

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

RECEIVED
JAN 14 2011
WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY

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

Mr. Paul Beeson)
Mobile Concrete, Inc.)
PO Box 1129)
Casper, WY 82602)
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SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD), and Mobile Concrete ~~Power Construction~~ (Mobile Concrete) enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation (NOV) Docket Number 4729-10 dated September 8, 2010 that occurred in Carbon 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, Mobile Concrete 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. Mobile Concrete 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. Mobile Concrete shall maintain storm water BMPs throughout the life of the project to ensure no sedimentation enters a water of the state. *"BMPs mean schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage."*

3. Mobile Concrete agrees to pay a penalty of three thousand two hundred dollars and no cents (\$3,200.00) as a settlement to resolve the above referenced NOV. Payment to the DEQ is due and payable within thirty (30) days of the full execution of this Settlement Agreement. Payment to DEQ shall be by check made payable to the Wyoming Department of Environmental Quality, Water Quality Division and shall be sent to: Mr. Kevin M. Wells, Natural Resource Program Manager, Department of Environmental Quality, Water Quality Division, Herschler Building, 4th Floor-West, 122 West 25th Street, Cheyenne, Wyoming 82002. The check should reference NOV Docket Number 4729-10.

4. Mobile Concrete's full compliance with the terms of this signed settlement agreement shall constitute satisfaction for and resolution of all claims by the DEQ against Mobile Concrete based upon the specific allegations in NOV docket number 4729-10. Contingent upon Mobile Concrete's compliance with the terms of this Settlement Agreement, the DEQ will refrain from taking further enforcement action against Mobile Concrete for these particular violations."

5. Mobile Concrete waives any statute of limitations which may apply to an enforcement action by the DEQ involving the specific matters described in NOV Docket Number 4729-10 in the event that Mobile Concrete 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 Mobile Concrete 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 Mobile Concrete 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 4729-10. Except as specifically provided for herein, nothing in this Agreement shall prejudice, waive, or impair any right, remedy, or defense that Mobile Concrete 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 Mobile Concrete 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. Mobile Concrete 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 Mobile Concrete, 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: MOBILE CONCRETE

Signed: _____

Typed: _____

Arthur Dale Boatright II

Title: _____

President

Date: _____

1/10/2011

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:

John V. Corra
Director

Department of Environmental Quality

Date: _____

1/13/11

John F. Wagner
Administrator

DEQ/Water Quality Division

Date: _____

1/13/11

JVC/JFW/KMW/bb/10-1115

cc: David Gwisdalla, 8ENF-W-NP, EPA Region 8 (PDF)
Bill J. DiRienzo ► Kevin M. Wells (PDF)
IPS (for scanning) ► Docket 4729-10
Keith Guille, DEQ Public Information Officer (PDF File of signed copy by all parties)