

WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION

JUL 27 2015

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SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and American Colloid Company (ACC), 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. 5585-15, dated June 16, 2015**. The NOV alleges: that the mine failed to segregate topsoil from mixing with spoil and waste material and failed to remove topsoil from areas prior to be disturbed by mining. The sites of these violations are located in Section 33, Township 58 North, Range 65 West, Sections 25, Township 58 North, Range 65 West, and Section 32, Township 58 North, Range 65 West. These are violations 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).

Wyoming Statute (W.S.) §35-11-901(a)(ii) authorizes the WDEQ/LQD to negotiate a stipulated settlement, including a cash settlement payment, in lieu of litigation. To that end, American Colloid Company 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. DEQ is the agency with the responsibility for administering the Wyoming Environmental Quality Act including all provisions of the WDEQ/LQD R&R.
2. ACC is the operator of a bentonite mining operation located in Crook County, Wyoming. As part of its operation, ACC has mined mineral from this site and distributed or sold the mined mineral for commercial use.
3. Failure to segregate topsoil from mixing with spoil and other waste material is a violation of Non-coal Rules and Regulations Chapter 3, Section 2(c)(i)(A).
4. Failure to remove topsoil from areas to be disturbed by mining is a violation of Non-coal Rules and Regulations Chapter 3, Section 2(c)(i)(A).
5. ACC agrees to pay a total of Five Thousand (\$5,000.00) as a stipulated cash settlement payment to resolve this matter in lieu of litigation under W.S. §35-11-901(a)(ii). Payment is due and payable within thirty (30) days of full execution of this Settlement Agreement. Payment shall be by check made payable to the Wyoming Land Quality Division and shall be sent to: Kyle Wendtland, Administrator, Wyoming Department of Environmental Quality, Land Quality Division, Herschler Building, 3 Floor-West, 122 West 25th Street Cheyenne, Wyoming 82002.
6. ACC shall perform the following abatement actions and provide photo documentation to the LQD District 3 office on or before September 25, 2015: 1) Remove safety berm spoil materials: and strip and salvage topsoil along the highwall in the Miller Read property; 2) Strip and salvage topsoil from heavy traffic areas in the Pimento/Lion South Property; 3) Segregate topsoil from contamination on Pimento/Lion South Property; 4) Remove topsoil from near pit in Pimento/Lion South property and protect topsoil from wind and water erosion; 5) Strip and salvage topsoil in advance of the Pimento/Lion North property disturbances in a manner that distinctly shows a separation between the pit advance and native topsoil.
7. This signed Settlement Agreement by ACC as specified above shall constitute full satisfaction for and resolution of all claims by the WDEQ/LQD against ACC, based on the violations alleged in NOV, Docket No. 5585-15. Contingent upon ACC's compliance with the terms of this Settlement Agreement, the WDEQ/LQD will refrain from taking further enforcement action against ACC, for these particular violations cited in this Settlement

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Agreement. By this Settlement Agreement, the parties intend to resolve with prejudice all allegations that were asserted in NOV Docket No. 5585-15.

- 8. ACC 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. 5585-15 in the event that ACC fails to fulfill its obligations under this Settlement Agreement.
- 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 ACC 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 ACC 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 ACC, its successors and assigns, and upon the WDEQ/LQD.**
- 14. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR American Colloid Company:

Signed:  Date: 7-22-15

Typed: Jason Schaeider

Title: mining operations manager

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

 Date: 7/27/15
Todd Parfitt, Director
Wyoming Department of Environmental Quality

 Date: Jul 27, 2015
Kyle Wendtland, Administrator
Land Quality Division

JVC/DRM/JM/MJR

cc: Mark Rogaczewski, WDEQ/LQD, District III
Permit 622, NOV Docket No. 5585-15