

**FILED**

**FEB 01 2007**

Terri A. Lorenzon, Director  
Environmental Quality Council

30 Jan 07

Wyoming Environmental Quality Council

Lowell Spackman, District I Program Supervisor, LQD  
122 West 25<sup>th</sup>  
Herschler Building 1W  
Cheyenne, Wyoming 82002

RE: Land Quality Division Permit Application, Lafarge West, TFN 4 6/221

Dear Council,

We have reached an agreement with Lafarge in relation to the above mining application which is encompassed in our agreement from August 2005 and the amendment to that agreement from January 2007. We therefore withdraw our concerns (or objections from your standpoint) as long as the original agreement and amendment are included in the application process and considered in your decisions. We would ask the council to make the agreement and amendment enforceable through the EQC and LQD or at least some of the most important components outlined below.

Our main concerns with the gravel mine have, first, to do with months of operation. Our water levels are quite low from December to April. Our agreement stipulates no dewatering from 1 January until 1 April of each year. Second, with the dewatering during other months, the domestic and agricultural water supply may be adversely affected and hence the limit on the drop in water level in the field monitoring well which would then put into place mitigation measures. We cannot stress enough the possible effects on land quality, water quality, wildlife, agricultural crops and quality of life which would occur if the water levels drop and are not mitigated very quickly. Third, the wildlife issues (especially raptors) are familiar to you through the amended report from Ms. Travsky and may require altered mining activity. Fourth, daily hours of operation need to be adhered to very carefully. There are numerous other items in the agreement and amendment all of which we would prefer to be under the jurisdiction of the EQC and LQD but I realize you may not want to go that far with your jurisdiction.

Included with this letter are the original agreement and amendment. If you have any questions, please do not hesitate to call us. We would be happy to meet with your council at any time to discuss the issues further.

Thank you for your time and efforts with this project.

Sincerely,

  
Ken and Teeka Robertson  
307-742-4744 O  
307-742-4558 H  
307-760-1000 C

**AMENDMENT TO AGREEMENT TO MONITOR AND PROTECT WATER WELLS  
(ROBERTSON AGREEMENT)**

This AMENDMENT TO AGREEMENT TO MONITOR AND PROTECT WATER WELLS ("Amendment") is made this 1/16 day of January, 2007 between Dr. Ken Robertson ("Dr. Robertson" or "Robertson") and LAFARGE WEST, INC, a Delaware corporation ("Lafarge"). Together, Lafarge and Robertson shall be referred to herein as the "Parties" and, individually, a "Party".

RECITALS

- A. The Parties executed an AGREEMENT TO MONITOR AND PROTECT WATER WELLS dated August 10, 2005 ("Original Agreement"). All capitalized terms used in this Amendment and not defined herein shall have the meanings ascribed to such terms in the Original Agreement (together with this Amendment, the "Agreement").
- B. The Parties wish to amend the Original Agreement to clarify and further define the terms associated with Section 2. WELL MONITORING as contained in the Original Agreement.
- C. All other terms of the "Original Agreement" shall remain in place and shall only be modified by mutual agreement of the Parties.

AGREEMENT

In consideration of the promises and agreements made in this Amendment, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

- 1. New domestic wells Both Parties agree that Lafarge will pay \$13,000 directly to Dr. Robertson as compensation to allow him to drill and equip two new domestic water wells on the Robertson Property. Dr. Robertson anticipates that these wells will be approximately 60 to 80 feet deep, but the actual depth drilled shall not affect the compensation paid. Dr. Robertson accepts this payment in lieu of Lafarge conducting the drilling and equipping of these new wells. The site selection, construction, equipping and ultimate output of these wells is solely the responsibility of Dr. Robertson. Notwithstanding the provisions of Sections 2.7 and 2.8 of the Original Agreement, the Parties stipulate that this payment represents Lafarge's complete obligation to compensate Dr. Robertson for any domestic water depletion that may occur either before, during or after mining activity on the Talbott Property. Lafarge will have no further obligation or liability for any future depletions of Dr. Robertson's existing domestic wells or the new domestic wells he elects to drill.

