



# Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

July 10, 2006

Mr. Ron McMurry  
Vice President  
McMurry Ready-Mix Company  
Rissler & McMurry Company  
P.O. Box 2488  
Casper, WY 82601

**RE: Permit 610(s), Rissler & McMurry (RM), Wardwell Pit  
Notice of Compliance for Notice of Violation (NOV) Docket No. 3823-05**

Dear Mr. McMurry:

In an effort to abate the above referenced NOV, RM provided information to the Land Quality Division (LQD) on April 10, 2006 documenting a detailed account of the topsoil replacement on twenty acres of reclaimed land for the old pit disturbances at the Wardwell Mine site. The documentation was conducted by Mr. Eugene Brummond and witnessed by LQD inspector Robin Jones on April 4, 2006. The documentation included measuring the depth of topsoil at 20 test holes on the reclamation. This effort fulfills part of the Settlement Agreement (SA) between the LQD and you.

The prompt action taken by your employees to mitigate the topsoil loss along the top of the highwall and the measures taken to salvage and protect all topsoil was documented in photographs submitted to LQD on October 31, 2005. This effort is recognized and appreciated. The LQD has recorded the receipt of the \$2,500.00 assessment fee required in the SA signed by you on May 23, 2006 and by LQD on May 30, 2006.

Please note, the SA (Item D) requires all future annual reports include an accurate account of acres stripped of topsoil, the depth of topsoil replacement and the location of existing topsoil stockpiles shown on a map.

It was noted by Mr. Jones during his April 4, 2006 visit to the mine site that operations are being conducted in a much more conscientious manner regarding the salvage and protection of topsoil.

Boulder Residents

Red Exhibit 33  
12/10/00

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AIR QUALITY  
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FAX 777-5816

INDUSTRIAL SITING  
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WATER QUALITY  
(307) 777-7781  
FAX 777-5973



Permit 610(s), Rissler & McMurry (RM), Wardwell Pit  
Notice of Compliance for Notice of Violation (NOV) Docket No. 3823-05  
Page 2

Therefore, the LQD is satisfied that the compliance issues related to the NOV and Settlement Agreement have been abated. If you have any questions regarding this letter, please contact Pam Rothwell at (307)777-7048.

Sincerely,



Richard A. Chancellor  
Administrator  
Land Quality Division

RAC/pcr

cc: Becky Brosius, LQD



WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY  
LAND QUALITY DIVISION

**SETTLEMENT AGREEMENT**

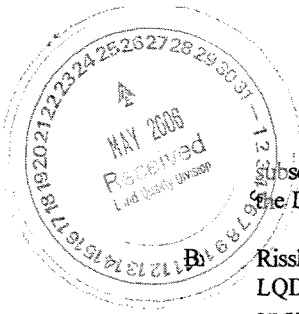
The Wyoming Department of Environmental Quality, Land Quality Division (WDEQ/LQD) and Rissler & McMurry Company authorized to do business in Wyoming, enter into this Settlement Agreement to fully and finally resolve without litigation the violations alleged in the **Notice of Violation (NOV)**, Docket No. 3823-05, that was dated November 22, 2005. The NOV alleges the operator:

- 1) Failed to strip and salvage topsoil and subsoil ahead of mining, resulting in loss of an unknown quantity of topsoil;
- 2) failed to sufficiently segregate topsoil and spoil;
- 3) failed to protect native ground by placing spoil directly on native areas above the highwall;
- 4) failed to provide sediment control from disturbed areas resulting in sediment discharge; and
- 5) failed to follow the approved Mine Plan commitments to strip topsoil and overburden separately.

These violations were a result of neglect by the operator to monitor activities within the permit boundaries during mining operations. These violations are a recurrence at this mine site with a NOV issued in August 2002 for very similar violations. The mine site is located in Natrona County, in portions of Section 4 and 9, Township 34 North, Range 79 West. These activities are violations of the Wyoming Environmental Quality Act (Act) and the applicable Wyoming Department of Environmental Quality/Land Quality Division Rules and Regulations (WDEQ/LQD R&R).

