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3/24/09

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD), and Fossil Energy, Inc., (Fossil) a company authorized to do business in Wyoming, enter into this Settlement Agreement to fully and finally resolve without litigation the violation alleged in **Notice of Violation (NOV) Docket Number 4369-08 dated October 8, 2008. This violation occurred in Natrona County, Wyoming.**

W.S. §35-11-901(a)(ii) authorizes the DEQ to negotiate a stipulated settlement, including payment of a penalty, in lieu of litigation. To that end, Fossil and the DEQ hereby stipulate and agree as follows:

1. The DEQ, 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 (Act) including all provisions of the Wyoming Water Quality Rules and Regulations (WWQRR).

2. Since receiving the NOV, Fossil has provided the DEQ with documentation demonstrating the steps taken to address the alleged violations covered by this NOV, including the ongoing operational programs designed to prevent violations in the future. Fossil has also submitted the required paperwork to obtain a WYPDES permit through the WQD. Fossil has informed WQD no discharge will occur from the facility without proper permit authorization.

The Settlement Agreement between the parties has been revised to include a change in the company's name and payment schedule to read as follows:

3. Fossil agrees to pay a penalty of twenty nine thousand three hundred dollars and no cents (\$29,300.00) as a settlement to resolve the above referenced NOV. Payment shall be according to the following plan: Fossil shall pay the penalty in two installments each in the amount of \$14,650.00 directly to the DEQ. The first payment is due by May 15, 2009 and the second payment will be due by July 17, 2009. Payment to the DEQ shall be by check made payable to the Wyoming Department of Environmental Quality, Water Quality Division. Please submit all requested information and payment to: Mr. Kevin M. Wells, Compliance & Enforcement Coordinator, Department of Environmental Quality, Water Quality Division, Herschler Building, 4th Floor-West, 122 West 25th Street, Cheyenne, Wyoming 82002. **The checks should reference NOV Docket Number 4369-08.**

4. This signed Settlement Agreement and payment by Fossil as cited in NOV 4369-08, shall constitute full satisfaction for and resolution of all claims by the DEQ against Fossil based on the violations alleged in NOV Docket Number 4369-08. Contingent upon Fossil's full compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Fossil for these particular violations. By this Settlement Agreement, the parties intend to resolve with prejudice all allegations that were asserted in NOV Docket Number 4369-08.

5. Fossil waives any statute of limitations which may apply to an enforcement action by the DEQ involving the specific matters described in NOV Docket Number 4369-08 in the event that Fossil fails to fulfill its obligations under this Settlement Agreement.

6. Nothing in this agreement precludes DEQ from taking additional enforcement action; including the issuance of a NOV, Order, and/or pursuing additional penalties, should Fossil violate the Act, applicable rules and regulations, or WYPDES permit requirements in the future.

7. This Settlement Agreement or any actions taken in accordance with its provisions, does not constitute an admission by Fossil to any allegations, findings, determinations or conclusions contained in this Agreement, nor is this a retraction by the DEQ of the specific allegations in NOV Docket Number 4369-08. Except as specifically provided for herein, nothing in this Agreement shall prejudice, waive, or impair any right, remedy, or defense that Fossil may have against any entity.

8. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties to enforce its terms.

9. Notwithstanding any other language in this Settlement Agreement, the State of Wyoming and DEQ do not waive sovereign immunity by entering into this Settlement Agreement with Fossil and specifically retain all immunity and all defenses available as sovereigns under state and federal law.

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. Fossil and the DEQ agree to comply with and be bound by the terms of this agreement and further agree they will not contest the basis or validity of this Settlement Agreement in any action taken by DEQ to enforce the terms of this Settlement Agreement. Therefore this Settlement Agreement is binding upon Fossil, its successors and assigns, and upon the DEQ.

12. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement. Full execution of this Settlement Agreement shall be determined by the latest date of all parties signing.

FOR: FOSSIL ENERGY

Signed: 

Typed: Monty George

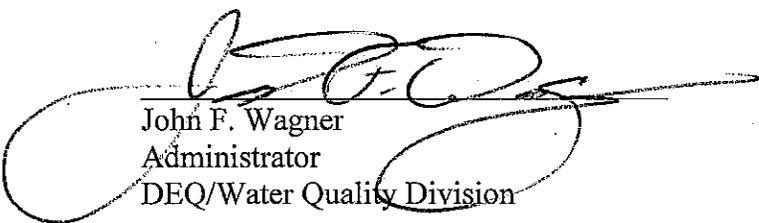
Title: President

Date: 3-20-2009

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:


John V. Corra
Director
Department of Environmental Quality

Date: 3/16/09


John F. Wagner
Administrator
DEQ/Water Quality Division

Date: 3/11/09

JVC/JFW/KMW/bb/9-0193

cc: Lee Hanley, 8ENF-W-NP, EPA Region 8 (PDF)
Bill J. DiRienzo ► Brian K. Lovett ► Leah J. Krafft (PDF)
IPS (for scanning) ► Docket 4369-08
Keith Guille, DEQ Public Information Officer (PDF File of signed copy by all parties)
DEQ Director