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Of Environmental Quality

**FILED**  
JUL 16 2010  
Jim Ruby, Executive Secretary  
Environmental Quality Council

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

**IN THE MATTER OF THE OBJECTION            )**  
**TO THE MINE PERMIT OF                    )**  
**McMurry Ready Mix Company, Permit #739    )**  
**TFN 5 2/110                                    )**  
**Docket No. 10-4801**

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**DEPARTMENT OF ENVIRONMENTAL QUALITY'S  
PRE-HEARING DISCLOSURES**

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The Department of Environmental Quality, Land Quality Division ("Division"), through the Office of the Attorney General, pursuant to the Environmental Quality Council's ("Council") Notice of Hearing and Order, hereby submits its Pre-Hearing Disclosures.

**SUMMATION OF THE FACTS**

McMurry Ready Mix Company ("McMurry") filed an application to revise mining permit #739. After proper notification that McMurry's application for permit revision was complete, Mike and Cheryl Newberry ("Newberrys") timely filed objections to the application. The Newberrys allege that McMurry's proposed revision will adversely affect Smiley Springs by changing its water flow and causing Smiley Springs to no longer flow. Newberrys also allege that water wells drilled by McMurry have mitigated some of the damage to them but that McMurry's mining activities have adversely affected water rights in Smiley Springs dating back

to the 1920s. Lastly, the Newberrys generally allege that McMurry's application does not take into account long term affects of its mining operation on Smiley Springs. The Division has determined that McMurry's proposed mining activities will not adversely affect Smiley Springs. In addition, the Division has determined that McMurry's application for revision to permit #739 is complete and in full compliance with Wyoming law. The Division is ready to issue the permit.

### **LEGAL ISSUE**

Is McMurry's application for permit revision complete and should the Division issue McMurry a permit revision pursuant to WYO. STAT. ANN. § 35-11-406?

### **WITNESSES**

WILL CALL:

Bill Hogg  
Steve Ingle  
Department of Environmental Quality  
Herschler Building  
122 West 25<sup>th</sup> Street  
Cheyenne, Wyoming 82002  
307-777-7756

Mr. Hogg is in charge of the oversight and review of McMurry's permit revision application, TFN 5 2/110. He is expected to testify regarding general permit application requirements and whether McMurry's application is complete and in compliance with the requirements of Wyoming law.

Mr. Ingle is expected to testify regarding all matters contained within the permit application relating to ground water, including hydrologic issues pertaining to Smiley Springs.

MAY CALL:

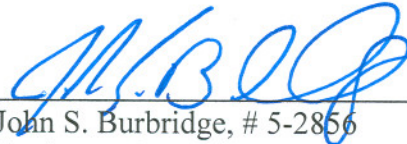
None

**EXHIBITS**

State's Exhibit 1: McMurry's permit revision application.

Respectfully submitted this 16<sup>th</sup> day of July, 2010.

FOR THE DEPARTMENT OF  
ENVIRONMENTAL QUALITY



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## CERTIFICATE OF SERVICE

I certify that the foregoing document was served by facsimile and US. Mail, postage prepaid, and addressed correctly, to the following people on the 16<sup>th</sup> day of July, 2010:

Mike and Cheryl Newberry  
P.O. Box 1644  
Rawlins, Wyoming 82301  
307-324-9528

Mr. Ron McMurry  
McMurry Ready Mix Company  
P.O. Box 2488  
Casper, Wyoming 82602  
307-235-0144



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Wyoming Attorney General's Office