

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

JUN 08 1994

Terri A. Larson, Clerk
Environmental Quality Council

IN THE MATTER OF THE NOTICE OF)
VIOLATION & ORDER ISSUED TO)
MOUNTAIN CEMENT COMPANY, MR.) DOCKET NO. 2277-91
BOB WEEKS, PLANT MANAGER, P.O.)
BOX 339, LARAMIE, WY. 82070)

JOINT STIPULATION AND MOTION FOR DISMISSAL WITH PREJUDICE

The parties in this matter, Mountain Cement Company and the DEQ/Air Quality Division, pursuant to W.S. 16-3-107(n) and Ch.I., Sec.11. of the DEQ Rules of Practice & Procedure, hereby stipulate and move as follows:

1. The DEQ/Air Quality Division issued Notice of Violation & Order No. 2277-91 to Mountain Cement Company on August 13, 1991.

2. Mountain Cement Co. filed a Notice of Appeal and Request for Hearing dated August 29, 1991, requesting a hearing before the Council to appeal Order No. 2277-91, and at the same time filed a Request for Postponement, stating that it intended to comply with the Order, but wished to preserve its rights in the meantime.

3. Mountain Cement also filed Notices of Compliance stating that it had complied with ¶2 & ¶3 of the Order.

4. On April 28, 1992, the State of Wyoming (DEQ) filed a comprehensive civil action under W.S. 35-11-901(a) in State District Court (Second District, Docket No. 23766) which, among other things, included allegations and requested relief based on NOV & Order No. 2277-91.

5. The Complaint did state that this particular matter was the subject of a NOV & Order which had been appealed and then postponed at Mountain Cement Co.'s request.

6. Mountain Cement Co. and the DEQ shared a common interest in consolidating and resolving in one action all issues then outstanding between them, including the matters at issue in NOV & Order No. 2277-91.

7. On April 18, 1994 the DEQ and Mountain Cement Co. jointly filed a comprehensive Stipulation for Entry of Consent Decree to resolve all issues in Civil Action No. 23766, including the issues relating to NOV & Order No. 2277-91.

8. In II.B.31.f. of their April 18 Stipulation, the parties agreed to file this joint stipulation for dismissal with prejudice of Mountain Cement Co.'s appeal to the Council in Doc. No. 2277-91.

9. Subsequently, on May 9, 1994, the parties filed a Supplemental Stipulation in Doc. No. 23766 and the Court entered a Consent Decree incorporating the April 18 and May 9 Stipulations.

10. The issues raised by Mountain Cement Co.'s appeal have been resolved by the referenced Stipulations and Consent Decree in Docket No. 23766, and, accordingly, the parties agree that Mountain Cement Co.'s appeal before the Council in Doc. No. 2277-91 should now be dismissed with prejudice.


11. Each party shall be responsible for its own costs in this matter, including attorney fees.

12. Both W.S. 16-3-107(n) and Ch.I., Sec.11 of the DEQ Rules of Practice & Procedure provide for disposition of a contested case by stipulation of the parties, unless otherwise precluded by law.

WHEREFORE, the parties respectfully request that the Council enter an Order based on this Stipulation dismissing this case with prejudice.

DATED this 7th day of JUNE, 1994.

COUNSEL FOR MOUNTAIN CEMENT
COMPANY:



PHILIP NICHOLAS
NICHOLAS LAW OFFICE

COUNSEL FOR THE STATE OF
WYOMING:



MIKE BARRASH
SR. ASSISTANT ATTORNEY GENERAL