

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

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and Mullinax Concrete Services Co., Inc., (Mullinax) 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 5193-13, dated August 26, 2013**. The Notice of Violation (NOV) alleges that the operator affected lands outside the approved permit boundary. The site of the violation is located in Section 25, Township 56 North, Range 85 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, Mullinax 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. Mullinax is the operator of a sand and gravel mine located in Sheridan County, Wyoming. This mining operation is permitted with WDEQ/LQD as mining Permit No. 782. As part of its operation Mullinax mines mineral from this site and distributes or sells the mineral mined for commercial use.
3. The Notice of Violation was written for the construction of a portion of the haul road outside the approved permit boundary of Permit 782. The Wyoming Environmental Quality Act, W.S. § 35-11-415(b)(ii) states operators must conduct all surface mining and reclamation activities with the permit area in conformity with the approved plan.
4. By no later than November 15, 2013, Mullinax shall submit and complete through approval by the LQD a permit revision to Permit 782 that describes and illustrates the correct location of the haul road constructed in Section 25, Township 56 North, Range 85 West.
6. This signed Settlement Agreement and required abatement actions to be performed by Mullinax as specified above shall constitute full satisfaction for and resolution of all claims by the WDEQ/LQD against Mullinax, based on the violation alleged in Notice of Violation Docket No. 5193-13. Contingent upon Mullinax's compliance with the terms of this Settlement Agreement, the WDEQ/LQD will refrain from taking further enforcement action against Mullinax for the 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. 5193-13.
9. Mullinax 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. 5193-13.
10. 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 Mullinax violate the Wyoming Environmental Quality Act or applicable rules and regulations in the future.
11. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
12. 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 Mullinax and specifically retain all immunity and all defenses available as sovereigns under state and federal law.
13. Each party shall bear its own attorney fees and costs, if any, incurred through the date this Settlement Agreement is signed by both parties.

14. **This Settlement Agreement is binding upon Mullinax its successors and assigns, and upon the WDEQ.**
15. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR: Mullinax Concrete Service Co., Inc.,

Signed: N.H. Mullinax

Date: 10-3-13

Typed: NATHAN MULLINAX

Title: President.

FOR: The Wyoming Department of Environmental Quality

Todd Parfitt

Todd Parfitt, Director
WDEQ

Date: 10/9/13

Nancy Nuttbrock

Nancy Nuttbrock, Deputy Director,
Department of Environmental Quality
Administrator, Land Quality Division

Date: 10/8/13

TP/RAC/MJR

cc: Mark Rogaczewski, WDEQ/LQD, District III
Permit 782 NOV Docket Number 5193-13