

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF A NOTICE)
OF VIOLATION ISSUED TO)
ARCH OF WYOMING, INC.) DOCKET NO. 2309-91
PERMIT NUMBER 331-T2,)
NOV NO. 100467)

SETTLEMENT STIPULATION

The parties, by and through undersigned counsel, hereby stipulate to the following:

- I. On October 22, 1991, the DEQ issued to Arch a Notice of Violation for disturbing land within 200 feet of Seminoe Reservoir high water mark 6363.7 (buffer zone) alleging a violation of Condition number 5 of Arch's permit number 331-T1.
- II. On October 23, 1991, the DEQ modified the NOV to include a sediment control violation. On November 6, 1991, the DEQ terminated this violation after Arch completed abatement steps.
- III. Through the NOV and two subsequent NOV Modifications, the DEQ demanded that Arch satisfy the following abatement requirements, with respect to the alleged buffer zone violation:
 - A. Provide an aerial photograph indicating the highwater elevation of 6363.7 feet above sea level and the extent of lands disturbed adjacent to the reservoir.
 - B. Submit a permit change that commits to establishing stakes marking the 200 foot buffer and the 6363.7 foot contour in those areas adjacent to the reservoir not yet disturbed. The stakes shall be color coded to distinguish between highwater elevation and the 200 foot buffer line. Also commit to providing a map signed by a P.E. or L.S. showing the location of the stakes once they have been placed. The placement of stakes and submittal of the map shall occur 90 days prior to affecting lands within 1/4 mile of the reservoir.
 - C. The area shown on the attached map where disturbance has occurred within the reservoir basin, as defined by the highwater elevation 6363.7 feet shall be reclaimed to restore the integrity of the reservoir and reestablish the 200 foot buffer. A plan including but not limited to a post mining contour map and sediment control shall be submitted detailing how the area will be reclaimed.
 - D. A time schedule for reclamation of these areas where extensive disturbance as determined by the Division i.e., pits, haulroad, spoil piles, etc., has occurred within the 200 foot buffer zone but outside the reservoir basin shall be reclaimed as soon as mining ceases in these areas.

- IV. By letter dated November 5, 1991, the DEQ notified Arch that the DEQ had assessed a penalty for NOV No. 100467 of \$22,500.
- V. On January 3, 1992, the Director of the DEQ affirmed the violations and initial assessment, after the parties had discussed the issues in an informal conference.
- VI. On January 15, 1992, Arch filed a Petition For Review with the Council.
- VII. Arch admits that it violated sediment control regulations as specified in NOV No. 100467.
- VIII. The parties, through further conference and conciliation, have reached an agreement which is designed to settle the dispute between the parties. The terms of this agreement are as follows:
 - A. Arch admits that it disturbed land within 200 feet of Seminole Reservoir highwater mark 6363.7 feet.
 - B. Arch will accept DEQ's interpretation of special condition number 5 and apply the interpretation to all areas of the permit regardless of ownership of the surface, and will modify its permit as required by III.B. Existing operations in areas currently disturbed will continue as authorized by VIII.C.
 - C. The parties agree to jointly request the Council to modify the proposed abatement which has not been completed as of this date under NOV No. 100467 to include the following abatement and additional activities:
 1. Arch will comply with paragraph III.B.
 2. The area where disturbance has occurred within the reservoir basin, as defined by the highwater elevation 6363.7 feet shall be backfilled, graded and temporarily stabilized with a cover crop to restore the integrity of the reservoir as shown on the attached map. This shall be accomplished within three years of this agreement or when mining ceases whichever comes first. If conditions dictate, Arch may request additional time and the Division will review such request considering the water elevation of the reservoir.
 3. Reclamation of pits 14-38 and 11-24 will be accomplished under the following criteria:
 - a) As soon as surface mining is through removing a seam (whichever seam is available) the highwall miner will begin;
 - b) As soon as the highwall miner has completed operations in the pit, reclamation of the areas within the 200 foot buffer zone will commence immediately;
 - c) Areas outside of the buffer zone in the above pits will be reclaimed according to the sequence as approved in the permit;
 - d) A deviation may be allowed if the highwall miner is required in another pit to prevent sterilization (by

pass) of coal. Documentation will be presented to LQD for consideration as a change;

e) This provision does not restrict Arch's ability to file for or request a revision to the mining and reclamation requirement. Such requests will be subject to the normal processing procedures and requirements.

4. Arch will mark the existing disturbance within the buffer zone. Any additional areas of existing disturbance arguably within the buffer zone will be amended into NOV 100467.

5. Arch will mark the buffer zone in those areas in which the existing disturbance has not infringed into the buffer zone.

6. Arch will, prior to September 1, 1992, complete aerial photography and arrange for preparation and delivery to DEQ of aerial photographs and orthophotographs with sections lines, at a scale of one inch equals 200 feet, of those mine areas which are currently disturbed and adjacent to the Seminole Reservoir. New aerial photographs and orthophotographs shall be provided to DEQ annually. A different schedule may be followed upon approval by the DEQ. This schedule will be followed for each area until the year after the area has been topsoiled and seeded.

IX. The parties agree to assessment/additional costs in the amount of \$22,000 to be paid as follows:

a) \$11,000 cash, into Trust and Agency Account and

b) \$11,000 to be devoted by Arch to providing additional aerial photographs, orthophotographs, maps, and staking not required by the current permit or NOV 100467.

FOR ARCH OF WYOMING

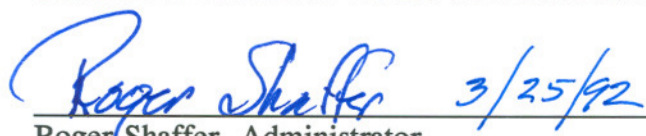
 3/25/92

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FOR DEPARTMENT OF ENVIRONMENTAL QUALITY

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