

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

FILED

OCT 14 2008

Jim Ruby, Executive Secretary
Environmental Quality Council

**IN THE MATTER OF THE OBJECTION)
TO THE SMALL MINE PERMIT OF) Docket No. 08-4805
INTERMOUNTAIN CONSTRUCTION)
& MATERIALS, TFN 4 1/361)**

NOTICE OF HEARING AND ORDER

NOTICE IS HEREBY GIVEN THAT:

1. The Environmental Quality Council (the Council) will conduct a hearing on October 27, 2008 at the Campbell County Extension Office, 1000 S. Douglas Hwy. 59, Powder River Conference Room, Gillette, Wyoming commencing at 9:30 A.M. This hearing will be conducted as a contested case hearing under the Wyoming Administrative Procedure Act. F David Searle, a member of the Council will serve as Presiding Officer and Deborah Baumer, Office of Administrative Hearings, will be the hearing examiner.
2. This hearing is held pursuant to Sections 35-11-101 through 35-11-1904, W.S. 2008, as amended, regulations promulgated there under, and the Department of Environmental Quality Rules of Practice and Procedure.
3. Intermountain Construction & Materials, (Intermountain) applied for a small mining permit from the Department of Environmental Quality (DEQ).
4. Intermountain and the DEQ contend the permit application is complete and should be granted.
5. The Protestants objected to Intermountain's small mining permit. The particular statutes and rules upon which the Protestants base their objections have not been specified at this time.
6. This matter was scheduled in accordance with the time limitations set forth in Wyo. Stat. § 35-11-406(k). The schedule can only be adjusted at the request and the filing of a joint stipulation and motion for continuance.

NOTICE IS FURTHER GIVEN THAT:

1. A prehearing conference in this matter will be conducted on October 22, 2008 at 1:30 p.m. via telephone conference call. The parties shall inform the EQC office of a telephone number where they can be reached for the prehearing on or before October 21,

2008. Failure to appear at the prehearing conference may result in dismissal from this case.

2. The purpose of the prehearing conference is:
 - a. Identification of witnesses, their addresses, phone numbers, and the substance of their proposed testimony;
 - b. Clarification of the legal issues, both substantive and procedural, of all the parties, including identification of the statutory provisions and regulations that form the basis of the appeal;
 - c. Stipulation to uncontested facts;
 - d. Examination and marking of proposed exhibits and entering into stipulations to the foundation and admissibility of the exhibits and testimony; and
 - e. Pending motions.
3. To facilitate the hearing process, all parties shall deliver a list of witnesses, their addresses, phone numbers, the substance of their proposed testimony, a list of exhibits, and a summation of the facts and legal issues, to all parties to this case (Intermountain, the Protestants, and the Department of Environmental Quality) and the Environmental Quality Council by 4:00 P.M. on October 21, 2008.
4. The Parties shall exchange and submit 3 copies to this office of all exhibits on or before the Prehearing Memorandum due date, October 21, 2008.

ORDER


IT IS HEREBY ORDERED THAT:

1. All parties shall appear at the prehearing conference call on October 22, 2008 at 1:30 P.M. Failure to appear at the prehearing will result in dismissal from the case.
2. All parties shall appear on October 27, 2008 at 9:30 A.M. to present evidence. Failure to appear at the hearing will result in dismissal from the case.
3. A court reporter will transcribe the Prehearing and the hearing. The DEQ shall pay for the transcripts.
4. All parties shall deliver the prehearing document and exhibits in accordance with the schedule set forth in this Notice of Hearing and Order. All other documents shall be filed with the Environmental Quality Council at the address below, and all documents shall be

served to all other parties to the case.

5. Documents may be served or delivered by fax transmission or via-email if prior arrangements for the transmission are made with the recipients, the e-mailed document is in either Word for Windows or WordPerfect 6.0, and the original document is mailed to the Council prior to or at the same time as transmission by fax or e-mail. The fax number for the Environmental Quality Council is 307-777-6134 and the e-mail address is kmcgee@state.wy.us.
6. All motions shall be filed by 4:00 p.m. October 21, 2008, and parties shall be prepared to argue pending motion(s) at the prehearing; and
7. No continuances shall be granted unless a motion showing good cause for the continuance is filed with the EQC no later than 4:00 p.m. on October 21, 2008 and the Presiding Officer finds that good cause has been shown.

DATED this 14 day of October, 2008.


F. David Searle, Presiding Officer *FD*
Environmental Quality Council

CERTIFICATE OF SERVICE

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 14th day of October, 2008, I served a copy of the foregoing **NOTICE OF HEARING AND ORDER** by depositing copies of the same in the United States mail, postage prepaid, duly enveloped and addressed to:

Steve Wuthier
279 Shell Creek Road
Buffalo, WY 82834

Jeff Williams
Intermountain Construction & Materials
P.O. Box 2469
Gillette, WY 82717

Larry Brannian
445 Lake Ridge Road
Buffalo, WY 82834

Chuck Evitt
988 Rock Creek Rd.
Buffalo, WY 82834

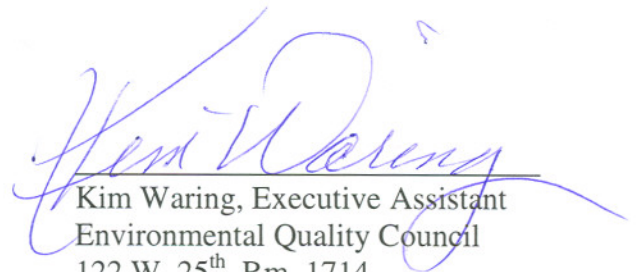
Lonabaugh and Riggs, LLP
Thomas J. Klepperich
P.O. Drawer 5059
Sheridan, WY 82801

by electronic mail to the following;

John Burbidge
Asst. Attorney General
Jburb1@state.wy.us

Don McKenzie, Coordinator
Land Quality Division
dmcken@wyo.gov

John Corra
Director, DEQ
jcorra@state.wy.us


Kim Waring, Executive Assistant
Environmental Quality Council
122 W. 25th, Rm. 1714
Herschler Bldg.
Cheyenne, WY 82002
Phone: 307-777-7170
FAX: 307-777-6134