

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

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and Magna Energy Services, 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 Number 4834-11, dated May 9, 2011**. The Notice of Violation (NOV) alleges that the operator pushed materials over the natural escarpments immediately adjacent to Willow Creek.

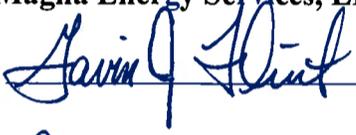
The site of the alleged violation is located in Section 36, Township 45 North, Range 77 West. This is a violation of the Wyoming Environmental Quality Act (Act) and applicable Wyoming Department of Environmental Quality/Land Quality Non-Coal Rules and Regulations (WDEQ/LQD NC R&R). W.S. §35-11-901(a)(ii) authorizes the WDEQ to negotiate a stipulated settlement, including payment of a penalty, in lieu of litigation. To that end, Magna Energy Services, LLC, 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. Magna Energy Services, LLC is the authorized operator of a gravel mining operation located in Johnson County, Wyoming, in Section 36, Township 45 North, Range 77 West. As part of its operation, Magna Energy Services, LLC mined mineral from this site and distributed or sold the mineral for commercial use.
3. Pushing materials over a natural escarpment is a violation of Department of Environmental Quality, Land Quality Division Noncoal Rules and Regulations Chapter 10, Section 4(c).
4. Magna Energy Services, LLC agrees to pay a total penalty of Two Thousand Dollars (\$2,000.00) for the violations stated in Item 3 above as a settlement for the resolution to this matter in lieu of litigation under W.S. §35-11-901(a)(ii). Magna Energy Services, LLC shall pay \$2,000.00 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: Alan Edwards, Acting Administrator, Wyoming Department of Environmental Quality, Land Quality Division, Herschler Building, 3 Floor-West, 122 West 25th Street, Cheyenne, Wyoming 82002.
5. This signed Settlement Agreement and payment by Magna Energy Services, LLC as specified above shall constitute full satisfaction for and resolution of all claims by the WDEQ/LQD against Magna Energy Services, LLC, based on the violations alleged in Notice of Violation Docket No. 4834-11. Contingent upon Magna Energy Services, LLC's compliance with the terms of this Settlement Agreement, the WDEQ/LQD will refrain from taking further enforcement action against Magna Energy Services, 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. 4834-11.
6. Magna Energy Services, LLC 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. 4834-11.
7. 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 Magna Energy Services, LLC violate the Wyoming Environmental Quality Act or applicable 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 this Settlement Agreement, the State of Wyoming and WDEQ do not waive sovereign immunity by entering into this Settlement Agreement with Magna Energy Services, LLC and specifically retain all immunity and all 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 this Settlement Agreement is signed by both parties.
11. **This Settlement Agreement is binding upon Magna Energy Services, LLC its successors and assigns, and upon the WDEQ.**
12. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR: Magna Energy Services, LLC

Signed: 

Date: 5/19/11

Typed: Gavin Flint

Title: Safety Manager

FOR: The Wyoming Department of Environmental Quality


John V. Corra, Director
WDEQ

Date: 5/25/11

for


Alan Edwards, Acting Administrator
WDEQ/Land Quality Division

Date: May 24, 2011

JVC/DRM//MR

cc: Mark Rogaczewski, WDEQ/LQD, District III
Limited Mining Operation 1510ET – NOV Docket Number 4834-11