

MAY 04 2011

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

Jim Ruby, Executive Secretary
Environmental Quality Council

**IN THE MATTER OF THE OBJECTION)
TO THE SMALL MINE PERMIT OF)
OWL CREEK GRAVEL LLC.)**

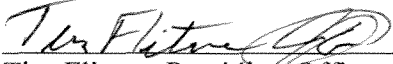
Docket No. 11-4801

ORDER

1. The Environmental Quality Council (the Council) will conduct a hearing on MAY 13, 2011, Room 1699 Herschler Bldg, 122 W. 25th St. Cheyenne, WY commencing at 8:30 a.m. This hearing will be conducted as a contested case hearing under the Wyoming Administrative Procedure Act. Chairman Tim Flitner, 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. Owl Creek Gravel LLC (Owl Creek) applied for a small mining permit from the Department of Environmental Quality (DEQ).
4. Owl Creek and the DEQ contend the permit application is complete and should be granted.
5. Matt and Teresa Brown objected to Owl Creek's small mining permit. The particular statutes and rules upon which the Protestant base their objections include but are not necessarily limited to 35-11-406(m)(iii), (v) and (vii).
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.
7. A prehearing conference in this matter was conducted on May 3, 2011 at 9:00 a.m. via telephone conference call.
8. The hearing is scheduled for one day. The hearing will convene at 8:30 a.m.
9. The parties shall file all preliminary motions with the Council no later than 12:00 (noon) May 9, 2011. All responses to said motion should be filed by 12:00 (noon) on May 11, 2011.

10. Discovery requests must be received by 12:00 (noon) May 6th, 2011. Responses to discovery shall be received by 12:00 (noon) May 10, 2011.
11. The parties shall exchange witness, grounds for objection and exhibit lists by 12:00 (noon) May 9, 2011. Any Objections to witnesses shall be filed by 12:00 (noon) May 11, 2011.
12. The Objectors shall identify their exhibits as "Brown 1,2,3,4 etc.
13. DEQ shall identify their Exhibits DEQ 1,2,3,4 etc.
14. Owl Creek shall identify their Exhibits Owl Creek 1,2,3,4, etc.
15. All parties have consented to service of pleadings and discovery by email.
16. The order of presentation of evidence will be as follows: The Department will go first. The Brown's will go second. The Permittee, Owl Creek will go last. The Department will then have an opportunity to present any rebuttal evidence.
17. Opening and Closing statements will be given in the following order. The Browns first, the Department of Environmental Quality second and Owl Creek last.
18. All parties will be given five minutes for opening statements and each party will be given 5 minutes for closing argument. If there is insufficient time for oral closing arguments, the parties shall be allowed to file written closing arguments.
19. All parties shall appear on May 13, 2011 at 8:30a.m. to present evidence. Failure to appear at the hearing will result in dismissal from the case.
20. A court reporter will transcribe the hearing.
21. There shall not be any continuance of the final hearing unless all parties consent and the presiding officer finds good cause to exist for such continuance.

DATED this 4th day of May, 2011.



Tim Flitner, Presiding Officer
Environmental Quality Council

CERTIFICATE OF SERVICE

I, Joe Girardin, certify that at Cheyenne, Wyoming, on the 4th day of May, 2011, I served a copy of the foregoing **PREHEARING ORDER** by electronic mail to the following:

John Corra
Director, DEQ
john.corra@wyo.gov

Allan Edwards, Interim Administrator
DEQ Land Quality Division
allan.edwards@wyo.gov

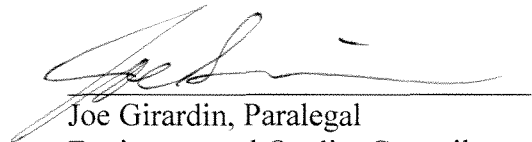
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