

WITNESSES

WILL CALL:

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

Mr. Smith is in charge of the review of Owl Creek's permit application. He is expected to testify regarding all matters contained within the permit application. In addition, Mr. Smith will testify regarding general permit application requirements and whether Owl Creek's permit application is in compliance with all requirements of Wyoming law.

Loren Smith
Wyoming State Engineer's Office
715 East Roosevelt
Riverton, WY 82501
307-856-0747

Mr. Smith is expected to testify about the consultation process which took place between the State Engineer's Office, DEQ and Owl Creek regarding the potential impact to water rights from the operation of the facility.

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 Owl Creek's permit application is in compliance with all requirements of Wyoming law.

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 1: Owl Creek's Permit Application w/ correspondences. (Previously provided).

State's Exhibit 2: April 28, 2011, Letter from Loren Smith to Craig Smith.

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

DATED this 9th day of May, 2011.



Luke J. Esch # 6-4155
Assistant Attorney General
123 Capitol Building
Cheyenne, Wyoming 82001
307-777-3442

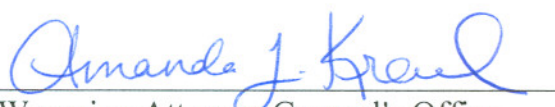
CERTIFICATE OF SERVICE

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 9th day of May 2011, to the following:

Kim Waring
Environmental Quality Council
122 W 25th, Room 1714
Herschler Building
Cheyenne, WY 82002
kwaring@wyo.gov

Mary Throne
Throne Law Office
211 W. 19th St., Suite 1100
Cheyenne, WY 82001
mthrone@thronelaw.com

John Schumacher
White & White, P.C.
420 E. Washington
Riverton, WY 82501
John.schumacher@windriverlaw.com


Wyoming Attorney General's Office

THE STATE



OF WYOMING

ALLAN CUNNINGHAM
Adjudication Officer

Board of Control

715 East Roosevelt, Riverton Wyoming 82501
(307)856-0747 FAX (307)856-4837
lsmith@seo.wyo.gov



MATTHEW H. MEAD
GOVERNOR

PATRICK T. TYRRELL
STATE ENGINEER

HARRY LaBONDE, Jr.
DEPUTY STATE ENGINEER

RANDY TULLIS, SUPERINTENDENT
WATER DIVISION I
CARMINE LOGUIDICE, SUPERINTENDENT
WATER DIVISION II
LOREN SMITH, SUPERINTENDENT
WATER DIVISION III
JADE HENDERSON, SUPERINTENDENT
WATER DIVISION IV

April 28, 2011

Mr. Craig Smith
Environmental Scientist
WyDEQ
510 Meadowview Drive
Lander, WY 82520

Dear Craig,

I have reviewed the documentation you forwarded me this week in regards to the Owl Creek Gravel Products proposed small mine :TFN 5 6/206. There still seems to be some concern about mining into the water table in this within this project. It was our intent to not stop any mining into the water table, but to set a firm base that would protect the downstream water rights on both Steward Springs and the lower Owl Creek. The primary way we tried to accomplish this protection was through the implementation of a limit being that there would always remain a two (2') foot thick layer of undisturbed gravel above the clay shale layer found on site. Your technical review comments memorandum of February 15, 2011, item 17 states: "DEQ/LQD is in agreement with Loren Smith of the SEO's office in regards to leaving 24" of gravel material on the pit floor to convey the water out of the pit." This is an incorrect statement as the gravel layer must be undisturbed and that it is intended to convey the water through the aquifer not out of it. The goal here it to maintain the integrity of the aquifer. Secondly, in the document titled List of Permits Required by Other Agencies to Conduct the Mining Operation I believe it is item h.), which has stirred concern. The reason behind this is that the drainage channel to be constructed along the North and East sides of the pit operation are only intended to collect and convey surface runoff around the mining operation during storm or runoff events. It has been mentioned in passing that the intent of Owl Creek Gravel Products is to dewater the aquifer utilizing this drainage ditch. Item h). leads me to believe this intent is still there. By dewatering the aquifer the efforts undertaken by the above requirements become moot and the likely hood of down gradient impacts are evident.

Best Regards,

Loren Smith
Superintendent Water Division III

Cc: Dave Deutz, Asst. Supt. Div. III
Matt Brown, Owl Creek Irr. Dist.

