

**MAY 29 2013**

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

Jim Ruby, Executive Secretary  
Environmental Quality Council

IN THE MATTER OF THE OBJECTIONS TO )  
THE MINE PERMIT APPLICATION ) Docket 13-4802  
OF McMURRY READY MIX COMPANY, )  
TFN 5 1/237 )

**BOULDER RESIDENT OBJECTORS' SECOND AMENDED LIST OF WITNESSES  
AND EXHIBITS**

Objectors Dave and Sandra Goodwin, Harv and Denise Hastings, Debra White, David Payne, Randy Simpson, and Kelly Garside (collectively the "Boulder Residents") respectfully submit this Second Amended List of Witnesses and Amended List of Exhibits.

**I. List of Witnesses**

Each of the objectors set forth below intend to testify at the hearing, work and weather permitting. Each is a resident of Boulder, Wyoming and owns property very near the proposed mine. Each will testify regarding the location of their property in proximity to the mine and their experience with the mine and its related truck traffic. They will recount the noise, dust, and public safety problems caused by the truck traffic and the operation of the mine itself, and the effect the mine's operation has had on their use of public roadways and public lands in the area. They will also share their observations of sage grouse activity in the area, and the impact that mine operation has had on the number of such birds frequenting the area. The objectors that are likely to testify are:

- 1. David Goodwin, Objector  
96 South County Road 133  
Boulder, WY 82923

In addition to the topics indicated above, Dave Goodwin may testify about damage to his home, wildlife in the Boulder area, and how McMurry mining operations caused him stress and

anxiety. He may be asked to testify concerning photographs he took of cropland. He may also be asked to testify concerning photographs he took of Highway 353, photographs he took of trucks exiting and entering the McMurry mine, and safety concerns with the McMurry mine entrance.

2. Sandra Goodwin, Objector  
96 South County Road 133  
Boulder, WY 82923

In addition to the topics indicated above, Sandra Goodwin may be called to testify concerning wildlife in the Boulder area, damage to her home, and how previous McMurry mining operations caused her stress, anxiety, sleeplessness, migraines, and clinical depression. She may be asked to testify about safety concerns with the McMurry mine access.

3. Denise Hastings, Objector  
241 South County Road 133  
Boulder, WY 82923

Denise Hastings will not be present at the hearing. However, a transcript of her testimony from the previous EQC hearing is listed as Exhibit 29, and the Objectors' will move to have the exhibit admitted at the upcoming hearing. This testimony includes how she and her husband, Harv Hastings, used Highway 353 prior to operations of McMurry's mine operation in the Boulder Area. Testimony will include how the McMurry mine operation disrupted the public peace.

4. Debra White, Objector  
51 Jackrabbit Lane  
Boulder, WY 82923

In addition to the topics indicated above, Debra White may be called to testify concerning her property in the area and the stress that McMurry mine has caused her.

5. David Payne, Objector

51 Jackrabbit Lane  
Boulder, WY 82923

In addition to the topics indicated above, David Payne may be called to testify about how the McMurry mine has deterred him from building a home in the Boulder area, and the stress this has caused him.

6. Randy Simpson, Objector  
48 South County Road 133  
Boulder, WY 82923

In addition to the topics listed above, Randy Simpson may be called to testify concerning his and his wife's use of the road prior to McMurry's mining operation. He may also testify about road safety concerns, stress, headaches, sinus problems, and hearing issues.

7. Kelly Garside, Objector  
1491 Highway 353  
Boulder, WY 82923

In addition to the topics listed above, Kelly Garside may testify about wildlife in the Boulder area, damage to his home, and increased sinus infections during McMurry mining operations. He may be asked to testify about photographs he took of the mine and the mine entrance. He may also be asked to testify concerning safety issues with the McMurry access.

Several of the objectors may be unable to travel to Cheyenne for the hearing due to health concerns and work conflicts. Their testimony may be presented by telephone, or in the form of their prior sworn testimony before the Council.

