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WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
WATER QUALITY DIVISION

FEB - 9 2010

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality (WDEQ), and Bearlodge Limited, Inc. (Bearlodge) enter into this Settlement Agreement to fully and finally resolve without litigation the violation alleged in the WDEQ Notice of Violation (NOV), Docket Number 4620-10, dated January 15, 2010. The NOV alleges the construction and operation of a sewage system without a permit. This is a violation of the Wyoming Environmental Quality Act. The location of the violation is on parts of Division and East Streets in Upton, Weston County, Wyoming.

Wyoming Statute (W.S.) 35-11-901 (a) (ii) authorizes the WDEQ to negotiate a stipulated settlement in lieu of litigation. To that end, Bearlodge and the WDEQ hereby stipulate and agree as follows:

1 of 13 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 rules.

2 of 13 Bearlodge is the engineer for the Division and East Streets sewer line upgrades project for the City of Upton.

3 of 13 The construction of a sewage system without a permit to construct is a violation of W.S. 35-11-301 (a) (iii).

4 of 13 Bearlodge agrees to pay a total penalty of one thousand five hundred dollars and no cents (\$1,500) only if Item 5 is not satisfied as a stipulated settlement condition to resolve this matter in lieu of litigation.

In the event Item 5 is not met, payment of one thousand five hundred dollars and no cents (\$1,500) shall be by check and made payable within thirty (30) days to the Wyoming Department of Environmental Quality, Water Quality Division and shall be sent to: John F. Wagner, WQD Administrator, Department of Environmental Quality Water Quality Division, Herschler Building, 4th Floor West, 122 West 25th Street, Cheyenne, Wyoming 82002. **The check should reference Docket Number 4620-10.**

5 of 13 Bearlodge shall respond to any subsequent WDEQ reviews of the City of Upton Division and East Street sewer line upgrade project application 08-802 within seven (7) days of receipt.

6 of 13 This signed Settlement Agreement, as specified above, shall constitute full satisfaction for and resolution of all claims by the WDEQ against Bearlodge based on the violations alleged in NOV Docket Number 4620-10. Contingent upon Bearlodge's compliance with the terms of this Settlement Agreement, the WDEQ will refrain from taking further enforcement action against Bearlodge for the violation cited in this Settlement Agreement. By this Settlement Agreement, the parties intend to resolve with prejudice all allegations that were asserted in NOV Docket Number 4620-10.

7 of 13 Bearlodge waives any statute of limitations which may apply to an enforcement action by the WDEQ involving the specific matters described in NOV Docket Number 4620-10 in the event that Bearlodge fails to fulfill its obligations under this Settlement Agreement.

- 8 of 13 Nothing in this agreement precludes WDEQ from taking additional enforcement action, including the issuance of a Notification of Violation, Order and/or pursuing additional penalties, should Bearlodge violate the Wyoming Environmental Quality Act or applicable rules and regulations in the future.
- 9 of 13 This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
- 10 of 13 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 Bearlodge, and specifically retain all immunity and all defenses available as sovereigns under state and federal law.
- 11 of 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.
- 12 of 13 This Settlement Agreement is binding upon Bearlodge, its successors and assigns, and upon the WDEQ.
- 13 of 13 The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR BEARLODGE LIMITED, INC.

Signed: 

Date: 2/8/10

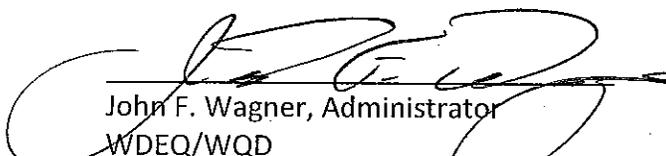
Typed: Kenneth C. Rathbun

Title: Vice President

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:


John V. Gorra, Director
WDEQ

Date: 1/29/10


John F. Wagner, Administrator
WDEQ/WQD

Date: 1/29/10

JVC/JFW/KLF/bb/10-0081

cc: Karen L. Farley, WDEQ, Casper
Mayor Donald Sharkey, City of Upton, PO Box 203, Upton, WY 82730
Docket Number 4620-10