

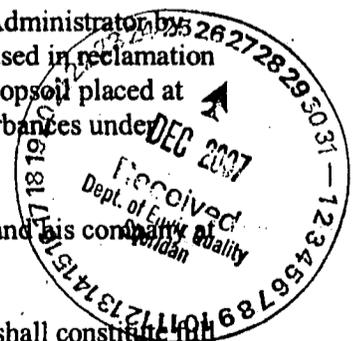
**WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY  
LAND QUALITY DIVISION**

**SETTLEMENT AGREEMENT**

The Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and Mr. Dale K. Koch, an individual 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 4180-70, dated December 11, 2007**. The Notice of Violation (NOV) alleges that operations under 1351ET failed to adequately salvage topsoil, sold topsoil without Administrator approval, and contracted an operator to mine without submitting the Form 10 for approval by the LQD District III. The site of these violations is located in Section 14, Township 43 North, Range 79 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).

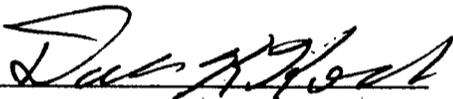
W.S. §35-11-901(a)(ii) authorizes the WDEQ to negotiate a stipulated settlement, including payment of a penalty, in lieu of litigation. To that end, Mr. Dale K. Koch and the WDEQ/LQD hereby stipulate and agree as follows:

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. Mr. Dale K. Koch is the operator of a sand and gravel mining operation located in Johnson County, Wyoming, in Section 14, Township 43 North, Range 79 West. As part of its operation, Mr. Dale K. Koch 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 do not adequately salvage topsoil is a violation of the Wyoming Department of Environmental Quality, Land Quality Division, Noncoal Rules and Regulations, Chapter 3, Section 2(c)(i)(A).
4. The removal of topsoil salvaged from operations under Limited Mining Operation 1351ET is a violation of the Wyoming Department of Environmental Quality, Land Quality Division, Noncoal Rules and Regulations, Chapter 3, Section 2(c)(i)(F).
5. Contracting an operator to perform mining activities under Limited Mining Operation 1351ET without submitting the Form 10 for approval by the LQD is a violation of the Wyoming Department of Environmental Quality, Land Quality Division, Noncoal Rules and Regulations, Chapter 10, Section 6(b).
6. By February 1, 2008, Mr. Dale K. Koch will pull overburden that had been spilled onto native topsoil on the edge of a drainage that passes through Limited Mining Operation 1351ET back onto areas from which topsoil had been stripped.
7. Mr. Dale K. Koch will immediately cease hauling of topsoil salvaged from operations under Limited Mining Operation 1351ET to be stockpiled at adjacent operations under Small Mine Permit 720(s). Mr. Dale K. Koch also agrees to submit a letter to the LQD Administrator by January 4, 2008, requesting permission to allow topsoil from 1351ET to be used in reclamation activities at 720(s). If permission is not granted by the LQD Administrator, topsoil placed at 720(s) from 1351ET operations will be re-stripped and used to reclaim disturbances under 1351ET.
8. Mr. Dale K. Koch will immediately halt all operations by Mr. James Ullery and his company LMO 1351ET.
9. This signed Settlement Agreement by Mr. Dale K. Koch as specified above shall constitute full satisfaction for and resolution of all claims by the WDEQ/LQD against Mr. Dale K. Koch, based on the violations alleged in Notice of Violation Docket No. 4180-07. Contingent upon Mr. Dale K. Koch, compliance with the terms of this Settlement Agreement, the WDEQ/LQD will refrain from taking further enforcement action against Mr. Dale K. Koch, 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. 4180-07.



10. Mr. Dale K. Koch 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. 4180-07.
11. 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 Dale K. Koch violate the Wyoming Environmental Quality Act or applicable rules and regulations 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 Dale K. Koch 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 Mr. Dale K. Koch, its successors and assigns, and upon the WDEQ.**
16. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

**FOR: Mr. Dale K. Koch**

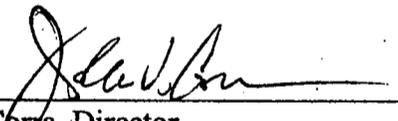
Signed: 

Date: 12/26/07

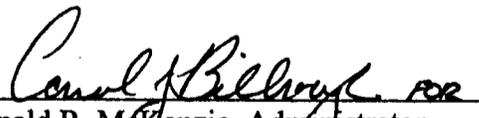
Typed: Dale K. Koch

Title: owner operator

**FOR: The Wyoming Department of Environmental Quality**

  
John V. Corra, Director  
WDEQ

Date: 1/3/08

  
Donald R. McKenzie, Administrator  
WDEQ/Land Quality Division

Date: Dec 28, 2007

JVC/MR

cc: Mark Rogaczewski, WDEQ/LQD, District III Supervisor  
Docket Number 4180-07