

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

**FILED**

OCT 04 2006

Terri A. Lorenzon, Director  
Environmental Quality Council

IN THE MATTER OF OBJECTION TO )  
THE MINING PERMIT APPLICATION )  
OF MOUNTAIN CEMENT COMPANY ) DOCKET NO. 06-4804  
PERMIT NO. 298C, TFN 4 4/296 )

**MOUNTAIN CEMENT COMPANY'S PRE-HEARING DISCLOSURE STATEMENT**

Mountain Cement Company (MCC) submits this Pre-hearing Disclosure Statement as required by the Environmental Quality Council's (EQC) Order dated September 29, 2006.

**I. List of Witnesses and Summary of Their Testimony.**

MCC may call the following witnesses:

1. Monte Buchanan  
Quarry Technician, Quarry Department  
Mountain Cement Company  
5 Sand Creek Road  
Laramie, WY 82070  
307-745-4879

Mr. Buchanan will testify about all aspects of the permit application and about MCC's mine plan. He may describe MCC's past and continuing efforts to work with its neighbors to mitigate impacts of mining and MCC's efforts to comply with its agreement with its neighbors.

2. Stuart Tomlinson  
President  
Mountain Cement Company  
5 Sand Creek Road  
Laramie, WY 82070

Mr. Tomlinson will testify about MCC's present and proposed mining practices and its efforts to comply with all mining permits and agreements. He will testify about the need to mine from several quarries at a single time and the need for the permit sequence revision. He may also describe MCC's planning objectives and production requirements.

Mr. William Hogg

Herschler Building, 3<sup>rd</sup> Floor West  
 122 West 25<sup>th</sup> Street  
 Cheyenne, Wyoming 82520  
 307-777-7756

Mr. Hogg is expected to testify regarding his knowledge of MCC's mining permit revision application, its compliance with Wyoming Law and the Division's decision to allow revision of the permit.

Steve Goodrich  
 Lyons, Colorado  
 (970) 556-3843

Mr. Goodrich may be called to testify about MCC's efforts to warn parties purchasing lots near its quarries of MCC's mine plan, including Mr. Waitkus, and the settlement agreement between Mr. Waticus and MCC reached in 2004.

**II. List of Exhibits.**

Exhibit No.	Description	Offered	Accepted	Rejected
MCC-1	Mountain Cement Company Permit Amendment Application (Permit No. 298C) TFN 4 4/296.			
MCC-2	Stipulated Resolution to Objections, Permit No. 298C, TFN 4 3/119, dated January 11, 2004			
MCC-3	Albany County Planning Office Summit Estates file.			
MCC-4	Articles from <i>Laramie Daily Boomerang</i> re: Summit Estates application and denial.			
MCC-5	Mountain Cement Company Request for Moratorium.			
MCC-6	Map No. 3: Mountain Cement Company Quarries and Vicinity Map used and distributed at Public Meetings.			
MCC-7	Map No. 4: Mountain Cement Company Piper Limestone Quarry Vicinity Map used and distributed at Public Meetings.			
MCC-8	Map No. 5: 1994 Summit Estates Ownership map, marked with 1000' buffer, also used and distributed at Public Meetings.			
MCC-9	July 22, 1993 letter from C. Alburn to A. Kasehagen, Albany County planner.			

MCC-10	July 22, 1993 letter from C. Alburn to P. Nicholas, attorney for Mountain Cement Company			
MCC-11	May 3, 1994 Board of County Commissioners Policy Statement for Mountain Cement Zoning and Moratorium Request.			
MCC-12	August 11, 1994 Rural Address Application approval, with Notice of current or future mining activities and buffer distance recommendations.			
MCC-13	March 22, 1996 Notice to Current and Prospective Land Owners of Existing and Potential Mining Activities in Albany County, recorded with the Albany County Clerk.			
MCC-14	January 27, 1995, Final Judgment Upon Mandate, <i>Johnson v. Mountain Cement Company</i> .			
MCC-15	Brian Waitkus protest, TFN 4 3/119			

### III. Fact Summary.

MCC owns and operates a cement plant two miles south of Laramie in Albany County, Wyoming. MCC employs over 120 full time employees in Albany County. Limestone, shale, gypsum and iron ore are the raw materials used to manufacture cement. Limestone constitutes 80% of the raw material used to manufacture cement. The limestone used to manufacture cement must be at least 90% calcium carbonate, which rules out most of the County's limestone deposits. Limestone from several areas must be mined at the same time to insure a uniform quality of limestone to manufacture cement.

Topography and the City of Laramie limit MCC's access to limestone. Cement grade limestone is found in the foothills of the Laramie Range, east of Laramie. It is not available to the west. The Laramie Range forms a geographic barrier to any limestone further to the east. Safety concerns preclude hauling limestone through the City of Laramie, cutting off access to limestone north of the cement plant.

