WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and McMurry Ready Mix Co., 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 4928-11, dated November 25, 2011**. The Notice of Violation (NOV) alleges that the operator conducted mining activities not in conformity with the approved mine plan for the permit.

The site of the violation is located in Section 36, Township 53 North, Range 83 West. This is a violation of the Wyoming Environmental Quality Act (Act). 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, McMurry Ready Mix Co. 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.

2. McMurry Ready Mix Co. is the authorized operator of a gravel mine in Johnson County, Wyoming, in Sections 32 and 36, Township 53 North, Range 83 West. As part of its operation, McMurry Ready Mix Co. mines mineral from this site and distributes or sells the mineral mined for commercial use.

3. Not conducting mining operations within the permit area in conformity with the approved mine plan is a violation of W.S. § 35-11-415(b)(ii).

4. McMurry Ready Mix Co. agrees to pay a total penalty of Three Thousand Dollars ($3,000.00) for the violation 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). McMurry Ready Mix Co. shall pay $3,000.00 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: Nancy Nuttbrock, Administrator, Wyoming Department of Environmental Quality, Land Quality Division, Herschler Building, 3 Floor-West, 122 West 25th Street, Cheyenne, Wyoming 82002.

5. McMurry Ready Mix Co., shall reclaim all areas disturbed by their mining activities within the approved buffer zone of Piney Creek to the approved postmine topography. These actions must be completed by May 1, 2012.

6. This signed Settlement Agreement and payment by McMurry Ready Mix Co. as specified above shall constitute full satisfaction for and resolution of all claims by the WDEQ/LQD against McMurry Ready Mix Co., based on the violations alleged in Notice of Violation Docket No. 4928-11. Contingent upon McMurry Ready Mix Co. compliance with the terms of this Settlement Agreement, the WDEQ/LQD will refrain from taking further enforcement action against McMurry Ready Mix Co. 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. 4928-11.

7. McMurry Ready Mix Co. 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. 4928-11.

8. 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 McMurry Ready Mix Co. violate the Wyoming Environmental Quality Act or applicable rules and regulations in the future.

9. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.

10. Not withstanding 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 McMurry Ready Mix Co. and specifically retain all immunity and all defenses available as sovereigns under state and federal law.

11. Each party shall bear its own attorney fees and costs, if any, incurred through the date this Settlement Agreement is signed by both parties.

12. **This Settlement Agreement is** binding upon McMurry Ready Mix Co. its successors and assigns, and upon the WDEQ.

13. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR: McMurry Ready Mix Co.,

Signed: G Ron Jr Date: 12-20-11

Typed: Roy McMurry

Title: Vice Pres.

FOR: The Wyoming Department of Environmental Quality

John V Corra Date: 12/28/11

John V. Corra, Director
WDEQ

Carol Billy for Date: 12/27/2011

Nancy Nuttbrock, Administrator
WDEQ/Land Quality Division

JVC/RAC/DS

cc: Mark Rogaczewski, WDEQ/LQD, District III
Permit 776, NOV Docket Number 4928-11