



The State
of Wyoming



Department of Environmental Quality

Dave Freudenthal, Governor

Herschler Building • 122 West 25th Street • Cheyenne, Wyoming 82002

ADMIN/OUTREACH	ABANDONED MINES	AIR QUALITY	INDUSTRIAL SITING	LAND QUALITY	SOLID & HAZ. WASTE	WATER QUALITY
(307) 777-7758 FAX 777-3610	(307) 777-6145 FAX 777-6462	(307) 777-7391 FAX 777-5616	(307) 777-7368 FAX 777-6937	(307) 777-7756 FAX 777-5864	(307) 777-7752 FAX 777-5973	(307) 777-7781 FAX 777-5973

February 18, 2005

Mr. Ron McMurry
McMurry Ready Mix
P.O. Box 2488
Casper, WY 82602


RE: McMurry Ready Mix, TFN 4 6/184, Land Quality Division (LQD) Notice of Compliance for Notice of Violation (NOV), Docket # 3622-04

Dear Mr. McMurry:

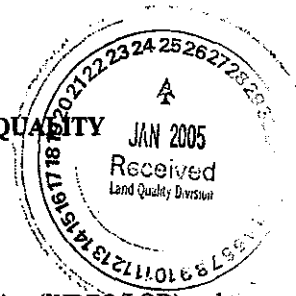
This letter serves as Land Quality Division (LQD) Notice of Compliance for NOV Docket # 3622-04. The signed Settlement Agreement and the fine established in the Settlement Agreement has been received at the DEQ/LQD office in a timely manner.

If you should have any questions regarding this letter, please feel free to contact the District I office.

Sincerely,


Richard A. Chancellor
Administrator
Land Quality Division

**WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY
LAND QUALITY DIVISION**



SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and McMurry Ready Mix, a company authorized to do business in Wyoming, enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in Notice of Violation (NOV) Docket No. 3622-04, dated December 20, 2004. The NOV alleges the operator: 1) failed to protect topsoil resulting in loss of the resource; and 2) failed to obtain LQD authorization prior to the start of mining operations. These violations were a result of mine activities conducted by McMurry Ready Mix operating without LQD authorization, (TFN 4 6/184). The mine site is located in Goshen County, Section 27, Township 24 North, Range 61 West. These activities are violations of the Wyoming Environmental Quality Act (Act) and the applicable Wyoming Department of Environmental Quality/Land Quality Rules and Regulations (WDEQ/LQD R&R).

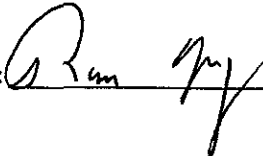
Wyoming Statute (W.S.) §35-11-901(a) (ii) authorizes the WDEQ/LQD to negotiate a stipulated settlement, including payment of a penalty, in lieu of litigation. To that end, McMurry Ready Mix and the WDEQ/LQD hereby stipulate and agree as follows:

1. The WDEQ/LQD, 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 including all provisions of the WDEQ/LQD R&R.
2. McMurry Ready Mix is a road construction contractor that has many sand, gravel and limestone operations authorized by LQD. The main office of McMurry Ready Mix is located in Casper, Wyoming. The materials mined from the McMurry operations are used in the construction of roads and other commercial uses.
3. Failure to protect topsoil from the road salt that was being mixed with the sand that was being mined has resulted in loss of the resource. Failure to protect this topsoil is a violation of R&R, Chapter 3, Section 2.(c)(i)(B).
4. Failure to gain LQD approval prior to beginning the mining operations is a violation of W.S. §35-11-401(a).
5. McMurry Ready Mix has stated that the landowner wishes to take full responsibility for removing the salts from the surface and reseeded the area as a horse pasture. McMurry Ready Mix must obtain written confirmation from the landowner for this agreement before the full execution of this Settlement Agreement on or before January 18, 2005.
6. Subject to the waiver hereafter set forth, McMurry Ready Mix, agrees to pay a total penalty of one thousand dollars (\$1,000.00) as a stipulated settlement as partial resolution to this matter in lieu of litigation under W.S. §35-11-901(a)(ii). McMurry Ready Mix shall pay one thousand dollars (\$1,000.00) directly to the WDEQ/LQD. Payment is due and payable upon the full execution of this Settlement Agreement on or before January 18, 2005. Payment to WDEQ/LQD shall be by check made payable to the Wyoming Department of Environmental Quality/Land Quality Division and shall be sent to: Richard A. Chancellor, Administrator, Wyoming Department of Environmental Quality, Land Quality Division, Herschler Building, 3 Floor-West, 122 West 25th Street, Cheyenne, Wyoming 82002.
7. This signed Settlement Agreement and payment by McMurry Ready Mix, as specified above, shall constitute full satisfaction for and resolution of all claims by the WDEQ/LQD against McMurry Ready Mix based on the violations alleged in NOV, Docket No. 3622-04. Contingent upon McMurry Ready Mix's compliance with the terms of this Settlement

Agreement, the WDEQ/LQD will refrain from taking further enforcement action against McMurry Ready Mix for these particular violations cited in this Settlement Agreement. By this Settlement Agreement, the parties intend to resolve with prejudice all allegations that were asserted in NOV Docket No. 3622-04

