

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

FILED

Dec 07, 2010

Jim Ruby, Executive Secretary
Environmental Quality Council

IN THE MATTER OF THE OBJECTION)
TO THE SMALL MINE PERMIT OF) Docket No. 10-4803
McMURRY READY MIX CO.)
TFN 5 3/143

**McMURRY READY MIX COMPANY'S PRE-HEARING DISCLOSURE:
SUMMARY OF ISSUES, WITNESS LIST, AND EXHIBIT LIST**

McMurry Ready Mix Company (McMurry), by and through its attorneys, Hageman and Brighton, P.C., and pursuant to the Scheduling Order issued by the Environmental Quality Council, hereby submits this Pre-Hearing Disclosure – Summary of Issues, Witness List, and Exhibit List.

I. **SUMMARY OF ISSUES**

There are only two issues before the Environmental Quality Council (“EQC” or “Council”): (1) whether McMurry’s Eastfork Ranch Pit Application for Permit to Mine (Application) and related documents as filed with the Department of Environmental, Land Quality Division (DEQ/LQD) meet the requirements of and comport with the Land Quality Statutes of the Wyoming Environmental Quality Act (Act), including most specifically Wyo.Stat. § 35-11-406, as well as the applicable DEQ/LQD Rules and Regulations; and (2) whether the Administrator/Director properly found that none of the reasons identified in Wyo.Stat. § 35-11-406(m) apply to McMurry’s Application.

II. LIST OF WITNESSES

McMurry may call any one or more of the following witnesses to testify during the December 10, 2010 contested case hearing before the Council. Set forth below are their addresses, telephone numbers, and the substance of their proposed testimony.

1. Ron McMurry
McMurry Ready Mix
5684 Old West Yellowstone Highway
Casper, Wyoming 82604
Telephone: 307-473-9581

Mr. McMurry may be called to testify regarding the operations at the Eastfork Ranch Pit, compliance with the Wyoming Environmental Quality Act, compliance with the County Conditional Use Permit, and any and all aspects of the McMurry's DEQ/LQD Permit Application.

2. Gene Brummond
McMurry Ready Mix
5684 Old West Yellowstone Highway
Casper, Wyoming 82604
Telephone: 307-473-9581

Mr. Brummond may be called to testify regarding the operations at the Eastfork Ranch Pit, compliance with the Wyoming Environmental Quality Act, compliance with the County Conditional Use Permit, and any and all aspects of the McMurry's DEQ/LQD Permit Application.

3. Steve Stresky
Aqua Terra Consultants, Inc.
2624 Heartland Drive
Sheridan, Wyoming 82801

Telephone: 307-672-7133

Mr. Stresky may be called to testify regarding McMurry's compliance with the Wyoming Environmental Quality Act in its permitting and any and all aspects of the McMurry's DEQ/LQD Permit Application.

4. Joel Bousman
1346 State Highway 353
Boulder, Wyoming 82923
Telephone: 307-537-5213

Mr. Bousman may be called to testify regarding the operations at the Eastfork Ranch Pit, use and operations of his property, his ranching operations, and McMurry's compliance with the County Conditional Use Permit.

5. Mark Moxley
Wyoming Department of Environmental Quality
510 Meadowview Drive
Lander, Wyoming 82520
Telephone: 307-335-6938

Mr. Moxley may be called to testify regarding the operations at the Eastfork Ranch Pit, compliance with the Wyoming Environmental Quality Act, and any and all aspects of the McMurry's DEQ/LQD Permit Application.

6. Any witness identified by any other party.

Each of the foregoing witnesses may be called to testify in rebuttal to any witnesses or exhibits submitted by the Objectors. McMurry reserves the right to call any other witness necessary for rebuttal or impeachment to any witnesses or exhibits submitted by the Objectors.

This Disclosure may be supplemented as necessary if new witnesses are identified.

