

WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION

SETTLEMENT AGREEMENT

RECEIVED
OCT 23 2007
LL

The Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and New Mexico Resources, LLC, 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. 4135-07, dated September 5, 2007**. The NOV alleges that New Mexico Resources, LLC conducted mining activities without surface land owner permission, failed to salvage and protect topsoil, failed to provide adequate sediment control, exceeded the limits of the approved Mine Plan, and failed to post an entrance/permit sign at Small Mine Permit 566(s). These are violations of the Wyoming Statutes and the DEQ-LQD Non-Coal Rules and Regulations. The site of these violations is in the S ½ SE ¼ Section 1 of Township 16 North, Range 98 West and the N ½ NE ¼ Section 12, Township 16 North, Range 98 West in Sweetwater County about two and one-third miles south-southeast of the Fort La Clède ruins.

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, New Mexico Resources, LLC 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. New Mexico Resources, LLC is the operator of a zeolite mining operation (mine permit number 566s) located in the S ½ SE ¼ Section 1 of Township 16 North, Range 98 West and the N ½ NE ¼ Section 12, Township 16 North, Range 98 West in Sweetwater County.
3. Conducting mining operations in the State of Wyoming without surface land owner permission is a violation of W. S. §35-11-405(a). Failure to properly protect salvaged topsoil and subsoil is a violation of W.S. §35-11-406(b) (viii) and W.S. §35-11-415(b) (iii). The absence of adequate sediment control for the mine site and sedimentation impacts to a native reach of an unnamed ephemeral drainage as well as failure to follow approved sediment control plan is in violation of W.S. §35-11-415(b)(viii), W.S. §35-11-415(b)(ii) and, W.S. §35-11-406(b)(xiv). Failure to post an entrance/permit sign at the site is in violation of W.S. §35-11-415(b) (i). Lastly, exceeding the limits of the approved Mine Plan is in violation of W.S. §35-11-406(b) and W.S. §35-11-415(b)(ii).
4. Subject to the waiver hereafter set forth, New Mexico Resources, LLC agrees to pay a total of eight thousand (\$8,000.00) dollars as a stipulated settlement in partial resolution to this matter in lieu of litigation under W.S. §35-11-901(a)(ii). New Mexico Resources, LLC shall pay eight thousand (\$8,000.00) dollars 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 25th Street, Cheyenne, Wyoming 82002.
5. All of the land affected in Section 12 of Township 16 North, Range 98 West is on public land managed by the Bureau of Land Management (BLM). The BLM explained in a "Notice of Noncompliance" dated December 14, 2005 that Section 12, T. 16N, R.98W is "...withdrawn from all mineral entry under the mining laws..." The "Notice of Noncompliance" continued to explain that the Right of Way (RoW) held by New Mexico Resources, LLC in Section 12 "...gives you the right of ingress and egress through Section 12...and nothing more." Lastly, the BLM's December 14, 2005 "Notice of Noncompliance" clearly stated on Page 2 that in order to avoid enforcement action by the BLM New Mexico Resources, LLC must:
 - A. Reclaim all surface disturbance including stockpiles.
 - B. Replace all topsoil or import an approved topsoil growth medium and reseed with a BLM approved seed mix.
 - C. Remove all trash and debris including sample bags and any other material associated with your operation.

In order to fulfill their obligations under this Settlement Agreement, New Mexico Resources, LLC must either 1) accomplish the above remedial actions (immediately before snow prevents access to the 566(s) site) or 2) acquire a Right of Way from the BLM to use the area as part of the mine operations.

If no Right of Way from the BLM is attainable, the application of seed must occur prior to the ground freezing in the fall of 2007 but no later than November 1, 2007. Written documentation of the remedial

activities listed above must be presented to the WDEQ/LQD Lander office and the BLM Rock Springs office as soon as the work is completed. New Mexico Resources, LLC shall ensure that the seed mix used at the site is approved by the BLM office in Rock Springs by consulting with the BLM prior to ordering the seed. Once the seeding is complete, New Mexico Resources, LLC must send copies of the seed tags from the seed used at the site to the BLM and WYDEQ/LQD. New Mexico Resources, LLC is reminded that all correspondence sent to the WDEQ/LQD shall be in duplicate.

