

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
OF THE STATE OF WYOMING**

IN THE MATTER OF:)
Mullinax Concrete Services Co.) Docket No. 09-4602 and 10-4601
Limited Mining Operation)
Applications)
TFN 5 4/123 and TFN 5 4/ 117)

COPY

SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Land Quality Division ("DEQ/LQD"), Herschler Building, 122 West 25th Street, Cheyenne, WY 82002, and Mullinax Concrete Services Co., ("Mullinax"), P.O. Box 2044, Sheridan, Wyoming 82801, enter into this Settlement Agreement ("Agreement") to fully and finally resolve without further litigation, Mullinax's appeal of denials of Limited Mining Operations ("LMO") applications TFN 5 4/123 located in Johnson County, Wyoming and TFN 5 4/117, located in Sheridan County, Wyoming.

To that end, MULLINAX and the DEQ/LQD hereby stipulate and agree as follows:

1. The DEQ/LQD is responsible for enforcing the Environmental Quality Act and Land Quality Non-Coal Rules and Regulations ("LQNCRR").
2. Mullinax filed LMO application 5 4/123 on or about September 15, 2009.
3. On or about September 17, 2009, the DEQ/LQD denied LMO application 5 4/123. Mullinax then appealed that denial to the Environmental Quality Council ("EQC").
4. Mullinax filed LMO application 5 4/117 on or about August 12, 2009.
5. On January 21, 2010, the DEQ/LQD denied LMO application 5 4/117. Mullinax then appealed that denial to the EQC.
6. MULLINAX agrees to withdraw the LMO application TFN 5 4/123 and further agrees to dismiss its pending appeals before the EQC, Docket Nos. 09-4602 and 10-4601, without prejudice.
7. The DEQ/LQD agrees to grant Mullinax's application, TFN 5 4/117 ("Beckton Pit"). The DEQ/LQD further agrees that in the event Mullinax files an application to convert the Beckton Pit to a regular or small mining operation, the LQD will not deny such an application based on the grounds that the Beckton Pit is located within six (6) miles of another mining operation that is extracting the same material that Mullinax is mining at the Beckton Pit location. The DEQ/LQD further agrees that applicable statutes and LQD regulations that have been properly promulgated pursuant to the Wyoming Administrative Procedures Act will govern the Beckton Pit location and its future development and classification at all relevant times.
8. This Agreement shall be admissible by either MULLINAX or DEQ/LQD (hereinafter MULLINAX and the DEQ/LQD may be referred to individually as "Party" and collectively as "Parties") without objection by the

other Party in any action between these Parties relating to the violations alleged herein.

9. Neither Party hereto shall have any claim against the other for attorney's fees or other costs incurred with the allegations resolved hereby, including costs incurred in the preparation of the Agreement. Each Party shall bear its own attorney fees and costs, if any, incurred through the date this Agreement is signed by both Parties. Each Party assumes the risk of any liability arising from its own conduct. Neither Party agrees to insure, defend or indemnify the other.

10. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by the Parties shall be incorporated by written instrument, executed and signed by all Parties to this Agreement.

11. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the Parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.

12. This Agreement, consisting of three (3) pages represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

13. The State of Wyoming and the DEQ/LQD do not waive sovereign immunity by entering into this Agreement and specifically retain immunity and all defenses available to them as sovereigns pursuant to WYO. STAT. ANN. § 1-39-104(a) and all other state law.

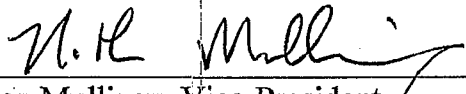
14. The Parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in the Agreement shall operate only between the Parties to this Agreement, and shall inure solely to the benefit of the Parties to this Agreement. The Parties to this Agreement intend and expressly agree that only Parties signatory to this Agreement shall have legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a Party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the breach of this Agreement.

15. Each Party represents that they are authorized to enter into this Agreement and agree to be bound hereby. This Agreement shall become binding upon the Parties once executed by all Parties.

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IN WITNESS THEREOF, the Parties, by their duly authorized representatives, have executed this Agreement on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement:

MULLINAX CONCRETE SERVICES, CO., INC.

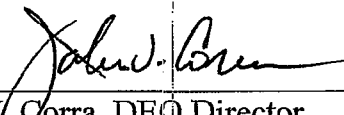
By: 
Nathan Mullinax, Vice-President

5-27-10
Date

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY:

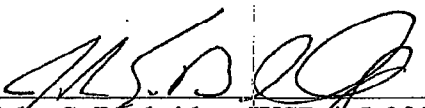
By: 
Donald McKenzie, LQD Administrator

06/07/10
Date

By: 
John V. Corra, DEQ Director

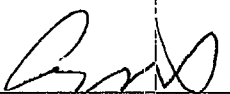
6/7/10
Date

APPROVAL AS TO FORM:

By: 
John S. Burbridge, WSB # 5-2856
Senior Assistant Attorney General
Attorney for DEQ/LQD

6-7-10
Date

APPROVAL AS TO FORM:

By: 
Anthony T. Wendtland, WSB # 5-2468
Wendtland & Wendtland, LLP
Attorney for Mullinax Concrete Services, Inc.

05/24/10
Date