WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and KG Construction, Inc., 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 Number 4120-07, dated August 2, 2007**. The Notice of Violation (NOV) alleges that disturbances associated with Limited Mining Operation (LMO) 1309ET equaled approximately 17.0 acres as measured using a Global Positioning System. The site of this violation is located in Section 25, Township 47 North, Range 78 West and Section 36, Township 46 North, Range 78 West. This is a violation of the Wyoming Environmental Quality Act (Act) and applicable Wyoming Department of Environmental Quality/Land Quality Non-Coal Rules and Regulations (WDEQ/LQD NC R&R).

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

1. The WDEQ, 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 R&R.

2. KG Construction, Inc., (KG Construction), is the operator of a sand and gravel mining operation located in Sheridan County, Wyoming, in Section 25, Township 47 North, Range 78 West and Section 36, Township 46 North, Range 78 West. As part of its operation, KG Construction, mines mineral from this site and distributes or sells the mineral mined for commercial use.

3. Conducting Limited Mining Operations in the State of Wyoming that disturb lands in excess of 10 acres is a violation of W. S.§35-11-401 (e)(vi).

4. KG Construction agrees to pay a total penalty of Four Thousand Dollars ($4,000.00) as a stipulated settlement as partial resolution to this matter in lieu of litigation under W.S. §35-11-901(a)(ii). KG Construction shall pay $4,000.00 directly to the WDEQ/LQD. Payment is due and payable within thirty (30) days of full execution of this Settlement Agreement. Payment to WDEQ/LQD shall be by check 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, 3 Floor-West, 122 West 25th Street, Cheyenne, Wyoming 82002.

5. KG Construction shall post an additional reclamation bond in the amount of Seven Thousand Dollars ($7,000.00) by August 31, 2007, to cover the additional 7 acres of disturbance under LMO 1309ET not currently bonded for.

6. If the bond is not submitted by August 31, 2007, KG Construction must immediately begin reclamation of all lands in excess of 10 acres.

7. KG Construction will discontinue mining of gravel and sand from LMO 1309ET where mining will extend the area of disturbance beyond the approved ten acre limit (removal of stockpiled products is allowed).

8. This signed Settlement Agreement and payment by KG Construction as specified above shall constitute full satisfaction for and resolution of all claims by the WDEQ/LQD against KG Construction, based on the violations alleged in Notice of Violation Docket No. 4120-07. Contingent upon KG Construction, compliance with the terms of this Settlement Agreement, the WDEQ/LQD will refrain from taking further enforcement

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action against KG Construction, 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. 4120-07.

9. KG Construction waives any statute of limitations which may apply to an enforcement action by the WDEQ/LQD involving the specific matters described in Notice of Violation Docket No. 4120-07.

10. Nothing in this agreement precludes WDEQ/LQD from taking additional enforcement action, including the issuance of a Notice of Violation, Order and/or pursuing additional penalties, should KG Construction violate the Wyoming Environmental Quality Act or applicable rules and regulations in the future.

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

12. Not withstanding 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 KG Construction and specifically retain all immunity and all defenses available as sovereigns under state and federal law.

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

14. **This Settlement Agreement is** binding upon KG Construction, its successors and assigns, and upon the WDEQ.

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

FOR: KG Construction, Inc.

Signed: _____ Date: 8/15/07

Typed: Martin L. Means

Title: partner

FOR: The Wyoming Department of Environmental Quality

_____ Date: 8/21/07
John V. Corra, Director
WDEQ

_____ FOR Date: 8/21/07
Richard A. Chancellor, Administrator
WDEQ/Land Quality Division

JVC/RAC/DS

cc: Mark Rogaczewski, WDEQ/LQD, District III
Docket Number 4120-07