

**BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING**

IN THE MATTER OF OBJECTION TO)
THE MINING PERMIT APPLICATION)
OF MOUNTAIN CEMENT COMPANY) DOCKET NO. 07-4804
PERMIT NO. 298C, TFN 4 2/220)

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 October 12, 2007.

I. List of Witnesses and Summary of Their Testimony.

MCC may call the following witnesses:

1. **Stuart Tomlinson**
President
Mountain Cement Company
5 Sand Creek Road
Laramie, WY 82070
(307) 745-4879

Mr. Tomlinson may be called to testify about MCC's present and proposed mining practices and its efforts to comply with all mining permits and agreements. He will testify about MCC's mineral lease with the State of Wyoming and the need for the permit amendment. He will also testify about MCC's agreement with Mr. Waitkus concerning mining in Area C. He may also describe MCC's past experiences with Mr. Waitkus and MCC's planning objectives and production requirements.

2. **Monte Buchanan**
Wyo. Dept. of Environmental Quality, Land Quality Division
Herschler Building, 3rd Floor West
122 West 25th Street
Cheyenne, Wyoming 82520

307-777-7756

Mr. Buchanan was MCC's Quarry Technician and was responsible for much of the information and studies in MCC's permit amendment application. He may be called to testify about all aspects of the permit application and about MCC's mine plan. He may describe MCC's past experiences with Mr. Waitkus and MCC's efforts to work with its neighbors to mitigate impacts of mining. Mr. Buchanan is now employed by LQD and may testify regarding MCC's permit application compliance with Wyoming law and regulations.

3. **Mr. Steve Cooley**
Environmental Manager
Mountain Cement Company
5 Sand Creek Road
Laramie, WY 82070
(307) 745-4879

Mr. Cooley is MCC's Environmental Manager. Mr. Cooley also works closely with MCC's blasting contractors and water monitoring contractors. He may be called to testify about all aspects of the permit application, about MCC's mine plan, about MCC's blasting practices, and MCC's water monitoring practices. He may describe MCC's past experiences with Mr. Waitkus and MCC's efforts to work with its neighbors to mitigate impacts of mining.

4. **Mr. Ron Schreibeis**
Rocky Mountain Reclamation
P.O. Box 1695
Laramie, WY 82073
(307) 745-5230

Mr. Schreibeis of Rocky Mountain Reclamation prepared and submitted the Vegetation Inventory for MCC's permit application. He may be called to testify about his vegetation studies and reclamation seeding.

5. **Yenter Drilling & Blasting**

20300 W. Hwy 72
Arvada, CO 80007
(303)279-4458

Yenter Drilling & Blasting contracts with MCC to perform blasting at MCC's limestone quarries. MCC may call an individual from Yenter Drilling & Blasting to testify regarding Yenter's blasting practices at MCC's quarries.

6. **Ms. Amber Travsky**

Real West Natural Resource Consulting
1116 Albin St.
Laramie, WY 82072
(307) 742-3506

Mr. Travsky prepared and submitted the Wildlife study for MCC's permit application. She may be called to testify about her wildlife study and wildlife observations.

7. **Mr. Bill Haley**

Game Warden
Wyoming Game and Fish
528 S. Adams
Laramie, WY 82070
(307) 745-4046

Mr. Haley is a Game Warden with the Wyoming Game and Fish. He may be called to testify about big game species in the amendment area and that the area is not crucial habitat for big game species.

8. **Mr. Robert Garland**

CBM Associates, Inc.
920 E. Sheridan
Laramie, WY 82070
(307) 742-4991

Mr. Garland is a hydrogeologist with CBM Associates, Inc. He may be called to testify about the Casper Aquifer, potential for pollution to the Casper Aquifer, and MCC's water quality monitoring and results.

9. **Mr. Lowell Spackman**
Wyo. Dept. of Environmental Quality, Land Quality Division
Herschler Building, 3rd Floor West
122 West 25th Street
Cheyenne, Wyoming 82520
307-777-7756

Mr. Spackman may be called to testify regarding his knowledge of MCC's mining permit amendment application, its compliance with Wyoming Law, and the Division's decision to allow the permit amendment.

10. **Mr. Steve Ingle**
Wyo. Dept. of Environmental Quality, Land Quality Division
Herschler Building, 3rd Floor West
122 West 25th Street
Cheyenne, Wyoming 82520
307-777-7756

Mr. Ingle may be called to testify regarding his knowledge of MCC's mining permit amendment application, its compliance with Wyoming Law, and the Division's decision to allow the permit amendment.

11. **Mr. Rich Vincent**
Wyo. Dept. of Environmental Quality, Land Quality Division
Herschler Building, 3rd Floor West
122 West 25th Street
Cheyenne, Wyoming 82520
307-777-7756

Mr. Vincent may be called to testify regarding his knowledge of MCC's mining permit amendment application, its compliance with Wyoming Law, and the Division's decision to allow the permit amendment.

12. **Mr. Jonathan Stauffer**
Wyo. Dept. of Environmental Quality, Land Quality Division
Herschler Building, 3rd Floor West
122 West 25th Street
Cheyenne, Wyoming 82520
307-777-7756

Mr. Stauffer may be called to testify regarding his knowledge of MCC's mining permit

amendment application, its compliance with Wyoming Law, and the Division’s decision to allow the permit amendment.

13. **Mr. Bill Hogg**
 Wyo. Dept. of Environmental Quality, Land Quality Division
 Herschler Building, 3rd Floor West
 122 West 25th Street
 Cheyenne, Wyoming 82520
 307-777-7756

Mr. Hogg may be called to testify regarding his knowledge of MCC’s mining permit amendment application, its compliance with Wyoming Law, and the Division’s decision to allow the permit amendment.

14. MCC may call any witness listed by the objector in the above captioned matter. In addition, MCC may call any witness needed for rebuttal testimony.

II. List of Exhibits.

Exhibit No.	Description	Offered	Accepted	Rejected
MCC-1	Mountain Cement Company Permit Amendment Application (Permit No. 298C) TFN 4 2/220			
MCC-2	Stipulated Resolution to Objections, Permit No. 298C-A5, TFN 4 4/296, dated October 16, 2006.			
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	Mr. Waitkus letter dated October 4, 2007			

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 80% 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 the 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 landowner 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.

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 and the zoning/development 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 agreements 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.

III. Legal Issues

Whether MCC's permit amendment application complies with Land Quality Division requirements.

DATED October 18, 2007

Mountain Cement Company



Philip A. Nicholas

Mitchell H. Edwards

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, Mitchell H. Edwards, certify that the foregoing Pre-Hearing Disclosure Statement was served by U.S. Mail, postage prepaid, and by e-mail to the following people on the 18th day of October, 2007:

Mr. Brian R. Waitkus
80 Eagle Nest Lane
Laramie, Wyoming 82070
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
Wyoming DEQ-LQD



Mitchell H. Edwards