WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) at 122 W 25 St., Herschler Building 3rd Floor West, Cheyenne, Wyoming 82002; and Hout Fencing of Wyoming, Inc. (Hout) at 402 US Hwy 20N, Worland, Wyoming 82401, which is 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 No. 5523-15, dated January 13, 2015**. The NOV alleges that Hout: 1) exceeded the maximum approved disturbance acreage of the approved Limited Mining Operation (LMO); 2) failed to adequately bond for that disturbance; and 3) failed to protect topsoil from wind and water erosion.

The LMO site is located in Converse County, Wyoming and has been recorded by WDEQ/LQD to include about 13.1 acres. The allegations are violations of the Wyoming Environmental Quality Act (WEQA) and the applicable Wyoming Department of Environmental Quality/Land Quality Division Noncoal Rules and Regulations (WDEQ/LQD R&R). Violation of the WEQA or WDEQ/LQD R&R is subject to penalty not to exceed ten thousand dollars ($10,000) for each violation for each day during which the violation continues, a temporary or permanent injunction, or both a penalty and an injunction.

Wyoming Statute (W.S.) §35-11-901(a)(ii) authorizes the WDEQ/LQD to attempt to eliminate the cause of the violations by negotiating stipulated settlement in lieu of litigation. To that end, Hout and the WDEQ/LQD hereby stipulate and agree as follows:

1. The WDEQ/LQD, 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 WEQA including all provisions of the WDEQ/LQD R&R.

2. Hout is authorized by WDEQ/LQD to conduct mining activities under LMO 1520ET, a sand and gravel operation located in the SE1/4 of the SE1/4 of Section 3, Township 31 North (T31N), Range 70 West (R70W), Converse County, Wyoming. Hout is currently in good standing with the Wyoming Secretary of State. Hout is the primary operator of the LMO with the main office located in Worland, Wyoming.

3. Hout has exceeded the approved LMO disturbance acreage of 10.0 acres, approved April 26, 2011, by an estimated 3.1 acres. Exceeding the approved LMO acreage triggers a violation related to not maintaining an adequate bond to cover additional LMO related disturbance because the original LMO application for 10.0 acres did not contemplate additional disturbance that now requires statutorily required bonding [W.S. §35-11-401(e)(vi)(B)].

4. In order to mitigate exceeding the approved LMO disturbance and not adequately bonding for this disturbance, Hout agrees to submit a new LMO Application Form increasing the total number of acres to be included in the LMO to a minimum of 13.1 acres and a maximum of 15.2 acres (15.0 acres of mining disturbance and 0.2 acres of road disturbance). The LMO application must include the LMO related disturbance noted in the SW1/4 and SE1/4 of the SE1/4 of Section 3, T31N, R70W. Since new lands encompassing a new legal description will be amended to this LMO with this mitigation, the operator must submit a proof of notification letter/packet to all adjacent surface-owners (that is the surface-owners within 1 mile of the disturbance boundary of the proposed LMO) in order to be consistent with W.S. §35-11-401(e)(vi). Hout shall provide an acceptable minimum bond of ten thousand dollars ($10,000) for the original LMO acreage (10 acres) and two thousand dollars ($2,000) per acre for each acre of proposed disturbance above the original 10 acres of disturbance to be consistent with W.S. §35-11-401(e)(vi)(B). Hout shall provide this material by **April 30, 2015**.

5. Hout has failed to protect topsoil which is a violation of WDEQ/LQD R&R, Chapter 10, Section 4(b). In order to mitigate the failure to protect topsoil resources Hout shall consolidate all topsoil resources into stockpiles with a containment ditch/berm constructed around the basal perimeter of the stockpile. Additionally, Hout shall protect the topsoil stockpiles from wind and water erosion by seeding and/or mulching the topsoil stockpiles.

APR 1 5 2015

Hout shall provide photographic documentation indicating that all salvaged topsoil has been seeded and/or mulched and that constructed basal perimeter containment ditch/berm system is in place. Hout shall conduct this activity and provide photo documentation by **May 20, 2015**.

6. This signed Settlement Agreement is due no later fifteen (15) days from receipt of the agreement.

7. Failure to conduct the violation mitigation items detailed in paragraphs 4, 5 and 6 of this Settlement Agreement, by the specified deadlines could result in the maximum penalty allowed by W. S. §35-11-901(a). Penalty or injunctive relief under this subsection will be determined by a court of competent jurisdiction [W.S. §35-11-901(a)(ii)].

8. Complete performance of this Settlement Agreement shall constitute full satisfaction for and resolution of all claims based on the violations alleged in NOV Docket No. 5523-15. Contingent upon Hout's compliance with the terms of this Settlement Agreement, the WDEQ/LQD will refrain from taking further enforcement action against Hout for the violations specified in NOV Docket No. 5523-15 up to the issuance of NOV Docket No. 5523-15. By this Settlement Agreement, the parties intend to resolve with prejudice all allegations that were asserted in NOV Docket No. 5523-15. Failure to comply with any provision in this Settlement Agreement will result in further enforcement action.

9. Hout 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. 5523-15 in the event that Hout fails to fulfill its obligations under this Settlement Agreement.

10. Nothing in this Settlement Agreement precludes WDEQ/LQD from taking additional enforcement action, including the issuance of a Notice of Violation, and/or pursuing additional penalties, should Hout violate the Wyoming Statutes or applicable R&R in the future.

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

12. The State of Wyoming and WDEQ/LQD do not waive sovereign immunity by entering into this Settlement Agreement and specifically retain all immunities and defenses available to them as sovereigns under state and federal law. Designations of venue, choice of law, enforcement actions, and similar provisions shall not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Settlement Agreement shall not be strictly construed, either against or for either party, except that any ambiguity as to sovereign immunity shall be construed in favor of sovereign immunity.

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 Hout Fencing of Wyoming, Inc. its successors and assigns, and upon the WDEQ/LQD.

15. Any changes, modifications, revisions, or amendments to this Settlement Agreement are invalid unless mutually agreed upon by both parties, incorporated by written instrument, executed, and signed by all parties to this Settlement Agreement

16. The laws of the State of Wyoming shall govern the construction, interpretation, and enforcement of this Settlement Agreement. The Courts of the State of Wyoming shall have jurisdiction over this Settlement Agreement and the parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.

17. This Settlement Agreement, consisting of three (3) pages, represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, and agreements, whether written or oral. The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Settlement Agreement shall not be construed to create such status. The rights, duties, and obligations contained in this

Settlement Agreement shall operate only between the parties to this Settlement Agreement, and shall inure solely to the benefit of the parties to this Settlement Agreement. The parties to this Settlement Agreement intend and expressly agree that only parties signatory to this Settlement Agreement shall have any legal or equitable right to seek to enforce this Settlement Agreement, to seek any remedy arising out of a party's performance or failure to perform any term or condition of this Settlement Agreement, or to bring an action for the breach of this Settlement Agreement.

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

19. The parties to this Settlement Agreement, through their duly authorized representatives, have executed this Settlement Agreement on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Settlement Agreement, and that they will not contest the basis or validity of this Settlement Agreement.

The effective date of this Settlement Agreement is the date of the signature last affixed to this page.

FOR HOUT FENCING OF WYOMING, INC.:

Signed: _____ Date: April 8, 2015

Typed: Dave Hout

Title: President

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

_____ Date: 4/17/15
Todd Parfitt, Director
Wyoming Department of Environmental Quality

_____ Date: 4/17/15
Alan Edwards, Administrator
Land Quality Division

cc: Robin Jones, WDEQ/LQD, District I
NOV Docket No.5523-15

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