2. East Field Well to Govern In March, 2006, Lafarge installed a measuring well on the Robertson Property. This well ("East Field Well") will serve as the sole monitoring device to determine whether or not mitigation measures will be undertaken. This well will be monitored on at least a monthly basis by Robertson and a representative of Lafarge by mutual consent. Lafarge will be given access to this well for additional measurement activity upon twenty four hour notice to Dr. Robertson. The method of access will be determined by Dr. Robertson.

No other wells which are currently in existence on either the Talbott or the Robertson Properties will be used to determine mitigations measures. Any of these wells may be monitored by their respective owners. The mitigation provisions of Section 2 of the Agreement do not apply to Dr. Robertson's existing or replacement domestic wells described in Paragraph 1 of this Amendment, and Paragraph 1 shall exclusively govern those domestic wells.

3. Mitigation In the Original Agreement, the Parties agreed that if there was a drawdown of the groundwater level in a monitored well of at least 15%, a mitigation measure would be implemented by Lafarge to remedy the well depletion. This provision remains in effect. In addition, Lafarge agrees to immediately remedy an unacceptable level of depletion in any Robertson water wells, other than Robertson's domestic wells, that interferes with Robertson's use thereof for their existing purposes. If these wells show a significant loss of water that interferes with Robertson's historic use thereof Lafarge will supply water by a piping system to the affected Robertson well *and/or irrigation system*, ER 11/17/07  
(u) 1/4/07

4. Measuring Technique The determination of the well's water level will be established by measuring the distance from the top of the well casing to the top of the water level contained within the standpipe. The depth of the well will be defined as the perpendicular distance between the intersection of the ground with the standpipe and the water surface elevation.

5. Benchmark In lieu of making seasonal comparisons of water levels in the East Field Well after mining commences to those historic variations prior to mining to determine if mitigation is needed (as contemplated in the "Original Agreement"), the Parties hereby agree to establish a "Benchmark" from which all decisions concerning mitigation will be made. This Benchmark will be defined as the lowest recorded depth of the East Field Well since its installation in March, 2006. This exact measurement will be agreed upon by the Parties prior to any mining activity on the Talbott property. The value of the Benchmark has been mutually agreed upon by the Parties to be 3.7 feet.

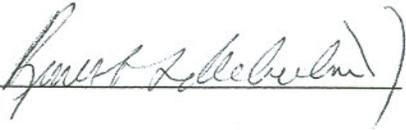
In the Original Agreement, the Parties agreed that if the level of the well dropped below 15% of the Benchmark a mitigation measure would be implemented by Lafarge to remedy the well depletion. This provision remains in effect. In addition, Lafarge agrees to immediately remedy an unacceptable level of depletion in Robertson's nondomestic water wells. If these wells show a significant loss of water Lafarge will supply water by a piping system to the Robertson well. *and/or irrigation system*. (u) 1/4/07  
ER 11/17/07

6. West Talbott Pond There is an existing pond located on the western portion of the Talbott property in close proximity to the eastern property line of the Robertson parcel. No water will be diverted from this pond for any mining activity until such time as the mining activities intersect the pond in a future phase of development.
  
7. Months of Operation The Parties agree that throughout the life of the mine, all permitted mining activities will be allowed to occur in the months of April, May, June, July, August, September, October, November and December. This includes, but is not limited to, removal of topsoil and overburden, gravel extraction and processing, dewatering and gravel sales and distribution. During the months of January and February, there will be no removal of topsoil and overburden, gravel extraction or processing, dewatering activities, or any mining activity of any kind with the exception of the sale and distribution of stockpiled gravel. During the month of March, allowed activities will include the removal of topsoil and overburden to the top of the gravel. This depth of excavation is estimated to be three to four feet. There will be no excavation of gravel or dewatering activities allowed in the month of March. The sale and distribution of gravel will be permitted during the month of March. In summary, the sale and distribution of gravel will be permitted twelve months of the year; there will be no dewatering activities in the months of January, February and March; and there will be no removal of topsoil, overburden, or gravel in the months of January and February.
  
