

Mike and Cheryl Newberry
PO Box 1644
Rawlins, WY 82301

July 5, 2010

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

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To Whom It May Concern:

This letter will serve as a written objection to the proposed permit revision of the McMurry Ready Mix Company WYUTE Pit. There are several reasons for our objections to the permit revision and they are as follows:

MP-13 MP-4.2.1 "is not expected to impact Smiley Springs."

Since the original mine plan, we have voiced our concerns regarding blasting and Smiley Springs. For approximately two years, Smiley Springs has been impacted by the blasting at the gravel pit. While McMurry Ready Mix has mitigated some of this impact by drilling two water wells, the fact remains that Smiley Springs no longer flows.

MP-13 MP-4.2.3

"Apparently blasting...has effectively modified the potentiometric surface in the immediate vicinity of the pit"

This is an admission that water flow has changed, and its associated impact has never been adequately analyzed, as far as long term water and its effects on a predominantly dry area. Wildlife, vegetation, livestock, etc. were not taken into consideration regarding these changes from the original mine plan. The pit has no riparian vegetation (like our drainage) and is ill equipped to deal with 60-100 gpm. In addition, the fact that McMurry Ready Mix holds a permit for the "seep" on BLM lands is not appropriate. The original plan emphatically stated they would not affect water rights, however, Smiley Springs was adversely affected and water rights dating from the 1920's have been adversely affected. Although McMurry has drilled wells to replace a portion of the water lost, the irrigation, capability and priority of Smiley Springs has not been replaced.

The first well drilled by McMurry Ready Mix has already been impacted by blasting and/or poor well installation. Intermittent capability of the first well resulted in a new replacement well being drilled by McMurry. This replacement well has been a good water source but could still be easily compromised by additional blasting and does not provide the amount of water nor the priority that was provided by Smiley Springs (.52 cfs which is 233 gpm).

RP-7a "Seepage will likely continue...a post mining impoundment is not anticipated."

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This area has never had water and to assume that 60-100 gallons will seep back into the ground with the help of phreatophytic vegetation that doesn't currently exist is not appropriate. We currently have riparian vegetation that has adapted for a century to maintain a water of the United States.

MP-14 MP-4.2.6 "monitoring during mining will be conducted at one spring (Smiley Springs)"

Monitoring has not taken place at Smiley Springs for two years due to loss of water from blasting, having this in the document is not appropriate and is misleading since there is nothing to monitor.

Hydrologic Assessment-Executive Summary- "Both Smiley and Cherokee Springs are sufficiently distant and up-gradient of the mine operation that it is unlikely they have been impacted.

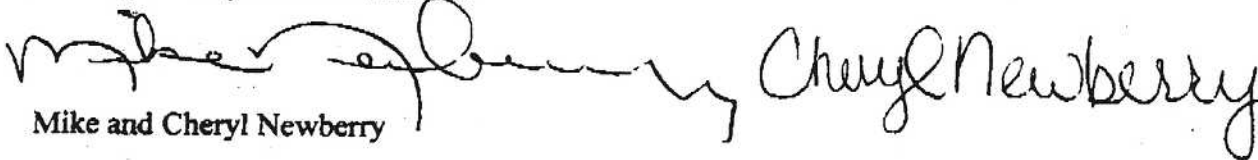
This is clearly not true since a mine area that was never going to affect water has 60-100 gallons per minute streaming through it.

Hydrogeologic Assessment-page 3 "the seasonally intermittent spring"

This was not a seasonally intermittent spring! It was first permitted in the 1920's for irrigation and household and domestic livestock use which implies perennial water. Our family history shows perennial water from the late 1960's until 2008. Blasting fragmented the inherent structure of Smiley Spring's flow as we had originally commented on. In addition, McMurry Ready Mix and BLM have filed on water that was ours. WWC affirms that the seep water has no connection to Smiley Springs, however, the water stopped flowing on our land when the water started flowing on BLM. In addition, at a public meeting, it was admitted that although they hadn't affected anyone's well waters, McMurry had affected Smiley Spring.

We believe that water is precious and Smiley Spring was very important to us and our operation. While McMurry has drilled us wells for mitigation they haven't replaced our original water rights tied to Smiley Springs nor have they adequately addressed the long term effects to BLM.

Thank you for your consideration.

 Cheryl Newberry

Mike and Cheryl Newberry

cc State Engineer's Office
BLM

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Rawlins, WY 82301
3073207476

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Washington Office FOIA Coordinator
Bureau of Land Management
1849 C Street, NW
Room 750 LS, WO-540
Washington, DC 20240

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FOIA REQUEST

Dear FOIA Officer:

Pursuant to the federal Freedom of Information Act, 5 U.S.C. § 552, I request access to and copies of Any BLM environmental documentation regarding the McMurry Ready Mix Company WYUTE Pit Mine Permit Revision. This would include any hydrologic, soils, wildlife, livestock, and vegetation analyses that have occurred regarding this Mine Permit Revision. This especially applies to the seep that appeared in the mine area that was not analyzed in the original Mine Plan. In addition, any information regarding water rights applied for on BLM land by McMurry Ready Mix and BLM regarding this seep. Does the BLM have the right to take water rights held by a private landowner that were identified in the original mine plan and apply for their use. In the original Mine Plan we complained that blasting in the past had an impact on Smiley Spring. In response to our concerns, all of the original environmental analysis in the Mine Plan said that water would not be impacted or be a factor in the gravel pit's operations. After a period of operation, blasting did cause Smiley Spring to stop flowing approximately two years ago, which we monitored closely. The seep appeared after Smiley Springs stopped flowing on our private lands. Although a portion of the water loss has been mitigated by McMurry Ready Mix, the original water rights for Smiley Springs and its associated irrigation rights have not been addressed. In addition, the impacts to both the Smiley Springs drainage which supports a healthy riparian area, as well as the mine area which does not have riparian vegetation is not adequately addressed in this revision. Future management of this seep (60-100 gpm) has not been analyzed adequately and could be a significant impact for the BLM in the future.

I agree to pay reasonable duplication fees for the processing of this request in an amount not to exceed \$200.00. However, please notify me prior to your incurring any expenses in excess of that amount.

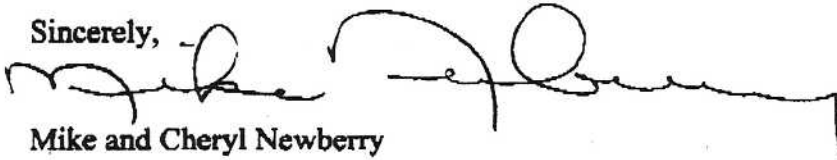
If my request is denied in whole or part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all segregable portions of

otherwise exempt material. I, of course, reserve the right to appeal your decision to withhold any information or to deny a waiver of fees.

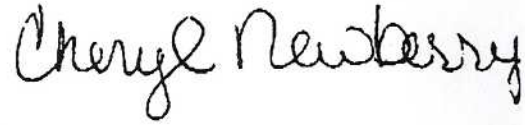
I look forward to your reply within 20 business days, as the statute requires.

Thank you for your assistance.

Sincerely,



Mike and Cheryl Newberry



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