III. **LIST OF EXHIBITS**

McMurry may introduce any one or more of the following Exhibits:

McMurry Ready Mix Eastfork Ranch Pit Permit Application. Admission has been stipulated to by the parties. McMurry understands that the DEQ/LQD will be submitting this Exhibit through its witnesses. McMurry reserves the right to submit any Section or Subsection of the Permit Application as a stand-alone document.

- A. October 26, 2009 Letter from Joel Bousman to the Wyoming Department of Environmental Quality.
- B. Excerpt from Sublette County Planning and Zoning Commission, Official Minutes, February 21, 2008
- C. March 18, 2008 Sublette County Planning and Zoning Department letter to Mr. McMurry
- D. 08-028 Zoning and Development Conditional Use Permit for McMurry Ready Mix (3/19/2008)
- E. 08-029 Zoning and Development Conditional Use Permit for McMurry Raedy Mix (3/19/2008)
- F. December 8, 2008 letter from Bart Myers to McMurry Ready Mix
- G. January 5, 2009 letter from Bart Myers to Mark Sullivan
- H. November 12, 2009 letter from Bart Myers to McMurry Ready Mix
- I. December 1, 2009 letter from Anthony Reyes, Chief Civil Deputy, Sublette County Attorney, to Mark D. Sullivan
- J. January 21, 2010 letter from McMurry Ready Mix (Willie Wessel) to the Sublette County Commissioners
- K. March 4, 2010 letter from Bart Myers to McMurry Ready Mix

- L. October 21, 2010 letter from Bart Myers to David Goodwin
- M. Sublette County Traffic Count Information
- N. Sublette County Zoning and Development Regulations Resolutions
- O. October, 2009 through December, 2010 Monthly Sunrise/Sunset Times
- P. LQD Stipulations for Surface Mining in Sage Grouse Core Areas (August 28, 2009)
- Q. January 7, 2005 News Release from United States Fish and Wildlife Service re: listing of sage grouse
- R. January 25, 2010 letter from Wyoming Game and Fish Department to Jim Orpet
- S. January 22, 2010 letter from United States Fish and Wildlife Service to Jim Orpet
- T. February 12, 2010 letter from Wyoming Game and Fish Department to Mark Moxley
- U. May 14, 2010 Memorandum from Tanya King to Carol Billrough (with attachments)
- V. June 8, 2010 Memorandum from Scott Smith to Matty Fry (with attachments)
- W. June 14, 2010 letter from Steven J. Stresky to Scott Gamo
- X. June 14, 2010 letter from Steven J. Stresky to Brian Kelly
- Y. June 24, 2010 letter from Wyoming Game and Fish Department to Steven J. Stresky
- Z. July 15, 2010 letter from United States Fish and Wildlife Service to Steven Stresky
- AA. Photographs of area

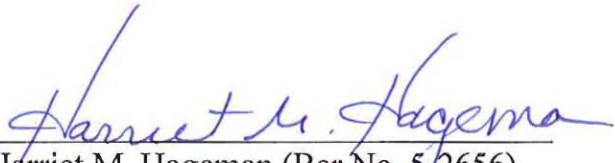
- BB. Google Earth depiction of Area
- CC. Site Map
- DD. Scale Tickets - Loadout documentation (including Ticket No., Location, Date, and Time)
- EE. Map of area prepared by or on behalf of Mark D. Sullivan
- FF. Resume of Steven J. Stresky
- GG. Documents in Docket No. 4557-09
- HH. Any Exhibit identified by any other party.

McMurry reserve the right to introduce any Exhibits to be used for rebuttal and/or impeachment purposes, which Exhibits may or may not be identified above.

Protestants reserve the right to introduce or rely upon any demonstrative Exhibit that is based upon any of the above-enumerated documents, data, or data compilations.

Dated this 6th day of December, 2010

McMURRY READY MIX


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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 6TH day of December, 2010, a true and correct copy of the foregoing **McMURRY READY MIX COMPANY'S PRE-HEARING DISCLOSURE: SUMMARY OF ISSUES, WITNESS LIST, AND EXHIBIT LIST**, was served upon the following:

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