BEFORE THE ENVIRONMENTAL QUALITY COUNCIL STATE OF WYOMING

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

PRE-HEARING STATEMENT

The Department of Environmental Quality, Land Quality Division ("Division"), through the Office of the Attorney General, hereby submits its Pre-Hearing Statement.

SUMMATION OF THE FACTS

McMurry Ready Mix Co., ("McMurry") filed its small mine application, TFN 5 3/143 with the Division. After notification that McMurry's application was complete, several interested parties timely filed objections to the permit with the Division. The objection raises the following issues: defective notice, violations of zoning regulations, past non-compliance issues of the permittee, noise and air pollution, public nuisance due to heavy truck traffic, excessive operating hours, and quality of life issues. The Division has determined that the application is complete and in full compliance with Wyoming Law. The Division is ready to issue the permit.

LEGAL ISSUES

Is McMurry's permit application complete and should DEQ issue McMurry a permit to mine pursuant to WYO. STAT. ANN. § 35-11-406 (West 2010)?

WITNESSES

WILL CALL:

Tanya King
Department of Environmental Quality
Land Quality Division
Lander Field Office
510 Meadowview Drive
Lander, Wyoming 82520
307-332-3047

Ms. King is in charge of the review of McMurry's permit application, TFN 5 3/143. She is expected to testify regarding all matters contained within the permit application. In addition, Ms. King will testify regarding general permit application requirements and whether McMurry's permit application is in compliance with all requirements of Wyoming law.

Mary Flanderka Wyoming Game and Fish Department 5400 Bishop Blvd. Cheyenne, WY 82006 307-777-4600

Ms. Flanderka is expected to testify about the consultation process associated with the Sage Grouse Executive Order and the recommendations made by Game and Fish to the proposed permit.

MAY CALL:

Mark Moxley Department of Environmental Quality Land Quality Division Lander Field Office

510 Meadowview Drive Lander, Wyoming 82520

307-332-3047

Mr. Moxley may testify regarding general permit application requirements and

whether McMurry's permit application is in compliance with all requirements of Wyoming

law.

Carol Bilbrough

Department of Environmental Quality

Land Quality Division

Herschler Building

122 East 25th St.

Cheyenne, WY 82002

Ms. Bilbrough may testify regarding general permit application requirements and

whether McMurry's permit application is in compliance with all requirements of Wyoming

law. In addition, Ms. Bilbrough may testify to the consultation efforts by DEQ regarding

Sage Grouse.

The Division may also call any witness listed by the objectors in the above-captioned

matter. In addition, the Division may call any witness needed for rebuttal testimony.

EXHIBITS

State's Exhibit A: McMurry's Permit Application.

State's Exhibit B: Permit Location in Relation to Lek Map

State's Exhibit C: 2010-4 Sage-Grouse Core Area Protection Executive Order

State's Exhibit D: February 12, 2010 Game and Fish Letter to Mark Moxley

State's Exhibit E: June 8, 2010 Game and Fish 5% Analysis

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State's Exhibit F: June 24, 2010 Game and Fish Letter to Steve Stresky

State's Exhibit G: Game and Fish Sage Grouse Executive Order Power Point

State's Exhibit H: Traffic Control Memo

The Division also reserves the right to use exhibits identified by other parties as well as exhibits for rebuttal and impeachment purposes.

DATED this _____day of December, 2010.

Luke J. Esch # 6-4155

Assistant Attorney General

123 Capitol Building

Cheyenne, Wyoming 82001

307-777-3442

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the Pre-Hearing Statement and copies of the Proposed State's Exhibits were served by electronic mail, this _____ day of December 2010, to the following:

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Cheyenne, WY 82002
kwaring@wyo.gov

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