6. New Mexico Resources, LLC shall consolidate all of the site's salvaged topsoil into discreet stock piles that are constructed with a v-ditch and/or a berm at the base. All stockpiles must be seeded with a temporary seed mix that is comprised of the approved Reclamation Plan seed mix minus any shrub species. Topsoil consolidation and seeding must be completed before the ground freezes at the site this year. All of the site's topsoil stockpiles must be clearly identified with a sturdy sign that reads "topsoil".
7. New Mexico Resources LLC shall remove all raw and processed material away from the edge of the ephemeral drainage located along the eastern boundary of the existing disturbance. To the degree possible, these materials should be stockpiled on the pit floor. Operationally, this may not be feasible and in which case they must be stockpiled a minimum of 50 feet from ephemeral drainage and the stockpile(s) must be secured with a v-ditch and/or berm. In the event that a 50 foot buffer from the drainage is not be feasible, a blade-width swath must be established around the stockpile and a v-ditch and/or berm must be in place around its base.

Additionally, underneath every location that New Mexico Resources, LLC collects existing materials (overburden and mineral stockpiles), the topsoil must be stripped and properly salvaged. If there are plant roots visible in any material at the site, it is by definition considered to be "topsoil". No mining operations may occur on topsoil.

8. New Mexico Resources LLC shall repair the existing access road stream crossing. A review of the files indicates that this is the third time that this crossing has been damaged, which indicates that the existing configuration of a single culvert is not adequate at this location. Prior to construction, New Mexico Resources LLC shall submit a design for a new crossing for WDEQ/LQD and BLM review and approval.
9. New Mexico Resources, LLC must construct at least one new silt control structure (either a rock check dam, a netted straw-bale, or a silt-control log) in the ephemeral drainage to the east of the project downstream from where the tributary in which overburden has been dumped on the pit's east side meets it. This work must also be completed before the ground freezes this year.
10. New Mexico Resources, LLC must install a durable entrance sign at the entrance to the site. The sign must include the company name, a contact person for the company, an address for the company, a telephone number for the contact person, and the LQD Permit number (566s). The sign must be visible from at least 20 feet away and it must be installed before the ground freezes this year.
11. New Mexico Resources, LLC shall register the three onsite wells with the State Engineer's Office (SEO) prior to using the wells. Currently, none of the project's wells are registered with the SEO.
12. Prior to any additional mining at the site, New Mexico Resources, LLC must submit a revised Mine Plan and Reclamation Plan that encompasses all of the currently affected land associated with Section 1 and within the confines of the Permit Boundary. This will involve the submittal of a completely new Mine Plan and Reclamation Plan including maps. It would be in New Mexico Resources, LLC's best interest to sufficiently update the Mine and Reclamation Plans to incorporate all lands that they intend to affect within the foreseeable future. A draft of the Revision must be submitted in duplicate to the Lander WDEQ/LQD office no later than November 15, 2007.
13. This signed Settlement Agreement and payment by New Mexico Resources, LLC as specified above shall constitute full satisfaction for and resolution of all claims by the WDEQ/LQD on New Mexico Resources, LLC based on the violations alleged in NOV, Docket No. 4135-07. Contingent upon New Mexico Resources LLC's compliance with the terms of this Settlement Agreement, the WDEQ/LQD will refrain from taking further enforcement action against New Mexico Resources, LLC 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. 4135-07.
14. New Mexico Resources LLC 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. 4135-07, in the event that New Mexico Resources LLC fails to fulfill its obligations under this Settlement Agreement.

RECEIVED
OCT 23 2007
LQD

15. 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 New Mexico Resources LLC violate the Wyoming Statutes or applicable R&R in the future.
16. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
17. 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 New Mexico Resources LLC and specifically retain all immunity and all defenses available as sovereigns under state and federal law.
18. Each party shall bear its own attorney fees and costs, if any, incurred through the date this Settlement Agreement is signed by both parties.
19. **This Settlement Agreement is binding** upon New Mexico Resources, LLC, its successors and assigns, and upon the WDEQ/LQD.
20. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR NEW MEXICO RESOURCES, LLC:

Signed: Charles S. Williams Date: 10/18/07
 Typed: Charles S. Williams
 Title: President

REC'D
OCT 23 2007

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

John V. Corra Date: 11/21/07
 John V. Corra, Director
 Wyoming Department of Environmental Quality
Richard A. Chancellor Date: 23 Oct 07
 Richard A. Chancellor, Administrator
 Land Quality Division

JVC/RAC/MLB-cb

cc: Mark Moxley → Lander LQD 566(s) file
 Carol Bilbrough → Rick Chancellor → Cheyenne LQD 566(s) file
 Mr. Duane Bollig, C/o New Mexico Resources, LLC, 9500 W. 49th Avenue, Suite D100, Wheat Ridge, CO 80033-2239
 Adam Day, BLM Rock Springs, 280 Highway 191 North, Rock Springs, WY 82901
 chron