

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
OF THE STATE OF WYOMING

FILED

FEB 29 2007

IN THE MATTER OF THE APPEAL OF)
CHEVRON MINING INC'S WELCH PERMIT)
NO. 497-T4 (F/K/A PITTSBURG & MIDWAY)
COAL MINING CO.)

Terri A. Lorenzon, Director
Environmental Quality Council
Docket No. 07-4600

PROTESTANT'S PREHEARING CONFERENCE MEMORANDUM

John C. Willson, the Protestant in the above matter, submits the following Prehearing Conference Memorandum in compliance with the order from the Council dated December 14, 2007:

1. Summation of Facts and Legal Issues.

John C. Willson ("Willson") is the owner of land in Sheridan County, Wyoming, covered, in part, by the Chevron Mining's Welch Mine Permit No. 497-T4 (the "Welch Mine Permit"). The Welch Mine Permit was originally issued in 1979, but the mine itself was never fully developed. Consequently, surface disturbance at the site was minimal. The disturbance consisted of a short access/haul road, one waste rock stockpile, and one topsoil stockpile associated with road construction. While a total of twelve (12) acres were disturbed under the Welch Mine permit, a mere three (3) acres required reclamation. However, almost thirty (30) years after the disturbance occurred, Chevron Mining and its predecessors have failed to complete reclamation of those three acres. And, despite its obligation to effectively and timely administer operations under the Welch Permit, the response of the Department of Environmental Quality ("WDEQ") to this failure has been to simply extend all deadlines for completing the required reclamation work. Currently, according to the WDEQ, the earliest date for bond release for the disturbance under the Welch Mine Permit will be 2017, meaning that the Willson land will be tied up for approximately thirty-eight (38) years from the date of last disturbance.

The Protestant believes that the WDEQ has failed to effectively and timely administer its obligations under Title 35, Chapter 11 of the Wyoming Statutes in the following respects:

- a. The WDEQ has not enforced Wyoming Statutes §§ 35-11-401, 402 and 406 by not requiring timely reclamation of the land subject to the Welch Mine Permit.
- b. The WDEQ has not enforced Wyoming Statutes § 35-11-406 and 437 in that the WDEQ has issued renewals of the Welch Mine Permit when the Permittee did not have sufficient land control to complete its obligations under the Welch Mine Permit. When this deficiency was brought to the attention of the WDEQ, it did not issue a violation as required but instead allowed the Permittee over two and one-half (2.5) years to abate the violation.

- c. The WDEQ has not enforced Wyoming Statutes § 35-11-406, 409 and 412 in that it has not revoked the Welch Mine Permit and P&M Coal's mining license as required by these statutes as a result of false sworn statements made by the Permittee in order to secure repeated extensions of the Welch Mine Permit.

In addition to violating the identified Wyoming Statutes, the Protestant believes that the WDEQ has also violated the laws of the United States, namely 30 U.S.C. Section 1260 [Section 510.b] and 30 U.S.C. Section 1268 [Section 518.g]. The Protestant has therefore requested that the Welch Mine Permit be revoked, and that the associated mining license of P&M Coal be revoked as well.

2. List of Witnesses.

- a. John Willson
P.O. Box 2244
Gillette, WY 82717

Mr. Willson is the Protestant in the pending matter, and can be expected to testify as to all matters at issue. Attached hereto is a letter Mr. Willson sent to Jeffrey W. Fleishman, Director of the OSM Casper Field Office, in which he describes the matters at issue in this case. This letter is incorporated herein as a more detailed description of the matters to which Mr. Willson will testify. In addition, Mr. Willson will testify concerning his plan to build a residence on his property (as referenced in exhibits 9-12), and how the failure to complete reclamation of the Welch Mine Permit is interfering with those plans.

- b. Richard A. Chancellor
WDEQ Land Quality Division
122 West 25th Street
Herschler Building
Cheyenne, WY 82002

Mr. Chancellor is the Administrator of the WDEQ Land Quality Division, and is expected to testify as to all activities of the WDEQ in relation to the Welch Permit. In particular, Mr. Chancellor is expected to identify and authenticate Protestant's exhibits 1, 2, 3, 5, 6, 7, 9, 10, 11, and 14 -29, and to testify generally in relation to the matters addressed in those exhibits.

- c. Bob Giurgevich
District III Assistant Supervisor
DEQ Land Quality Division
1866 S. Sheridan Avenue
Sheridan, Wyoming 82801

Mr. Giurgevich is the District III Assistant Supervisor for the WDEQ Land Quality Division, and may be asked to testify as to any and all activities of the WDEQ in relation to the Welch Permit. In particular, Mr. Giurgevich may be asked to identify and authenticate

Protestant's exhibits 9, 10, 11, 14, 15, and to testify generally in relation to the matters addressed in those exhibits.

The Protestant further reserves the right to call and/or examine any witness identified by any other party in relation to this matter.

3. List of Exhibits.

Attached to this Memorandum is a list of all exhibits the Protestant intends to present at the hearing in this matter. Pursuant to earlier order of the Council, one copy of each exhibit has been provided to Chevron Mining, one copy of each exhibit has been provided to the WDEQ, and three (3) copies of each exhibit have been submitted to the Council as attachments hereto.

In addition to his designated exhibits, the Protestant reserves the right to offer any exhibits identified by any other party in relation to this matter.

Respectfully submitted this 28th day of February, 2008.

LONABAUGH AND RIGGS, LLP

By: _____


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that I served true and correct copies of the within and foregoing document by mailing copies thereof this 28th day February, 2008, as follows:

Chairman - Wyoming Environmental Quality Council
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