

WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and Nine Iron Feedlot, enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation (NOV) Docket Number 5198-13 dated October 7, 2013. The NOV alleges: 1) that mining activities knowingly and willfully occurred beyond the permitted ten acres. This violation is located in the E½NE¼ of Sec. 23 and the SW¼NW¼ of Section 24, T.46N., R.93W., Washakie County Wyoming. These are violations of Wyoming Statutes and the applicable WDEQ/LQD Noncoal Rules and Regulations.

W.S. § 35-11-901(a)(ii) authorizes the WDEQ/LQD to negotiate a stipulated settlement in lieu of litigation. To that end, Nine Iron Feedlot 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. WDEQ is the agency with the responsibility for administering the Wyoming Environmental Quality Act including all provisions of the WDEQ/LQD Noncoal Rules and Regulations.
2. Limited Mining Operation (LMO) 1525ET was issued to Nine Iron Feedlot. Mountain Construction Company entered into a separate contractual agreement with Nine Iron Feedlot as an operator at the sand and gravel mining operation located in Washakie County, Wyoming, in the E½NE¼ of Sec. 23 and the SW¼NW¼ of Section 24, Township 46 North, Range 93 West. As part of this contract, Mountain Construction Company mined mineral from this site and distributes or sells the mineral mined for commercial use.
3. It is WDEQ's understanding that Mountain Construction Company desires to continue to mine the described property and Nine Iron Feedlot is interested in transferring all liability to Mountain Construction Company. Therefore, in order to resolve Nine Iron Feedlot's NOV and proceed through the LMO notification process simultaneously, Mountain Construction Company agrees to submit to WDEQ a LMO Notification form and the associated location map to transfer liability of Limited Mining Operation 1525ET from Nine Iron Feedlot to Mountain Construction within thirty (30) days of full execution of this Settlement Agreement.
4. Mountain Construction Company's LMO Notification form will address the fifteen (15) acres of affected acreage. The correct legal description of 1525ET is as follows: E½NE¼ of Sec. 23 and the SW¼NW¼ of Section 24, T.46N., R.93W., Washakie County Wyoming. Upon the WDEQ's receipt of the LMO Notification form and map, Mountain Construction will have 30 days to submit the following:
 - a. A list of all surface owners within one (1) mile of the operation to which a copy of the LMO Notification was sent.
 - b. A reclamation bond in the amount of thirty thousand dollars (\$30,000) in a form acceptable to the LQD to replace Nine Iron Feedlot's bond and cover the full affected acreage of fifteen (15) acres at the rate of two thousand dollars (\$2000) per acre disturbed.
5. This signed Settlement Agreement, a new LMO Notification form for fifteen (15) acres of affected area, and posting of a reclamation performance bond shall constitute full satisfaction and resolution of all claims by the WDEQ/LQD against Nine Iron Feedlot based on the violations alleged in NOV Docket No. 5198-13. Contingent upon Nine Iron Feedlot's compliance with the terms of this Settlement Agreement, the WDEQ/LQD will refrain from taking further action for the violations cited in the NOV Docket No. 5198-13.
6. In the event Mountain Construction Company fails to submit any of the above requested information within the specified timeframes, responsibility for satisfaction of this Settlement Agreement will return solely to Nine Iron Feedlot.
7. Nine Iron Feedlot waives any statute of limitations which may apply to an enforcement action by the WDEQ/LQD involving the specific matters described in NOV Docket No. 5198-13 in the event that Nine Iron Feedlot fails to fulfill its obligations under this Settlement Agreement.
8. Nothing in this agreement precludes WDEQ/LQD from taking additional enforcement action, including the issuance of a Notice of Violation and Order, should Nine Iron Feedlot 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. 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 Nine Iron Feedlot 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 Nine Iron Feedlot, its successors and assignees, and upon the WDEQ/LQD.
13. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR: Nine Iron Feedlot:

Signed: Luke Lungren

Date: 10-28-13

Typed: Luke Lungren

Title: Owner of Nine Iron Feedlot

FOR: THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

Todd Parfitt
Todd Parfitt, Director
Wyoming Department of Environmental Quality

Date: 10/31/13

Nancy Nuttbrock
Nancy Nuttbrock, Administrator
Land Quality Division

Date: 10/30/13.

xc: Tanya King, WDEQ/LQD, District II
NOV Docket Number 5198-13
Cheyenne DEQ/LQD LMO 1525ET File