

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

**SETTLEMENT AGREEMENT**

The Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and Fisher Sand & Gravel Company (Fisher), 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 4365-08, dated September 23, 2008**. The Notice of Violation (NOV) alleges that Fisher affected lands outside the approved permit boundary for Permit 360C. The site of this violation is located in Section 9, Township 44 North, Range 60 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, Fisher 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. Fisher is the operator of a limestone quarry mining operation located in Weston County, Wyoming, in Section 9, Township 44 North, Range 60 West. As part of its operation, Fisher has mined mineral from this site and distributes or sells the mineral mined for commercial use.
3. Fisher has not contained disturbances within the approved permit boundary of Permit 360C. Gravels and waste materials from the operation of the mine site have been carried by overland flows and erosion beyond the approved permit boundary of Permit 360c. This is a violation of W. S. § 35-11-415 (b) (ii) which requires the operator to conduct all surface mining activities with the permit area.
4. Fisher agrees to pay a total penalty of Three Thousand, Five Hundred Dollars (\$3,500.00), for the violation stated in Item 3 above, as a partial settlement for the resolution to this matter in lieu of litigation under W.S. §35-11-901(a)(ii). Fisher shall pay \$3,500.00 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: Donald R. McKenzie, Administrator, Wyoming Department of Environmental Quality, Land Quality Division, Herschler Building, 3 Floor-West, 122 West 25<sup>th</sup> Street, Cheyenne, Wyoming 82002.
5. The extraction of limestone has been completed at this mine site. In the 2006 & 2007 Annual Inspection Reports, the WDEQ/LQD requested to meet with Fisher to devise a plan to reclaim this mine site. Prior to the August 19, 2008 inspection and issuance of NOV 4365-08, Fisher had not responded to these requests. To accomplish reclamation of this mine site, Fisher agrees to submit a revised reclamation plan for Permit 360C that details steps to be taken and a time-line for these actions to be accomplished. The revised reclamation plan will be submitted to the WDEQ/LQD District III office in Sheridan, WY on or before December 15, 2008.
6. Fisher will remove gravels and waste materials carried by overland flows and erosion outside the approved permit boundary with approval from the WDEQ/LQD District III office. Fisher will construct structures that will contain materials and future mining associated activities within the approved permit boundary for Permit 360C.
7. This signed Settlement Agreement and payment by Fisher as specified above shall constitute full satisfaction for and resolution of all claims by the WDEQ/LQD against Fisher, based on the violations alleged in Notice of Violation Docket No. 4365-08. Contingent upon Fisher, compliance with the terms of this Settlement Agreement, the WDEQ/LQD will refrain from taking further enforcement action against Fisher, 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. 4365-08.
8. Fisher 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. 4365-08.

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 Fisher 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 Fisher 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 Fisher 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: Fisher Sand & Gravel Company**

Signed: Ray Leahy

Date: October 22, 2008

Typed: Ray Leahy

Title: Material & Environmental Mgr.

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

John V. Corra  
John V. Corra, Director  
WDEQ

Date: 10/24/08

Donald R. McKenzie  
Donald R. McKenzie, Administrator  
WDEQ/Land Quality Division

Date: 10/24/2008

JVC/RAC/MR

cc: Mark Rogaczewski, WDEQ/LQD, District III  
Docket Number 4365-08