8. Damon Newsome  
District Traffic Engineer, WYDOT  
3200 Elk Street  
Rock Springs, WY 82901

Damon Newsome will not be called to testify. The Objectors will move to have his deposition admitted into evidence.

9. Mary Flanderka  
Wyoming Game and Fish Department  
Habitat Protection Coordinator

Mary Flanderka may be called to testify about Executive Order 2011-05, Sage Grouse, and the Density Disturbance Calculation Tool (DDCT). She may be asked to testify about guidance the Wyoming Game and Fish Department gave to Steve Stresky in conducting the DDCT. She may be asked to testify about correspondences with McMurry and Steve Stresky. She may be asked to testify about croplands, suitable sage grouse habitat, unsuitable sage grouse habitat, and disturbed areas. She may also be called to testify about the overall DDCT disturbance analysis and individual lek disturbance analysis. She may also be asked to testify about Wyoming Game and Fish Department's approval of McMurry's DDCT.

10. Darrell Snyder  
Wyoming Department of Transportation  
Maintenance Foreman, Pinedale Office

Darrell Snyder may be called to testify by telephone concerning the McMurry mine entrance. He may testify about his correspondence with McMurry, the work he performed concerning the McMurry mine entrance, and the letter he sent to McMurry designating the McMurry entrance a commercial access.

11. Steve Stresky

Steve Stresky may be called to testify concerning the McMurry mine application permit. He may be asked to testify about changes made to the permit, studies conducted, and correspondences from the Wyoming Game and Fish Department. He may also be asked specific questions about the multiple DDCT calculations he performed for McMurry.

12. Tanya King  
Department of Environmental Quality, Land and Quality Division  
Environmental Scientist

Tanya King may be called to testify concerning the McMurry mine permit application. She may be asked to testify concerning Executive Order 2011-05, the mine entrance approval, and the overall approval of the McMurry mine permit application.

Objectors furthermore reserve the right to call any witness listed by the Applicant, the DEQ or the other objectors, and reserve the right to call rebuttal witnesses necessary to rebut testimony or exhibits propounded by any party.

13. Nyssa Whitford  
Wyoming Game and Fish Department

Nyssa Whitford may be called to testify by phone concerning McMurry's Density Disturbance Calculation Tool (DDCT) calculation. Nyssa Whitford gave advice on using the DDCT to Steve Stresky. She also may be asked to testify concerning notes she took.

## **II. List of Exhibits**

The Boulder Residents may introduce one or more of the following Exhibits:

1. Short film of Truck Traffic on County Road 133. This film consists of approximately 6 minutes of video, all shot by Objector Sandra Goodwin, depicting heavy truck traffic from the McMurray Mine.
  - i. This film was used in the March 2011 EQC hearing, and should be in the possession of McMurry and the DEQ. A copy can be provided upon request.
2. Map of area showing leks, mines, and Mathis Lane Alternative
  - i. This map was used as an exhibit at the previous EQC hearing. A copy is being provided herewith as Exhibit 2.
3. List of Steve Stresky's correspondence with the WGFDMcMurry
  - i. McMurry RFP (7 and 9) 0358-0359

4. Email correspondence between Mary Flanderka and Steve Stresky May 3, 2011.
  - i. McMurry RFP (7 and 9) 0421
5. Email between Mary Flanderka and Steve Stresky dated August 24, 2011.
  - i. McMurry RFP (7 and 9) 0419
6. Emails between Mary Flanderka and Steve Stresky dated September 11, 2011.
  - i. McMurry RFP (7 and 9) 0410-0412
7. Emails between Mary Flanderka and Steve Stresky dated September 13, 2011.
  - i. McMurry RFP (7 and 9) 0395-0401
8. Emails between Mary Flanderka and Steve Stresky dated February 6, 2012.
  - i. McMurry RFP 0353-0354
9. Deposition transcript of Damon Newsome, with exhibits.
10. Class C Manual, Wyoming Rules of the Road
  - i. This exhibit is attached herewith as Exhibit 10.
11. Memorandum from Tanya King to File TFN 5 1/237 on June 12, 2011 concerning Mine Entrance.
  - i. Located at B.R. 000348-000349.
12. Letter from Tanya King to Ron McMurry about trucks turning dated June 13, 2011.
  - i. B.R. 000347.
13. Letter from Steve Stresky to Tanya King dated June 17, 2011 regarding WYDOT approval.
  - i. B.R. 000417-000422
14. Letter from Mark Sullivan to Mark Moxley dated September 29, 2011 concerning the approach at McMurry pit with photos.
  - i. B.R. 000209-000211; B.R. 000600-000604
15. Photos of trucks exiting and entering the McMurry Entrance.
  - i. B.R. 000600-000604