In 1994, Millard and Deanna Johnson of Laramie sought to subdivide a section of land immediately south and west of the lands covered by Permit No. 298C. The proposed development

was also close to the large tract MCC was purchasing from Warren Live Stock and a State Lease Section, and the existing haul road which MCC historically used to reach its quarries. MCC maintained a right of way to use the road by paying a royalty to the Johnsons. MCC vigorously objected to the proposed development, which was called Summit Estates. The Summit Estates proposal evolved into 35 acre plus sites to avoid the subdivision process. MCC went to great lengths to fully inform purchasers from the Johnsons and potential purchasers of its presence, its future mining plans, and the potential impacts from living next to a quarry. MCC even attempted to persuade the Johnson's attorney to incorporate this notice into the Johnson's agreements with their purchasers, and into the deeds transferring title. After the initial subdivision request was denied by the Albany County Commissioners, and the Johnsons increased the tract sizes to 35 acres or larger, MCC submitted a Zoning and Moratorium Request to the Albany County Commissioners which sought to prevent development of Summit Estates.

MCC thereafter notified the people who were purchasing ranchettes from the Johnsons that MCC believed it retained its right of way along the road, it planned to continue using it as a haul road, and planned to mine limestone in the lands surrounding Summit Estates. MCC's efforts led to public meetings conducted by the Albany County Commissioners. After the Johnson's initial subdivision proposal was denied by the County Commissioners, and the tract size was increased to 35 plus acres, MCC submitted a Zoning and Moratorium Request to the County. The County Commissioners ultimately did not zone or impose the moratorium on development requested by MCC. However, they did publish a May 3, 1994 Policy Statement for Mountain Cement Zoning and Moratorium Request which directed the County Planning Office to notify all landowners within ½ mile of the potential mining activity of MCC's plans, request that all wells and structures be located at least 1000' from the limestone which MCC proposed to mine, and notify all landowners within the ½ mile and 1000' zones of the potential adverse impacts which may be generated by mining

activities.

The objector is a landowners in the Johnson's Summit Estates development in Section 25. Mr. Waitkus participated in 1994 public meeting process concerning MCC's Zoning and Moratorium request directed toward Summit Estates, and was informed of MCC's plans, activities and concerns, and the County Commissioners request for a voluntary buffer zone. Mr. Waitkus referred to those public discussion in his objection letter filed in opposition to MCC's permit application TFN 3 4/70 filed in 1997.

During the TFN 3 4/70 proceedings, MCC adopted a mine sequence which requires it to mine north of Cottonwood Drainage until it has mined an area described as Area A near Mr. Waitkus' home. MCC is, and intends to, comply with that agreement.

Because MCC must mine from several pits to blend raw material, the quality of limestone in the pits nearest Mr. Waitkus' home is nearing depletion, and MCC does not yet have a permit to mine Area A, MCC is proposing to amend its mine sequence to allow it to mine limestone from Area 5 within its present permit. The permit amendment will clarify that MCC may mine from more than two areas at a single time in order to blend limestone from different limestone beds and locations.

Because the objector, who lives in Summit Estates and elected to ignore the buffer zones requested by the County Commissioners, constructed his home close to known limestone reserves he will continue to experience greater impact than if he had applied MCC's cautions. It was the objector's informed choice to locate within those buffer zones that leads to this protest.

MCC has complied with all requirements of the Land Quality Division during the approval process. The application does not violate prior agreement with Mr. Waitkus, and in fact is the only way that MCC may proceed with its mining operations and fully comply with its earlier agreement with Mr. Waitkus.

DATED October 4, 2006.

Mountain Cement Company

/S/ Philip A. Nicholas

Philip A. Nicholas  
ANTHONY, NICHOLAS & TANGEMAN, LLC  
170 North 5th Street  
P. O. Box 928  
Laramie, WY 82070  
(307) 742-7140  
(307) 742-7354 (fax)

Attorneys for Mountain Cement Company

### CERTIFICATE OF SERVICE

I, John S. Burbridge, certify that the foregoing Pre-Hearing Disclosures was served by U.S.

Mail, postage prepaid, and by e-mail to the following people on the 4<sup>th</sup> day of October, 2006:

Mr. Brian R. Waitkus  
80 Eagle Nest Lane  
Laramie, Wyoming 82070  
[wildphoto1@juno.com](mailto:wildphoto1@juno.com)  
Objector

John S. Burbridge  
Senior Assistant Attorney General  
Wyoming Attorney General's Office  
123 Capitol Building  
Cheyenne, Wyoming 82001  
307-777-7823  
[JBURB1@state.wy.us](mailto:JBURB1@state.wy.us)  
Wyoming DEQ-LQD

/S/ Philip A. Nicholas

Philip A. Nicholas