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2/3/11

DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING

IN THE MATTER OF THE NOTICE )  
OF VIOLATION ISSUED TO: )

Mountain Cement Company )  
5 Sand Creek Road )  
Laramie, Wyoming 82070 )  
)  
)

RECEIVED  
FEB 01 2011  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
WYOMING

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD), and Mountain Cement Company (Mt. Cement) 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 4753-10 dated October 27, 2010. The violation occurred in Albany County, Wyoming.**

W.S. §35-11-901(a)(ii) authorizes the DEQ to negotiate a stipulated settlement, including payment of a penalty and corrective actions, in lieu of litigation. To that end, Mt. Cement 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. Mt. Cement has agreed to provide the DEQ with documentation demonstrating the steps taken to address the tardiness of the required reporting covered by this NOV, including the ongoing operational programs designed to prevent violations in the future.
3. In agreement DEQ has opted to waive the initial penalty due to the prompt response and submittal of the late reports. Mt. Cement had new personnel working in the compliance program and there was an oversight in the mailing of the required reports. Once Mt. Cement was aware of this the reports were submitted immediately.
4. Mt. Cement's full compliance with the terms of this signed settlement agreement shall constitute satisfaction for and resolution of all claims by the DEQ against Mt. Cement based upon the specific allegations in NOV docket number 4753-10. Contingent upon Mt. Cement's compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Mt. Cement for these particular violations."
5. Mt. Cement waives any statute of limitations which may apply to an enforcement action by the DEQ involving the specific matters described in NOV Docket Number 4753-10 in the event that Mt. Cement 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 Mt. Cement violate the Act, applicable rules and regulations, or WYPDES permit requirements in the future.
7. This settlement agreement represents a good faith settlement and resolution of the NOV in lieu of litigation and shall not constitute or be construed as an admission by Mt. Cement or a retraction by DEQ of the specific allegations in NOV docket number 4753-10.

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 Mt. Cement and specifically retains 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. Mt. Cement 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 Mt. Cement, 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: MOUNTAIN CEMENT COMPANY**

Signed: Mark Andrews

Typed: MARK ANDREWS

Title: ENVIRONMENTAL MANAGER

Date: JANUARY 31, 2011

**FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:**

John V. Corra  
John V. Corra  
Director  
Department of Environmental Quality

Date: 12/21/10

Bill Wagner for  
John F. Wagner  
Administrator  
DEQ/Water Quality Division

Date: 12/21/10

JVC/JFW/KMW/bb/10-1082

cc: David Gwisdalla, 8ENF-W-NP, EPA Region 8 (PDF)  
Bill J. DiRienzo ► Kevin M. Wells (PDF)  
IPS (for scanning) ► Docket 4753-10  
Keith Guille, DEQ Public Information Officer (PDF File of signed copy by all parties)