

LAW OFFICES
LONABAUGH AND RIGGS, LLP

SUITE 110, 50 EAST LOUGKS STREET
DRAWER 5059
SHERIDAN, WYOMING 82801

TELEPHONE (307) 672-7444
FAX (307) 672-2230
E-MAIL: Lawyers@Lonabaugh.com

DAN B. RIGGS
JEFFREY J. GONDA
ROBERT G. BERGER
ROBERT W. BROWN
HAULTAIN E. CORBETT
THOMAS J. KLEPPERICH*
LORI A. McMULLEN
DAVID G. SMITH*
MICHAEL C. STEEL**

AMANDA M. WEBER
JACOB L. BROOKS
AMANDA K. ROBERTS

* ADMITTED IN COLORADO
** ADMITTED IN MONTANA

October 10, 2008

E. E. LONABAUGH
(1861-1938)

A. W. LONABAUGH
(1896-1971)

RETIRED:
E. E. LONABAUGH

OBJECTION TO AMENDMENT TO MINING PERMIT

Administrator of Land Quality Division
Department of Environmental Quality
Herschler Building
122 West 25th Street
Cheyenne, Wyoming 82002

FILED

COPY

OCT 14 2008

Jim Ruby, Executive Secretary
Environmental Quality Council

Re:

Permitee: Intermountain Construction and Materials of Gillette, Wyoming
Protestant: Chuck Evitt
Permit Area: SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T. 52M, R. 83W; NE $\frac{1}{4}$ Section 22, T. 52N,
R. 83W; NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22 T. 52N, R. 83W; Johnson County,
Wyoming

Adminstrator:

As attorneys for Protestant Chuck Evitt, we wish to file this formal objection to the application of Intermountain Construction and Materials of Gillette, Wyoming ("ICM") to amend the ICM mine permit upon the lands identified above.

1. Name and Address of Protestant and Protestant's Attorney. The name and address of the Protestant is Chuck Evitt, 988 Rock Creek Road, Buffalo, Wyoming, 82834. The name and address of Protestant's attorneys are Lonabaugh and Riggs, LLP, Attention: Thomas J. Klepperich, P.O. Drawer 5059, Sheridan, Wyoming 82801.

2. Action Upon Which Hearing is Requested. This is an objection to, and request for a public hearing upon, the application of ICM, for an amendment to their mining permit as described in the public notice published by ICM in the Buffalo Bulletin on (among other dates) August 21, 2008.

3. Concise Statement of Issues.

Chuck Evitt is the owner of land in Johnson County, Wyoming, upon which a part of ICM's "Evitt Pit" sits. The Evitt Pit is the location covered by the permit that ICM

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now seeks to amend. ICM's right to access the Evitt Pit for purposes of mining and, subsequently, reclaiming its permit area previously existed by virtue of a "Haul Road License" among Mr. Evitt and ICM's predecessor. However, ICM is currently in default of that "Haul Road License" for, among other things, failing to regularly and properly account for the quantity of materials that has been hauled across the Evitt Ranch, failing to pay Mr. Evitt the fees required by the Agreement, storing aggregate mined from neighboring property on the Evitt Ranch, and locating upon the Evitt Ranch certain machinery, equipment, and structures for handling aggregate that was mined elsewhere. As a result of these defaults on the part of ICM, it is Mr. Evitt's position that the "Haul Road License" is no longer effective and, consequently, ICM no longer has any right to access the permit area. That being the case, Mr. Evitt believes that the Department should not only refuse ICM the requested amendment, but that it should also initiate action to revoke the permit in its existing form.

4. Request for Hearing. The Protestant hereby requests a hearing on its above objection.

DATED this 10th day of October, 2008.

LONABAUGH AND RIGGS, LLP

By: _____

Original Signed By
Thomas J. Klepperich

Thomas J. Klepperich
P.O. Drawer 5059
Sheridan, WY 82801
307-672-7444 - Telephone
307-672-2230 - Fax
Attorneys for Chuck Evitt

LONABAUGH AND RIGGS, LLP

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that I served true and correct copies of the within and foregoing Objection by mailing copies thereof this 10th day of October, 2008, as follows:

Director - Wyoming Department of Environmental Quality
122 West 25th Street
Herschler Building
Cheyenne, Wyoming 82002

Administrator of Land Quality Division
Department of Environmental Quality
Herschler Building
122 West 25th Street
Cheyenne, Wyoming 82002

Chairman
Wyoming Environmental Quality Council
Herschler Building
122 West 25th Street
Cheyenne, Wyoming 82002

Intermountain Construction & Materials
P.O. Box 2469
Gillette, Wyoming 82717

Original Signed By
Thomas J. Klepperich

Thomas J. Klepperich