8. Agreement to be part of mining permit application The Parties agree that both the Original Agreement and this Amendment will be submitted to the Wyoming Department of Environmental Quality ("DEQ) for inclusion in the mining permit. Whether or not expressly made part of the mining permit, this Agreement shall constitute a binding agreement between the parties.
  
9. Affirmation of Agreement Dr. Robertson acknowledges that he has had the opportunity to fully review Lafarge's mining permit application to the DEQ and he agrees that all of his concerns have been adequately addressed in the Original Agreement and in this Amendment. Dr. Robertson further agrees that he will memorialize his foregoing determination of an adequate resolution of concerns by writing a letter to the Wyoming Department of Environmental Quality indicating that he has no further issues with the permit going forward in accordance with its terms, as supplemented by the Agreement. Dr. Robertson also acknowledges and agrees that his waiver of further objection to the permit application, as supplemented by the Agreement, is a material condition to induce Lafarge to enter into the Agreement and specifically to agree to pay Dr. Robertson the sum stated in Paragraph 1 to fund drilling of new domestic water wells. Objection hereafter by Dr. Robertson to the mining permit application as herein supplemented or to operations conducted in compliance with the mining permit, shall constitute a breach of this Agreement and, in addition to any other remedies Lafarge may have, shall entitle Lafarge, at its election, to terminate this Agreement and withhold or recover from Robertson amounts paid or to be paid under Paragraph 1.

IN WITNESS WHEREOF, the Parties have executed this Amendment to be effective as of the date first set forth above.

*and Robertson agreement  
and amendments*  
RM  
1/17/07  
ER

Party:  
Dr. Ken Robertson



Party:  
Lafarge West, Inc.

  
By: Eric Reckentine  
Title: Area Manager Northern Aggregates and  
Portable Crushing Division.

## AGREEMENT TO MONITOR AND PROTECT WATER WELLS

This Agreement to Monitor and Protect Water Wells ("Agreement") is made as of August 10, 2005 (the "Effective Date"), by and between Lafarge West, Inc., a Delaware corporation ("Lafarge"), and Dr. Ken Robertson ("Robertson"). Together, Lafarge and Robertson shall be referred to herein as the "Parties" and, individually, a "Party".

WHEREAS, Lafarge intends to operate a sand and gravel mining operation on a portion of the Talbott Ranch leased by Lafarge, more particularly located on T15N, R75W, Section 25, of Albany County, Wyoming (the "Talbott Property").

WHEREAS, Robertson is the adjoining landowner to the west, more particularly of the property located on T15N, R75W, Section 26, of Albany County, Wyoming (the "Robertson Property").

WHEREAS, the mining operation of Lafarge may affect the historical water production from wells owned and used by Robertson.

WHEREAS, the Parties wish to avoid negative effects to the Robertson water wells.

WHEREAS, the Parties wish to anticipate and address other nuisance possibilities, such as glare and noise.

NOW, THEREFORE, the Parties agree as follows:

### 1. TERM.

- 1.1 The term of this Agreement shall commence on the Effective Date and shall terminate at such time as Lafarge, its successors and assigns have completed mining and reclamation operations on the Talbott Property.
- 1.2 Release of all reclamation bonds posted by Lafarge in connection with its operations on the Talbott Property shall conclusively establish that mining and reclamation have been completed.

### 2. WELL MONITORING.

- 2.1 During the term of this Agreement, Robertson will monitor two of his four wells on the Robertson Property for water levels. The wells to be monitored include one on either side of Pioneer Canal. Robertson will inform Lafarge of the well monitoring schedule, so Lafarge may witness the monitoring if it so desires. Robertson will make well monitoring logs available upon request. Notice of any change in an established schedule will be given by Robertson to Lafarge at least three days in advance.

