

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL

FILED

STATE OF WYOMING

APR 22 1994

Terri A. Lorenzon, Attorney
Environmental Quality Council

IN THE MATTER OF THE NOTICE OF)
VIOLATION AND ORDER ISSUED TO)
WARREN VOSS, 3 SEMINOE AVENUE,)
NEWCASTLE, WY 82701)

DOCKET NO. 2543-94

STIPULATION FOR ENTRY OF CONSENT ORDER

Pursuant to Section 701(c) of the Wyoming Environmental Quality Act ("*Act*"), W.S. § 35-11-701(c), the Wyoming Department of Environmental Quality/Air Quality Division ("*DEQ/AQD*"), issued a Notice of Violation and Order, Docket No. 2543-94, to Mr. Warren Voss to remedy violations of Section 201 of the Act, W.S. § 35-11-201, and Section 29 of the Wyoming Air Quality Standards and Regulations ("*WAQSR*"). Mr. Voss made a timely request for a hearing before the Environmental Quality Council ("*Council*") on February 16, 1994. The parties now stipulate and agree to the following terms for resolving this matter without a contested case hearing before the Council:

1. The Council has jurisdiction in this matter under Sections 701(c) and 112(a) & (c) of the Act, W.S. §§ 35-11-701(c), 112(a) & (c).
2. The matter should now be resolved without further proceedings by the Council's entry of a Consent Order incorporating this stipulation.
3. Mr. Voss does not contest that:
 - a. Section 35-11-201 of the Act, W.S. § 35-11-201, states that "[n]o person shall cause, threaten or allow the discharge or emission of any air contaminant in any form so as to cause pollution which violates rules, regulations and standards adopted by the council."
 - b. Section 29 of the WAQSR requires owners and operators of a demolition activity involving the removal of more than 80 linear meters of friable asbestos on pipes or at least 15 square meters on other facility components to comply with the standards for demolition and renovation found in Section 29(i) of the WAQSR.
 - c. DEQ/AQD personnel have concluded that the former junior high building and the old shop building located at 415 S. Seneca Avenue in Newcastle, Wyoming contained friable asbestos in sufficient quantities to make the property subject to

the requirements of Section 29(i) of the WAQSR.

- d. Prior to September 16, 1991, Mr. Warren Voss and Mrs. Doris Voss, husband and wife, owned the former junior high, the old shop building and the underlying land located at 415 S. Seneca Avenue in Newcastle, Wyoming.
 - e. On September 16, 1991, Mr. Warren Voss and Mrs. Doris Voss, husband and wife, executed a warranty deed transferring the property to Mr. Ancil Jones for \$ 100.00 consideration.
 - f. Mr. Voss also entered into a contract on September 16, 1991 with Mr. Jones, in which Mr. Jones agreed to demolish the structures, clean up the property to the satisfaction of the city engineer for Newcastle, and to pay Mr. Voss fifteen (15) percent of all the gross funds realized through the first \$100,000 from the salvage of the structures, less \$100.00 which Mr. Jones paid to Mr. and Mrs. Voss for the warranty deed transferring the property to Mr. Jones.
 - g. The September 16, 1991 contract gave Mr. Voss the option to purchase the land back from Mr. Jones for \$ 5,000, following demolition, but only if Mr. Jones chose to sell the property.
4. Mr. Voss specifically denies the allegations in NOV & Order, Docket No. 2543-94, that he was an owner or operator of a demolition activity at 415 S. Seneca Avenue in Newcastle, Wyoming with any control over the demolition at that site.
 5. Mr. Jones failed to salvage either of the buildings at 415 South Seneca Avenue within the 2 year period specified in the contract with Mr. Voss.
 6. Mr. Voss agrees to finance the asbestos abatement at the former school building and the shop building at 415 S. Seneca Avenue by entering into a financial agreement with Mr. Jones which provides, among other items, for payment through Mr. Jones to an asbestos abatement contractor, who contracted with Mr. Jones on or about March 25, 1994, for \$ 10,000 to complete the asbestos abatement required under the Order issued to Mr. Voss, as well as the final Order against Mr. Jones, Dkt. No. 2469-93, except that the contract does not cover encapsulation of asbestos in the old shop building. Mr. Voss shall not be responsible for these encapsulation costs or for any asbestos abatement costs associated with any future demolition of the shop building. In the event that additional asbestos is discovered during the continuation of the demolition of the former junior high building at 415 S. Seneca Avenue, Mr. Voss shall not

be responsible for any additional asbestos abatement costs or violations of asbestos regulations.