Wyoming Statute (W.S.) '35-11-701(c) authorizes the WDEQ/LQD to attempt to eliminate the cause of the violations by conference and conciliation, in lieu of litigation. To that end, Rissler & McMurry Company 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. Rissler & McMurry Company is the permittee of the Permit 610(s) mine operation located in Sections 4 and 9, Township 34 North, Range 79 West in Natrona County. Rissler & McMurry Company is the primary operator of the mine. Approximately 29 acres have been disturbed with approximately 12 acres reclaimed to date. Mining of sand and gravel continues to progress north and west on this mine site. An amendment to add 262 acres to the permit was approved on November 16, 2005 by the LQD. Typically, material is mined, crushed and stockpiled on the site, or mined and hauled to the processing facility in Casper.
3. Failure to sufficiently salvage and protect topsoil, as well as failure to segregate topsoil from spoil is a violation of the WDEQ/LQD R&R, Chapter 3, Section 2 (c)(i). In addition, failure to strip topsoil prior to disturbance and placing spoil material directly on native land violates these regulations. Failure to provide adequate sediment control on the mine site is a violation of Chapter 3, Section 2(e).
4. The permittee, Rissler and McMurry Company agree to the following:
  - A. All topsoil and subsoil material determined by qualified staff of Rissler & McMurry Company shall be stripped, stockpiled, and protected a minimum of 30 feet away from the highwall creating a buffer area to ensure soil is not lost. The initial topsoil and



subsoil salvage operation shall be completed with photo documentation submitted to the LQD.

B. Rissler and McMurry Company shall provide a detailed soil volume inventory to the LQD of all topsoil and subsoil currently in stockpiles and a volume of soil replaced on reclaimed areas. The goal of this item is to document the amount of soil salvaged to date. This information along with the acres disturbed will provide the LQD with an estimate of the soil that was salvaged and the amount of soil that will be available for reclamation. The soil inventory shall be submitted to LQD.

C. All existing soil stockpiles shall be located away from the highwall where mining activity is occurring and protected with a toe ditch and an approved temporary seed mix. Soil shall not be placed in a safety berm surrounding the disturbance perimeter.

D. The permittee shall provide the following information in future Annual Reports:

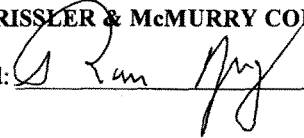
1. Accurately identify the number of acres stripped of soil in all annual reports;
  2. State the depth of topsoil for all stripping operations in all annual reports;
  3. Accurately show the location of topsoil stockpiles on all annual report maps showing the removal or addition of topsoil or any relocation of topsoil stockpiles.
5. Subject to the waiver hereafter set forth, Rissler & McMurry Company agrees to pay **two thousand five hundred dollars (\$2,500.00)** as a stipulated settlement as partial resolution to this matter in lieu of litigation under W.S. §35-11-901(a)(ii). Rissler & McMurry Company shall pay **two thousand five hundred dollars (\$2,500.00)** directly to the WDEQ/LQD for funding of other environmental projects. Full payment in the amount of **two thousand five hundred dollars (\$2,500.00)** shall accompany this Settlement Agreement with your signature. This signed agreement and payment are due no later than May 26, 2006. 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 25<sup>th</sup> Street, Cheyenne, Wyoming 82002.
6. This signed Settlement Agreement by Rissler & McMurry Company as specified above shall constitute full satisfaction for and resolution of all claims by the WDEQ/LQD against Rissler & McMurry Company based on the violations alleged in this Settlement Agreement. Contingent upon Rissler & McMurry Company compliance with the terms of this Settlement Agreement, the WDEQ/LQD will refrain from taking further enforcement action against Rissler & McMurry Company, for these particular violations cited in this Settlement Agreement.
7. Rissler & McMurry Company waive any statute of limitations which may apply to an enforcement action by the WDEQ/LQD involving the specific matters described here in, under item No. 3 above, in the event that Rissler & McMurry Company fail to fulfill their obligations under this Settlement Agreement.
8. 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 Rissler & McMurry Company violate the Wyoming Statutes or applicable R&R in the future.
9. This Settlement Agreement shall be admissible by either party without objection by the other party in any subsequent action between these parties.
10. 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

Rissler & McMurry Company, and specifically retain all immunity and all defenses available as sovereigns under state and federal law.

11. This Settlement Agreement is binding upon Rissler & McMurry Company, successors and assigns, and upon the WDEQ/LQD.
12. The persons signing this Settlement Agreement certify that they are duly authorized to bind their respective parties to this Settlement Agreement.

