

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

FILED

NOV 23 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)

NOTICE OF HEARING AND ORDER

NOTICE IS HEREBY GIVEN THAT:

1. The Environmental Quality Council (the Council) will conduct a hearing on December 10, 2010 at a location to be determined at a later date and commencing at 9:00 A.M. This hearing will be conducted as a contested case hearing under the Wyoming Administrative Procedure Act. Dennis Boal, a member of the Council will serve as Presiding Officer.
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. McMurry Ready Mix Co., (McMurry) applied for a small mining permit from the Department of Environmental Quality (DEQ).
4. McMurry and the DEQ contend the permit application is complete and should be granted.
5. The Protestant objected to McMurry's small mining permit. The particular statutes and rules upon which the Protestant 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 December 1, 2010 at 1:30 p.m via telephone conference call. The parties shall inform the EQC office of a direct telephone number and if possible an email address where they can be reached for the prehearing on or before 4:00 p.m November 29, 2010. 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. Motions.
3. In accordance with the DEQ Rules of Practice and Procedure, Chapter 1, Section 6, “Unless otherwise agreed to by the parties and consented to by the Council, all hearings, including all testimony, shall be reported verbatim by a competent reporter. The compensation of such reporter shall be paid as required by law and as ordered by the Council. The Council may direct any party or parties to assume the cost of the transcript.” If the Parties do not file a waiver to this section, the DEQ should pay the costs of the transcript.

ORDER


IT IS HEREBY ORDERED THAT:

1. All parties shall appear at the prehearing conference call on December 1, 2010 at 1:30 p.m.. The parties shall inform the EQC office of a direct telephone number and if possible an email address where they can be reached for the prehearing on or before 4:00 p.m. November 29, 2010. Failure to appear at the prehearing conference may result in dismissal from this case.
2. All parties shall appear on December 10, 2010 at 9:00 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 hearing. If the Parties have not filed a waiver for the prehearing on or before 12:00 noon November 29, 2010 a court reporter will transcribe the prehearing. The DEQ shall pay for the transcripts.
4. No continuances, concerning the prehearing conference, shall be granted unless a motion

showing good cause for the continuance is filed with the EQC no later than 12:00 noon on November 29, 2010 and the Presiding Officer finds that good cause has been shown.

5. At the prehearing the Parties shall be prepared to discuss:
- 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. Motions.

DATED this 23rd day of November, 2010.


Dennis Boal, Presiding Officer
Environmental Quality Council *MB*

CERTIFICATE OF SERVICE

I, James Ruby, certify that at Cheyenne, Wyoming, on the 23rd day of November, 2010, I served a copy of the foregoing **ORDER** by electronic mail and regular U. S. Mail Postage prepaid to the following:

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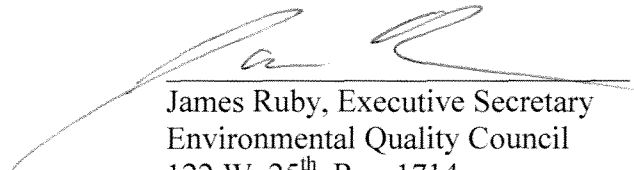
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