution of this Settlement Agreement. Payment to the WDEQ/LQD shall be by check and made payable to the Wyoming Department of Environmental Quality / Land Quality Division and sent to the attention of Richard Chancellor, Administrator, Wyoming Department of Environmental Quality / Land Quality Division, Herschler Bldg. 3W, 122 West 25th Street, Cheyenne, WY, 82002.
3. MMC shall ensure that adequate separation between topsoil stockpiles and salable and reject material is maintained.
4. All topsoil and subsoil piles shall be signed by September 30, 2007.
5. MMC agrees to construct sediment and erosion control measures to prevent sediment generated from disturbed areas during runoff from contaminating native lands by September 30, 2007.
6. MMC agrees to complete topsoil/subsoil salvage operations in the Bureau of Land Management (BLM) approved stockpile area before September 30, 2007 or before hauling any material to the stockpile area, whichever comes first.
7. This signed Settlement Agreement, payment of penalty, signage of all topsoil and subsoil piles, construction of sediment control measures, and complete topsoil/subsoil stripping operations in the BLM approved material stockpile area shall constitute full satisfaction and resolution of all claims by the WDEQ/LQD against MMC based on the violations as specified in the NOV and Order, Docket No. 4105-07. Contingent upon MMC's compliance with the terms of this Settlement Agreement, the WDEQ/LQD will refrain from taking further enforcement action against MMC for these particular violations cited in the this Settlement Agreement. Through this Settlement Agreement, the parties intend to resolve with prejudice all allegations that were asserted in NOV Docket No. 4105-07.
8. MMC waives any statute of limitations which may apply to an enforcement action by the WDEQ/LQD involving specific matters described in the NOV and Order, Docket No. 4105-07 in the event that MMC fails to fulfill its obligations under this Settlement Agreement.
9. Nothing in this Settlement Agreement precludes the WDEQ/LQD from taking additional enforcement action, including the issuance of a Notice of Violation, Order, and/or pursuing additional penalties should MMC violate the Wyoming Environmental Quality Act or applicable WDEQ/LQD Rules and Regulations in the future.
10. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.

11. Notwithstanding any other language in the Settlement Agreement, the State of Wyoming, and the WDEQ do not waive Sovereign Immunity by entering into this Settlement Agreement with MMC and specifically retain all immunity and defenses available as sovereigns under State and Federal law.
12. Each party shall bear its own attorney fees and costs, if any, incurred through the date of this Settlement Agreement is signed by both parties.
13. This Settlement Agreement is binding upon MMC, its successors and assignees, and upon the WDEQ/LQD.
14. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

For: **McGARVIN-MOBERLY CONSTRUCTION CO.**

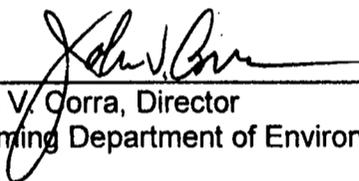
Signed: 

Date: July 30, 2007

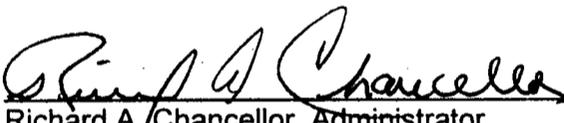
Typed: Ernest M. Skretteberg

Title: Vice President - Estimating

For: **WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY**


John V. Corra, Director
Wyoming Department of Environmental Quality

Date: 8/1/07


Richard A. Chancellor, Administrator
Land Quality Division

Date: 31 July 07

Cc: Carol Bilbrough, WDEQ/LQD Cheyenne
Mark Moxley, WDEQ/LQD Lander
Docket No. 4105-07