

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

SETTLEMENT AGREEMENT

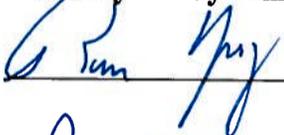
The Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and McMurry Ready Mix Co., a company authorized to do business in Wyoming, enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in **Notice of Violation (NOV) Docket Number 5087-12, dated November 14, 2012**. 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 remaining violations is located in Section 25 and 36, Township 53 North, Range 83 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, 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 including all provisions of the WDEQ/LQD R&R.
2. McMurry ready Mix Co. is the authorized operator of a gravel mine in Johnson County, Wyoming, in Sections 25, 32 and 36, Township 53 North, Range 83 West. As part of its operation, McMurry Ready Mix Co. mined mineral from this site and distributed or sold the mineral mined for commercial use.
3. The Notice of Violation was written for conducting mining operations not in conformity with the approved mine plan. This is a violation of W.S. § 35-11-415(b)(ii). Also, stipulations of the Settlement Agreement signed December 20, 2011 for Notice of Violation Docket Number 4928-11 have not been addressed as required.
4. McMurry Ready Mix Co. agrees to pay a total penalty of Twenty Thousand Dollars (\$20,000.00) 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). McMurry Ready Mix Co. shall pay \$20,000.00 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. By no later than February 1, 2013, McMurry Ready Mix shall contact the Army Corps of Engineers for approval to affect a wetland. McMurry will then submit a Form 11 major revision within 30 day of the receipt of the Army Corps of Engineer approval to disturb a wetland. The revision will include an updated Mine Plan and Reclamation Plan for permit no. 776 to show mining and reclamation progressions and increased area to affect for the permit. The revision package must include all correspondence with the Army Corps of Engineers to be placed in an addendum to Appendix D10 of the permit.
6. By no later than August 31, 2013, McMurry Ready Mix shall complete the requirements of the Settlement Agreement for Notice of Violation Docket Number 4928-11. Specifically, McMurry Ready Mix shall reclaim to reestablish a 150 feet buffer between Piney Creek and pit disturbances in Sections 36 and 25 of the permit.
7. 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. 5087-12. 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. 5087-12.

8. 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. 5087-12.
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 McMurry Ready Mix Co. 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 McMurry Ready Mix Co. 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 McMurry Ready Mix Co. 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: McMurry Ready Mix Co.,

Signed: 

Date: 12-11-12

Typed: Ron McMurry

Title: Pres.

FOR: The Wyoming Department of Environmental Quality



Todd Parfitt, Director
WDEQ

Date: 12/14/12



Nancy Nutbrock, Administrator
WDEQ/Land Quality Division

Date: 12/14/12

TP/RAC/DS

cc: Mark Rogaczewski, WDEQ/LQD, District III
Docket Number 5087-12