- 2.2 Lafarge will install and monitor another well on the Robertson Property at a location halfway between Robertson's residence and the boundary between the Robertson Property and the Talbott Property. Lafarge will install this well by March 1, 2006.
- 2.3 Lafarge will continue to monitor the four wells presently installed on the Talbott Property.
- 2.4 Lafarge began the well monitoring on the Talbott Property on June 25, 2005. Lafarge will monitor the wells quarterly, except that Lafarge will monitor such wells monthly during the mining/dewatering period and for 90 days thereafter, as well as for one year after the opening of a new mining area. Lafarge will use its best efforts to monitor the wells on the Talbott Property on the third Thursday of each month at 3:00 pm. If Lafarge is unable to monitor on a scheduled day, it will give Robertson at least three days prior notice for an alternate date, so that Robertson can be present for the well monitoring.
- 2.5 Lafarge will make well monitoring logs from the Talbott Property available to Robertson upon request.
- 2.6 The monitoring by either Party during the first several years will indicate both the seasonal variation of the groundwater table and the groundwater draw down curve.
- 2.7 If results of well monitoring of the two Robertson wells show that the mining/dewatering conducted by Lafarge has drawn down the groundwater level by at least 15% beyond the seasonal variation, Lafarge will take step(s) to avoid further draw down and a significant reduction in Robertson's well output due to the mining operation. These step(s) shall include, but are not limited to, one or more of the following:
- Maintaining an adequate mining setback from Robertson's wells.
  - Installing a groundwater recharge trench between the mining area and Robertson wells on the Talbott property to recharge the aquifer.
  - Discharging the water pumped from the Lafarge mine to the Robertson property to recharge the groundwater.
  - Adjusting the timing of dewatering to reduce the groundwater drawdown.
  - Constructing a compacted fill along the western side of the mining pit to reduce groundwater seepage into the pit.
- 2.8 The specific method used to mitigate adverse effects on Robertson's wells will depend on the extent of the drawdown, the mining area location, and Lafarge

economics for reaching a long-term solution. Lafarge will present any solution to Robertson for mutual agreement prior to its implementation.

- 2.9 Lafarge will obtain Robertson's permission, which shall not be unreasonably withheld, to take water samples from the domestic well for an analysis, if needed.

### **3. OTHER MITIGATION.**

- 3.1 Lafarge will shield or enclose the portable generators powering the pumps and the operation to reduce noise. During the mine dewatering period, generators will run periodically during the day and night. If noise is a nuisance for Robertson, Lafarge will provide reasonable additional noise reduction measures, such as earthen berms and insulation inside the enclosure.
- 3.2 The site will have a maximum of three 20-foot high light poles shielded on the west side and positioned to avoid direct glare toward the Robertson house. Lafarge occasionally will perform equipment maintenance outside normal working hours. Additional lighting may be required in these situations and it will also be shielded to avoid direct glare toward the Robertson house.

### **4. CONSENT TO MINING.**

- 4.1 Upon agreement by the Parties to the terms and conditions of this Agreement, Robertson agrees not to oppose the mining applications of Lafarge for the Talbott Property.

### **5. DEFAULT; REMEDIES.**

- 5.1 The mitigation obligations of Lafarge set forth in Articles 2 and 3 of this Agreement are its sole obligations with respect to water well levels, light and noise.
- 5.2 Lafarge shall not be deemed in default hereunder unless Robertson shall first have given Lafarge written notice of any claimed adverse effect on Robertson's wells or of any non-compliance by Lafarge with its mitigation obligations hereunder and Lafarge shall have failed to have cured such non-compliance within 30 days after such notice or, if the nature of the non-compliance is such that it cannot reasonably be cured within 30 days, Lafarge shall have failed to commence such cure within 30 days after notice or shall have failed thereafter to diligently pursue such cure to completion.
- 5.3 If Lafarge fails to cure such default within the time allowed hereunder, Robertson may pursue all remedies available at law, and may, at his election, terminate this Agreement by notice to Lafarge.

- 5.4 Robertson may not assert default against Lafarge for depleting or adversely affecting Robertson's wells unless Robertson is in compliance with its monitoring obligations hereunder, including without limitation the obligation to supply Lafarge all monitoring data.

**6. LABOR AND MATERIALS.**

- 6.1 Lafarge agrees to keep the Robertson Property free and clear of liens, charges, claims or demands arising from or in connection with its observation of monitoring or its taking water samples from Robertson's wells and to promptly pay for all labor performed on Lafarge's behalf on the Robertson Property.
- 6.2 Robertson agrees to keep the Talbott Property free and clear of liens, charges, claims or demands arising from or in connection with its observation of monitoring from the Talbott Property Wells and to promptly pay for all labor performed on Robertson's behalf on the Talbott Property.