8. McMurry Ready Mix waives any statute of limitations which may apply to an enforcement action by the WDEQ/LQD involving the specific matters described in NOV Docket No. 3622-04 in the event that McMurry Ready Mix fails to fulfill its obligations under this Settlement Agreement.
9. Nothing in this agreement precludes WDEQ/LQD from taking additional enforcement action, including the issuance of a Notice of Violation, and/or pursuing additional penalties, should McMurry Ready Mix violate the Wyoming Statutes or applicable R&R in the future.
10. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
11. 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 McMurry Ready Mix, and specifically retain all immunity and all defenses available as sovereigns under state and federal law.
12. Each party shall bear its own attorney fees and costs, if any, incurred through the date this Settlement Agreement is signed by both parties.
13. This Settlement Agreement is binding upon McMurry Ready Mix, its successors and assigns, and upon the WDEQ/LQD.
14. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

FOR McMURRY READY MIX:


Signed: 

Date: 1-24-05

Typed: Ron McMurry

Title: Vice President

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY:



John V. Corra, Director
Wyoming Department of Environmental Quality

Date: 2/8/05

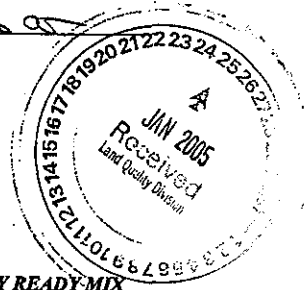


Richard A. Chancellor, Administrator
Land Quality Division

Date: 8 Feb 05

JVC/RAC/BH

cc: Lowell Spackman, WDEQ/LQD, District I
NOV Docket No. 3622-04





The State
of Wyoming



Department of Environmental Quality

Dave Freudenthal, Governor

Herschler Building • 122 West 25th Street • Cheyenne, Wyoming 82002

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December 20, 2004

CERTIFIED MAIL # 7003 2260 0002 0199 5815

RETURN RECEIPT REQUESTED

Mr. Ron McMurry
McMurry Ready Mix
P.O. Box 2488
Casper, WY 82602

RE: Notice of Violation, Docket No. 3622-04, TFN 4 6/184


Dear Mr. McMurry:


Enclosed you will find a Notice of Violation under the provisions of Wyoming Statute § 35-11-701(c). The Notice of Violation is based on the inspection conducted by Bill Hogg on November 18, 2004. The violation is for failure to protect topsoil and failure to obtain Land Quality Division (LQD) authorization prior to the start of mining operations. The LQD has determined that this enforcement action warrants that a penalty be assessed.

In an effort to resolve this matter without further legal action, the LQD is requesting you contact Mr. Lowell Spackman, LQD, District I Supervisor at 307-777-7052 or at lspack@state.wy.us within fifteen (15) days of receipt of this letter to schedule a meeting to discuss resolution of this enforcement action. Should resolution of this enforcement action be reached as a result of this meeting, a Settlement of Agreement will be signed by both parties.

If you should have any questions regarding this letter, please contact Mr. Spackman at the above noted telephone number. Thank you in advance for your cooperation in this matter.

Respectfully,


Richard A. Chancellor
Administrator
Land Quality Division


John V. Corra
Director
Department of Environmental Quality

cc: Lowell Spackman, LQD, District I
Carol Bilbrough, LQD

TFN 4 6/184

DEPARTMENT OF ENVIRONMENTAL QUALITY
STATE OF WYOMING

NOTICE OF VIOLATION

IN THE MATTER OF THE NOTICE OF)
VIOLATION ISSUED TO)
MCMURRY READY MIX)
ATTEN: MR. RON MCMURRY) DOCKET NO. 3622-04
P.O. BOX 2488)
CASPER, WY 82602)
TFN 4 6/184)


NOTICE


NOTICE IS HEREBY GIVEN THAT:

1. Notice of Violation (NOV) is being sent to you pursuant to Wyoming Statute §35-11-701(c)(i) which requires that a written notice shall be issued in the case of failure to correct or remedy an alleged violation.
2. The violations noted on this mine site were discovered by Bill Hogg, Land Quality Division, District I, during an inspection conducted on November 18, 2004. This mining disturbance is located in Goshen County.
3. The Inspection documented that McMurry Ready Mix failed to obtain Land Quality Division authorization prior to the start of mining operations. This action is in violation of the Department of Environmental Quality Act §35-11-401(a).
4. The topsoil on the northeast end of the disturbance has been contaminated with road salt. Failure to protect the topsoil from acid and toxic materials is a violation of Non-Coal Rules and Regulations Chapter 3, Section 2. (c)(i)(B).
5. Wyoming Statute §35-11-901(a) provides that any person who violates any provision of the Environmental Quality Act or any rule, standard, permit, license or variance adopted hereunder is liable to a penalty of ten thousand dollars (\$10,000.00) for each day of violation, which penalty may be recovered in a civil action brought by the Attorney General in the name of the People of the State of Wyoming.

NOTHING IN THE NOTICE shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this NOV be interpreted as being a condition precedent to any other enforcement action.

SIGNED this 20th day of December, 2004


John Y. Corra
Director
Department of Environmental Quality


Richard A. Chancellor
Administrator
Land Quality Division

Please direct all inquires regarding this Notice of Violation to Mr. Lowell Spackman, District I Supervisor, Wyoming Department of Environmental Quality/Land Quality Division, Herschler Building, 3rd W, 122 West 25th Street, Cheyenne, WY 82002

CERTIFIED MAIL # 7003 2260 0002 0199 5815

RETURN RECEIPT REQUESTED

DOCKET NO. 3622-04

TFN 4 6/184

cc: Lowell Spackman, LQD