

JUL 25 2008

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Solid and Hazardous Waste Division (DEQ/SHWD) and Nalco Company, finally resolve without litigation the violations alleged in **Notice of Violation Docket No. 44279-08, dated May 23, 2008**. The Notice of Violation alleges that Nalco Company, is in violation of the Wyoming Hazardous Waste Rules and Regulations (HWRR).

Wyoming Statute (W.S.) 35-11-901 (a)(ii) authorizes the DEQ to negotiate a stipulated settlement, including payment of a penalty, compliance schedules, or other enforcement conditions, in lieu of litigation. To that end, Nalco Company, and the DEQ/SHWD hereby stipulate and agree as follows.

1. The DEQ/SHWD is responsible for enforcing the Wyoming HWRR.

2. Nalco Company operates the chemical distribution center operation located at 2800 South Elder, Gillette, Wyoming.

3. On or about June 2, 2008, Nalco Company received NOV No. 44279-08 from the DEQ/SHWD alleging the following violations of the HWRR:

a. Nalco Company, was in violation of HWRR, Chapter 8, Section 1(b)(i)(C), for failing to make the proper hazardous waste determination for the chemical drum heels generated at the Nalco Company, Gillette facility.

b. Nalco Company was in violation of HWRR, Chapter 8, Section 3(e)(v) for not using the hazardous waste manifest to ship hazardous wastes offsite.

c. Nalco Company was in violation of HWRR, Chapter 8, Section 2(d)(i)(C) and Section 4(a) for not maintaining adequate copies of the hazardous waste manifest and for not keeping applicable copies of the hazardous waste manifests for the hazardous waste shipments for at least three (3) years.

d. Nalco Company was in violation of HWRR, Chapter 13, Section 1(g)(i)(A)(I)-(V), for not keeping copies of the required LDR forms containing the required information for each hazardous waste shipment.

e. Nalco Company was in violation of HWRR, Chapter 13, Section 1(g)(G), for not keeping copies of the required LDR forms for five (5) years.

f. Nalco Company was in violation of HWRR, Chapter 8, Section 3(e)(iv)(B) and Chapter 11, Section 10(e), for not conducting the required weekly inspections of hazardous waste containers.

g. Nalco Company was in violation of HWRR, Chapter 8, Section 3(e)(iv)(1)-(3), for not posting the required information next to the telephone.

4. Nalco enters into this Agreement for the purpose of settling allegations without requiring further proceedings. Nalco's agreement to settle shall not be construed as an admission by Nalco of any liability, wrongdoing, or violation of a statute, law, or regulation. Nothing in this Agreement is a waiver of any defenses as to those matters. Nalco has fully cooperated with the DEQ in resolving the allegations:

5. Since receiving the Notice of Violation Docket No. 4279-08 on or about June 2, 2008, Nalco Company has corrected all of the above alleged violations.

6. Nalco Company, in accordance with this Settlement Agreement, agrees to pay a total of \$23,950.00 dollars to the Wyoming Department of Environmental Quality for the cited alleged violations. Such payment shall be made no later than July 25, 2008, by check made out to:

Wyoming Department of Environmental Quality and addressed to the Wyoming Department of Environmental Quality, Attention: WDEQ/SHWD, Herschler Building, 4th Floor West Wing, 122 W. 25th Street, Cheyenne, WY 82002.

In lieu of paying the total penalty of \$23,950 dollars to the WDEQ, Nalco Company may make payment of the entire amount or a portion of the entire amount, as an Supplemental Environmental Project (SEP). If Nalco decides on a SEP payment, it shall be made to Campbell County and specifically designated for improvements at the county's household hazardous waste management, used oil and/or recycling facilities. Nalco shall communicate with Campbell County to identify specific needs. One example of a specific need includes larger, improved tanks for collection/storage of used oil. Improved tanks for this purpose are available with wide, screened openings for rapid, convenient transfer and storage of used oil from numerous smaller containers. Evidence indicates the current system at Campbell County relies on storage of used oil in numerous, smaller containers which are vulnerable to spills/releases. Nalco and Campbell County representatives may identify and agree on other similar improvements as a substitute for or in addition to the above example to fully account for the \$23,950. WDEQ shall be verbally notified and agreeable to the specific SEP projects decided between Nalco and Campbell County. Such payment shall be made no later than August 29, 2008, and a copy of the check shall be submitted to the department to confirm that this condition has been properly addressed.

7. Nalco Company's full compliance with the terms of this Settlement Agreement shall constitute satisfaction for all present and future claims by DEQ against Nalco Company based on the acts or omissions alleged to be violations in Notice of Violation

Docket No. 4279-08. Contingent on Nalco Company's compliance with the terms of this Settlement Agreement, DEQ will refrain from taking further enforcement action against Nalco Company for these particular alleged acts or omissions.

8. Nalco Company waives any statute of limitations which may apply to an enforcement action by the DEQ/SHWD involving the specific matters described in Notice of Violation No. 4279-08 in the event that Nalco Company fails to fulfill its obligations under this Settlement Agreement.
9. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
10. Each party shall bear its own attorney fees and costs, if any, incurred through the date this Settlement Agreement is signed by both parties.
11. This Settlement Agreement is binding upon Nalco Company, its successors and assigns, and upon the DEQ.
12. This Settlement Agreement may only be amended in writing, signed by both parties.
13. The State of Wyoming and the Department of Environmental Quality, Solid and Hazardous Waste Division, do not waive sovereign immunity by entering into this Settlement Agreement, and specifically retain all immunity and all defenses to them as sovereigns pursuant to Wyo. Stat. §1-39-104(a) and all other state law.
14. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.
15. This agreement is not binding until fully executed by all parties to this Agreement.

FOR: Nalco Company

Signed: Deborah C. Hockman July 22, 2008

Date: July 22, 2008

Typed: Deborah C. Hockman

Title: Vice President

FOR: THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

John J. Bon, Director

Date: 7/11/08

Department of Environmental Quality (DEQ)

Ray C. Green, Administrator Date: 11 Jul 08

DEQ/Solid & Hazardous Waste Division

O:\LGLL\MANJARRES\SAFETY HEALTH ENVIRONMENT\GILLETTE WYOMING\Settlement Agreement 06-30-08.doc