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OCT 20 2009

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

SETTLEMENT AGREEMENT

LAND QUALITY DIV.
DIST. III

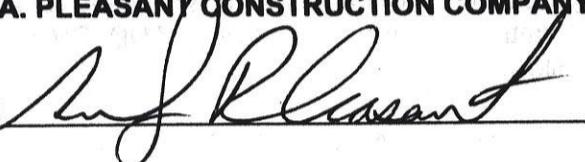
The Wyoming Department of Environmental Quality / Land Quality Division (WyDEQ/LQD) and A. Pleasant Construction Company (APCC) and Gorge Rock Products, Inc. (GRP), companies authorized to do business in Wyoming, enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in the **Notice of Violation (NOV), Docket Number 4559-09**. The NOV alleges: (1) GRP affected greater than 10 acres at the Permit 737s site in the past year while operating at the site under License to Mine 737(s)-L2. Affecting greater than 10 acres per year at Small Mine is a violation of W.S. §35-11-401(j) and (2) APCC failed to submit an Annual Report for 2008, which is a violation of W.S. §35-11-411(a). These violations are located in the NW ¼ W ½ NE ¼ Sec 27, T.19N, R.108W, approximately three (3) miles north of the intersection of State Highway 372 and Interstate 80 in Sweetwater County and within the boundaries of WyDEQ/LQD Permit No. 737(s).

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

1. The WyDEQ/LQD, pursuant to W.S. § 35-11-104, is a department in the executive branch of Wyoming State Government and is principally situated in Cheyenne, Wyoming. The WyDEQ is the agency principally responsible for administering the Wyoming Environmental Quality Act, including all provisions of the WyDEQ/LQD Noncoal Rules and Regulations.
2. APCC and GRP agree to pay a **total penalty of Eight Thousand Dollars (\$8,000.00)** as a stipulated settlement as partial resolution to this matter in lieu of litigation under W.S. § 35-11-901(a)(ii). APCC and GRP shall pay Eight Thousand Dollars (\$8,000.00) directly to the WyDEQ/LQD. Payment is due within thirty (30) days of full execution of this Settlement Agreement. Payment to the WyDEQ/LQD shall be by check and made payable to the Wyoming Department of Environmental Quality / Land Quality Division and sent to the attention of Donald R. Mckenzie, Administrator, Wyoming Department of Environmental Quality / Land Quality Division, Herschler Bldg. 3W, 122 West 25th Street, Cheyenne, WY, 82002.
3. After NOV Docket #4559-09 was written, APCC submitted the two delinquent Annual Reports. The 2007/2008 Annual Report was received at the WyDEQ/LQD Lander office on September 16, 2009 and the 2008/2009 Annual Report was received on September 22, 2009. In light of these submittals, there is no longer a delinquency issue with the Annual Reports for Permit 737(s). Rather, **the Annual Report NOV issue has been satisfied**. In the future, APCC and GRP will ensure that the Annual Reports for Permit 737(s) are submitted by September 11th of every year, the anniversary of the approval of the Permit.
4. A total of 16.5 acres were affected at the 737(s) site during the 2008/2009 Reporting Period. This is 6.5 acres greater than the legal maximum for a Small Mine Permit. To remedy this issue, **reclamation of a minimum of 6.5 acres shall be completed in time for the application of seed before the ground freezes, no later than November 13, 2009.**
5. This signed Settlement Agreement, payment of penalty, reclamation of a minimum of 6.5 acres and the submittal of delinquent Annual Reports shall constitute full satisfaction and resolution of all claims by the WyDEQ/LQD against APCC and GRP based on the violations as specified in the NOV and Order, Docket No, 4559-09. Contingent upon APCC's and GRP's compliance with the terms of this Settlement Agreement, the WyDEQ/LQD will refrain from taking further enforcement action against APCC AND GRP for these particular violations cited in the this Settlement Agreement. Through this Settlement Agreement, the parties intend to resolve with prejudice all allegations that were asserted in NOV Docket No. 4559-09.
6. APCC and GRP waives any statute of limitations which may apply to an enforcement action by the WyDEQ/LQD involving specific matters described in the NOV and Order, Docket No. 4559-09 in the event that APCC and GRP fails to fulfill its obligations under this Settlement Agreement.
7. Nothing in this Settlement Agreement precludes the WyDEQ/LQD from taking additional enforcement action, including the issuance of a Notice of Violation, Order, and/or pursuing additional penalties should APCC AND GRP violate the Wyoming Environmental Quality Act or applicable WyDEQ/LQD Rules and Regulations in the future.

8. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
9. Notwithstanding any other language in the Settlement Agreement, the State of Wyoming, and the WyDEQ do not waive Sovereign Immunity by entering into this Settlement Agreement with APCC and GRP and specifically retain all immunity and defenses available as sovereigns under State and Federal law.
10. Each party shall bear its own attorney fees and costs, if any, incurred through the date of this Settlement Agreement is signed by both parties.
11. This Settlement Agreement is binding upon APCC and GRP, its successors and assignees, and upon the WyDEQ/LQD.
12. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

For: **A. PLEASANT CONSTRUCTION COMPANY.**

Signed: 

Date: 10-15-09

Typed: Andy Pleasant

Title: Owner

For: **GORGE ROCK PRODUCTS, INC.**

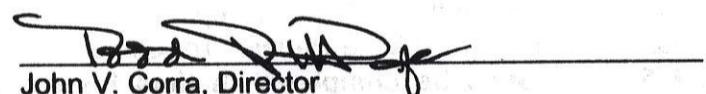
Signed: 

Date: 10/16/09

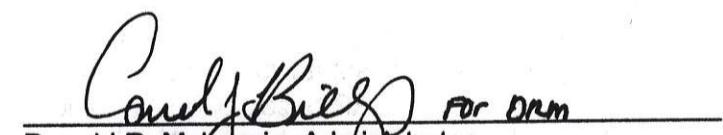
Typed: Curg Murray

Title: Vice President / General Manager

For: **WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY**


 John V. Corra, Director
 Wyoming Department of Environmental Quality

Date: 10/26/09

 for DIRM
 Donald R. McKenzie, Administrator
 Land Quality Division

Date: 10/22/2009

Cc: Carol Bilbrough, WyDEQ/LQD Cheyenne
 Mark Moxley, WyDEQ/LQD Lander
 Docket No. 4559-09