**7. INDEMNITY.**

- 7.1 Lafarge shall defend, indemnify and hold harmless Robertson from and against any and all claims, charges, demands, causes of action, damages and liability, including reasonable attorneys fees and expert fees, that arise from or are connected to the acts or omissions of Lafarge or to those of its contractors, subcontractors, employees, officers, agents or lessees in regard to Lafarge's presence on the Robertson Property in connection with well monitoring or water sampling.
- 7.2 Robertson shall defend, indemnify and hold harmless Lafarge from and against any and all claims, charges, demands, causes of action, damages and liability, including reasonable attorneys fees and expert fees, that arise from or are connected to the acts or omissions of Robertson or to those of his contractors, subcontractors, employees, agents or lessees in regard to Robertson's presence on the Talbott Property in connection with well monitoring or water sampling.

**8. ASSIGNMENT.**

- 8.1 This Agreement may be assigned by Robertson to any successor in interest to the Robertson Property and by Lafarge to any successor in interest to the Talbott Property. Any permitted assignee shall assume and be subject to all of the provisions of this Agreement. All other assignments are prohibited, unless previously agreed upon, in writing, by all Parties or their successors in interest.

**9. NOTICE.**

- 9.1 Notices of default or of cancellation or termination of this Agreement and all other notices, other than scheduling of monitoring, required or permitted

hereunder shall be given by personal delivery or by registered or certified mail, postage prepaid, addressed to the parties as follows:

As to Lafarge:

Lafarge West, Inc  
Attn: Area Manager  
1800 North Taft Hill Road  
Ft Collins CO 80521

As to Robertson: Dr. Ken Robertson  
3116 Willett Dr  
Laramie, WY 82070

Notices of schedule changes in connection with well monitoring may be given personally or by regular mail.

#### 10. FORCE MAJEURE.

10.1 Neither Party shall be considered in default in the performance of its obligations under this Agreement to the extent that performance of any such obligation is prevented or delayed by any cause which is beyond the reasonable control of the affected Party and which such Party could not, by reasonable diligence, have avoided.

If Lafarge is delayed in completion of its obligations hereunder by causes which are beyond the control of Lafarge (such events being referred to as "force majeure"), the time for performance of Lafarge's obligations shall be extended for the amount of time reasonably necessary to overcome such cause of delay, provided that Lafarge, within five (5) days after Lafarge's knowledge of the beginning of such delay, notifies Robertson in writing of the cause of delay and the effect of such delay on the completion date of Lafarge's obligations, and diligently thereafter seeks to resume performance of the obligations.

"Force majeure" shall include, but is not limited to, acts of God, war, fires, floods, or any other cause not within the reasonable control of the affected Party and which such Party could not, by reasonable diligence, have avoided.

#### 11. MISCELLANEOUS PROVISIONS.

11.1 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Wyoming.

11.2 Non-Business Day Deadlines. If a date for notice or performance falls on a holiday or weekend, the time for performance or payment shall be extended to the next business day.

- 11.3 Headings. The headings of the Sections of this Agreement are for convenience of reference only and are not a part of the substantive provisions of this Agreement.
- 11.4 Further Instruments. Each Party hereto shall from time to time execute and deliver such further instruments as the other Party or its counsel may reasonably request to effectuate the intent of this Agreement.
- 11.5 Entire Agreement. This Agreement contains the entire agreement between the parties hereto as to the subject matter hereof and supersedes all prior agreements concerning the same, Neither this Agreement nor any part of it may be changed, altered, modified, or limited orally or by any agreement between the parties unless such agreement be expressed in writing, signed by the parties hereto.
- 11.6 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date above first written.

**LAFARGE WEST, INC.**  
a Delaware corporation

  
\_\_\_\_\_  
Dr. Ken Robertson

By:   
Name: Account Manager, Northern App.  
Title: Eric Rautenthal