

Steven F. Freudenthal
Freudenthal & Bonds, P.C.
129 East Carlson Street
P.O. Box 387
Cheyenne, WY 82009-0387
(307) 634-2240

FILED

APR 17 2012

Jim Ruby, Executive Secretary
Environmental Quality Council

STATE OF WYOMING)
) ss.
COUNTY OF CARBON)

BEFORE THE WYOMING ENVIRONMENTAL COUNCIL

In the Matter of Strid Marble &)
Granite, Co., Small Mine Application,) Doc. No. 12-4801
TFN 5 6/121)

MOTION TO STRIKE FALKENBURG LETTER

COMES NOW Applicant Strid Marble & Granite, Co., a Wyoming corporation ("Strid Marble"), by and through its attorneys, Steven F. Freudenthal of Freudenthal & Bonds, P.C., and moves for an order of the Environmental Quality Council striking the Falkenburg Letter as constituting a objection to the permit application or a request for hearing, and as grounds therefor would show that:

1. The undated letter on the letterhead of Falkenburg Ranches ("Falkenburg Letter") does not constitute an a objection to the permit application or a request for hearing before the Environmental Quality Council ("Council"):

- a. The Falkenburg Letter says that the signers "are very concerned" about the mining permit, but does not object to its issuance;
- b. There are no particular references to the statutes, rules or orders that the Protestants contend would be violated

by issuance of the permit, Rules, Ch. I, Section 3(c)(iii); and

c. The Falkenburg Letter does not request a hearing before the Council, Rules, Ch. I, Section 3(c)(iv).

2. The Falkenburg Letter has not complied with the requirements of Rules, Ch. I, in order to be a Petition constituting the commencement of a proceeding before the Council:

a. Where a person is requesting a hearing or objecting to a permit, one copy of the petition shall be filed and served upon the Chairman of the Council and one copy upon the Director of the Department. Rules, Ch. I, Section 3(b). The Falkenburg Letter was a single letter which filed or served upon either (it was in fact addressed and sent to the Administrator only).

b. Original service of the Falkenburg Letter was required to be done by registered mail, return receipt requested. Rules, Ch. I, Section 3(b)(i). The Falkenburg Letter was not served in such a manner.

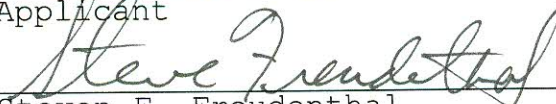
c. Where a protestant is objecting to a permit, the protestant shall also serve the permit applicant with a copy of the petition. Rules, Ch. I, Section 3(b)(ii). The Falkenburg Letter was not served by Protestants in any manner on Strid Marble.

3. The Falkenburg Letter does not represent a petition constituting the commencement of a proceeding before the Council. Rules, Ch. I, Section 3(d).

DATED this 16th day of April, 2012.

Strid Marble & Granite Co.,
Applicant

BY:



Steven F. Freudenthal
Attorney No. 5-1468
Freudenthal & Bonds, P.C.
129 East Carlson Street
P.O. Box 387
Cheyenne, WY 82009-0387
(307) 634-2240

CERTIFICATE OF SERVICE

I, Steven F. Freudenthal, do hereby certify that a true and correct copy of the foregoing was served by depositing same in the United States mail, first class postage prepaid, this 16th day of April, 2012 addressed as follows:

George & Phyllis Falkenburg
854 Poison Lake Road
Douglas, WY 82633-9208

Lyndon J. Fink
756 Wagon Hound Road
Douglas, WY 82633-9203

Jeff Falkenburg
854 Poison Lake Road
Douglas, WY 82633-9208

Darren Fink
756 Wagon Hound Road
Douglas, WY 82633-9203

Mary Falkenburg
854 Poison Lake Road
Douglas, WY 82633-9208

Pamela Haar
1200 Poison Lake Road
Douglas, WY 82633-9227

Garret Falkenburg
1092 Wagon Hound Road
Douglas, WY 82633-9203

Benny R. & Pauline Middleton
1200 Poison Lake Road
Douglas, WY 82633-9227

Wagonhound Land & Livestock
Attn: Dustin J. Ewing
1468 Esterbrook Rd
Douglas, WY 82633

Luke Esch
Senior Asst. Attorney General
Wyoming Attorney General's
Office
123 Capitol Building
Cheyenne, WY 82002

Kenneth R. Taylor
1070 Poison Lake Road
Douglas, WY 82633-9209

and was further served upon the Environmental Quality Council via PDF attachment addressed to Kim Waring at E-mail: kim.waring@wyo.gov with the original and seven copies mailed via U.S. First Class Mail, postage prepaid to:

Environmental Quality Council
Herschler Building, 1st Floor West Room 1714
122 West 25th Street
Cheyenne, WY 82002


Steven F. Freudenthal