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**FOR RISSLER & MCMURRY COMPANY**

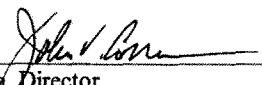
Signed: 

Date: May 23, 2006


Typed: Ron McMurry

Title: Vice President

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

  
John V. Corra, Director  
Wyoming Department of Environmental Quality

Date: 30 May 06

  
Richard A. Chancellor, Administrator  
Land Quality Division

Date: 30 May 06

JVC/RAC/PCR

cc: Becky Brosius, NOV Files (610s)  
Lowell Spackman, WDEQ/LQD, District I Supervisor  
Carol Bilbrough, WDEQ/LQD Program Manager



## Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

November 22, 2005

**CERTIFIED MAIL # 7004 2890 0004 5120 9087**  
**RETURN RECEIPT REQUESTED**

Rissler & McMurry  
Attn: Mr. Ron McMurry  
P.O. Box ~~2499~~ 2488  
Casper, WY 82602

**RE: Notice of Violation, Docket No. 3823-05, Permit 610(s)**

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 inspections conducted by Lowell Spackman, Pam Rothwell and Robin Jones on October 10 and 13, 2005. The violation is for failure to sufficiently salvage and protect topsoil, control sediment on the mine site and follow the approved Mine Plan. The LQD has determined that this enforcement action warrants that a fee 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](mailto: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 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 or Mr. Richard Chancellor, LQD, Administrator, at (307)777-7046. 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: Gene Brummond, Rissler & McMurry w/attach.  
Lowell Spackman, LQD, District I  
Carol Bilbrough, LQD  
Sandra Garcia, NOV Files (Permit 610s)

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FAX 777-8027

LAND QUALITY  
(307) 777-7756  
FAX 777-7752

SOLID & HAZ. WASTE  
(307) 777-7752  
FAX 777-7752

WATER QUALITY  
(307) 777-7781



**DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING**

**NOTICE OF VIOLATION**

<b>IN THE MATTER OF THE NOTICE OF VIOLATION ISSUED TO RISSLER &amp; MCMURRY COMPANY ATTEN: RON McMURRY P.O. BOX 2488 CASPER, WY 82601 PERMIT 610(s)</b>	) ) ) ) ) ) )	<b>DOCKET NO. 3823-05</b>
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**NOTICE**

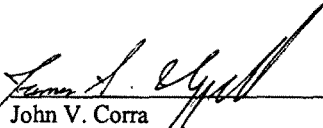
**NOTICE IS HEREBY GIVEN THAT:**


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 Lowell Spackman, Pam Rothwell, and Robin Jones of the Land Quality Division, District I, during inspections conducted on October 10 and 13, 2005. This Small Mine Operation is located in Natrona County on the north side of Casper, WY, immediately west of Interstate 25.
3. The Inspections documented that the operator 1) failed to strip and salvage all available topsoil and subsoil ahead of mining resulting in the loss of an unknown quantity of these soils during mining advancement; 2) failed to segregate topsoil appropriately resulting in topsoil being mixed with spoil material and/or material to be sold; 3) failed to protect native topsoil and vegetation by placing spoil material directly on the native ground above the highwall; 4) failed to provide sufficient sediment control to disturbed areas resulting in sediment discharge. These actions are in violations of the Department of Environmental Quality/Land Quality Division Noncoal Rules and Regulations (WR&R), Chapter 3, Section 2. (c)(i)(A), (B) and (D) requiring, topsoil be removed and salvaged from affected areas prior to disturbance, stockpiled for reclamation and protected from erosion, and marked with topsoil signs. Sediment control on the mine site is required by Chapter 3, Section 2(e).
4. Rissler & McMurry Company received a Notice of Violation and Order in August 2002 for topsoil violations occurring on Permit 610(s) including violations identified during the 2001 and 2002 Inspections. These violations were identified in the reports including failure to strip topsoil ahead of mining resulting in loss of topsoil to the pit, mixing of topsoil and spoil, failure to provide topsoil signs on the topsoil stockpiles and failure to protect the topsoil stockpiles with erosion control berms around the piles.
5. According to the Wyoming Environmental Quality Act, W. S. § 35-11-415(b)(ii), "The operator, pursuant to an approved surface mining permit and mining plan and reclamation plan, or any approved revisions thereto, shall: "Conduct all surface mining and reclamation activities within the permit area in conformity with his approved plan." The approved Mine Plan commitment for permit 610(s) states, "All topsoil and overburden shall be stripped and stockpiled separately". Therefore, the operator is in violation of the above mentioned statute.

6. 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 18<sup>th</sup> day of November, 2005

  
John V. 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, 3<sup>rd</sup> W, 122 West 25<sup>th</sup> Street, Cheyenne, WY 82002

**CERTIFIED MAIL #** 7004 2890 0004 5120 9087

**RETURN RECEIPT REQUESTED**

**DOCKET NO. 3823-05**

**PERMIT 610(s)**

cc: Sandra Garcia, NOV File (610s)  
Lowell Spackman, LQD  
Carol Bilbrough, LQD  
Pam Rothwell LQD