16. Memo from Jennifer Frazier to Dave Finely, Bob Fill, and Tony Hoyt dated November 30, 2008 with accompanying photos.
  - i. B.R. 000312-000323
17. Deposition transcript of Mary Flanderka.
18. Photographs of the Entrance to the McMurry Mine.
  - i. B.R. 000625-000627
19. Photographs of trucks in front of the Goodwin's home.
  - i. B.R. 000599
20. Photographs of Dust
  - i. B.R. 000605-000608
21. Photographs of approach to mine from north and south taken by Dave Goodwin.
  - i. These photographs have previously been provided in an email and are attached hereto as Exhibit 21.
22. Photographs of cropland .
  - i. B.R. 000584-000598
23. Receipt for replaced window.
  - i. B.R. 000628
24. EQC March 10, 2011 decision denying the McMurry mine permit.
  - i. This exhibit should be in McMurry and the DEQ's possession.
25. DDCT Draft 2
  - i. McMurry RFP (7 and 9) 0376
26. DDCT Draft 3
  - i. McMurry RFP (7 and 9) 0377
27. DDCT, D9-1-1, drawn December 15, 2011
  - i. Attached as exhibit 27
28. DDCT, Sage Canopy Covers, drawn November 28, 2011.
  - i. Attached as exhibit 28

29. Transcript of testimony of Denise Hasting's testimony from the December 12, 2010 EQC hearing.
  - i. Attached as exhibit 29
  
30. DDCT Draft
  - i. Attached as exhibit 30
  
31. Email correspondence between Jill Randall and Steve Stresky dated September 8, 2011.
  - i. Attached as exhibit 31
  
32. Email correspondence between Mary Flanderka and Jill Randall dated September 6, 2011.
  - i. Attached as exhibit 32
  
33. Notes taken by Nyssa Whitford
  - i. Attached as exhibit 33
  
34. Sage Grouse Implementation Team Minutes March 22, 2012
  - i. Attached as exhibit 34
  
35. East Fork\_DDCT Review 012012
  - i. Attached as exhibit 35
  
36. Sage Grouse Executive Order 2011-05
  - i. Parties should be in possession of this exhibit.

The Boulder Residents furthermore reserve the right to use and introduce any exhibit listed by any other party, and to use any other documents or things that may be necessary for the purposes of impeachment on cross-examination, or as rebuttal evidence.

Respectfully Submitted,

DATED: This 29<sup>th</sup> day of May, 2013.



MARK D. SULLIVAN, P.C.

/S/ \_\_\_\_\_  
By: Mark D. Sullivan (6-3824)  
5237 HHR Ranch Road  
Wilson, WY 83014  
p. (307) 733-2021  
f. (307) 732-9807

**CERTIFICATE OF SERVICE**

I hereby certify that on May 29, 2013, the foregoing Amended List of Witnesses and List of Exhibits were served via electronic mail to the following:

Jeremiah I. Williamson  
Wyoming Attorney General's Office  
123 State Capital Building  
Cheyenne, Wyoming 82002  
jeremiah.williamson@wyo.gov

Harriet Hageman  
Hageman Law P.C.  
222 East 21st Street  
Cheyenne, Wyoming 82002  
hhageman@hagemanaw.com

/S/ \_\_\_\_\_  
Laura Ethington