7. Based on inspections conducted by DEQ/AQD personnel on March 31, April 1 and April 5, 1994, the DEQ/AQD has determined that the asbestos violations described in the DEQ/AQD NOV & Order, Dkt. No. 2469-93, issued to Mr. Jones, and the DEQ/AQD NOV & Order, Dkt. No. 2543-94, issued to Mr. Voss, have been abated in the former junior high school building and have been abated in the old shop building, with the exception that the remaining asbestos in the latter structure has not been encapsulated.

8. Mr. Voss and the DEQ/AQD agree that payment by Mr. Voss to the asbestos abatement contractor or any repayments made by Mr. Jones to Mr. Voss, pursuant to this Stipulation, will not be deemed by the DEQ/AQD to make Mr. or Mrs. Voss an owner or operator of any future asbestos demolition activities performed at the two buildings at 415 S. Seneca Avenue by Mr. Jones or his contractors, subcontractors, employees or agents.

9. Solely in reliance on this Stipulation, the DEQ/AQD agrees that it will not hold Mr. Voss liable for any asbestos violations that may occur during a future demolition of the old shop building or the continuation of the demolition of the former junior high building at 415 S. Seneca Avenue by Mr. Jones or his contractors, subcontractors, employees or agents. The DEQ/AQD further agrees that it will no longer hold either Mr. or Mrs. Voss liable as owners or operators of asbestos demolition activities at those sites based on their prior ownership of the property or the September 16, 1991 contract between Mr. Voss and Mr. Jones.

10. Compliance by Mr. Voss with the requirements of this Stipulation, as reflected in the Consent Order incorporating this Stipulation, shall constitute resolution of the alleged violations and requirements set forth in NOV & Order, Docket No. 2543-94.

11. The DEQ/AQD recognizes that Mr. Voss is not obligated under this settlement to make any payment until Mr. Voss reaches the financial agreement with Mr. Jones as described in Paragraph 6. Notwithstanding this paragraph 10, if Mr. Voss does not reach such a financial agreement with Mr. Jones by April 29, 1994, this Stipulation will be without effect and shall not alter any administrative or civil remedies otherwise available to the DEQ/AQD.

12. Payment of the amount specified in Paragraph 6 shall be due within five within five (5) days after the Wyoming Environmental Quality Council approves an Order incorporating this Stipulation, or immediately upon execution of a financial agreement between Mr. Voss and Mr. Jones, whichever date is later. Mr. Voss agrees to notify the DEQ/AQD when it has

completed its financial agreement with Mr. Jones.

13. Solely in reliance upon this Stipulation and the Consent Order incorporating it, Mr. Voss withdraws his appeal of this matter to the Council with prejudice.

14. Nothing in this Stipulation or the Consent Order incorporating it relieves Mr. Voss of his duty to comply with all applicable requirements under the Act and rules, regulations and standards adopted thereunder.

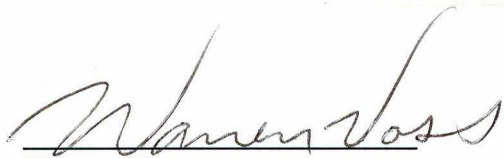
15. Each party shall be responsible for its own costs for this action, including attorney fees.

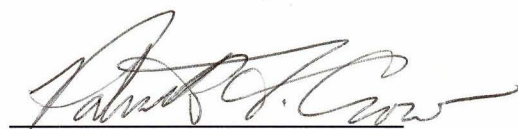
16. This Stipulation shall apply to and be binding upon Warren Voss, his successors and assigns, and upon the State of Wyoming.

DATED this 18th day of April, 1994.

The Signatories certify that they are duly authorized to bind their respective parties to the foregoing (4 of 4 pages) STIPULATION FOR ENTRY OF CONSENT ORDER:

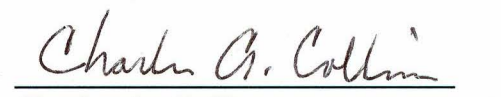
FOR WARREN VOSS



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