

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

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and Mullinax Concrete Service Company, 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 4114-07, dated July 31, 2007**. The Notice of Violation (NOV) alleges that disturbances associated with Limited Mining Operation (LMO) 1324ET equaled approximately 16 acres as measured using a Global Positioning System. The site of this violation is located in Section 23, Township 57 North, Range 85 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, Mullinax Concrete Service Co. 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. Mullinax Concrete Service Company (Mullinax), is the operator of a sand and gravel mining operation located in Sheridan County, Wyoming, in Section 23, Township 57 North, Range 85 West. As part of its operation, Mullinax, 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. Mullinax 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). Mullinax 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. Mullinax shall post an additional reclamation bond in the amount of Six Thousand Dollars (\$6,000.00) by August 20, 2007, to cover the additional 6 acres of disturbance under LMO 1324ET not currently bonded for. If the bond is not submitted by this date, Mullinax must begin reclamation of all lands in excess of 10 acres immediately.
6. By January 1, 2008 Mullinax shall submit a Small Mining Permit or Regular Mining Permit application which includes all of the acreage disturbed under 1324 ET.
7. This signed Settlement Agreement and payment by Mullinax as specified above shall constitute full satisfaction for and resolution of all claims by the WDEQ/LQD against Mullinax, based on the violations alleged in Notice of Violation Docket No. 4114-07. Contingent upon Mullinax, compliance with the terms of this Settlement Agreement, the WDEQ/LQD will refrain from taking further enforcement action against Mullinax, 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. 4114-07.
8. Mullinax waives any statute of limitations which may apply to an enforcement action by the


8-15-07

WDEQ/LQD involving the specific matters described in Notice of Violation Docket No. 4114-07.

9. 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 Mullinax violate the Wyoming Environmental Quality Act or applicable 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 this Settlement Agreement, the State of Wyoming and WDEQ do not waive sovereign immunity by entering into this Settlement Agreement with Mullinax and specifically retain all immunity and all 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 this Settlement Agreement is signed by both parties.
13. **This Settlement Agreement is binding upon Mullinax, its successors and assigns, and upon the WDEQ.**
14. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR: Mullinax Concrete Service Company

Signed: N.H. Mullinax Date: 8-15-07

Typed: Nathan Mullinax

Title: VP

FOR: The Wyoming Department of Environmental Quality

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

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

JVC/RAC/DC

cc: Mark Rogaczewski, WDEQ/LQD, District III
Docket Number 4114-07