

FILED

MAY 24 2013

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Jim Ruby, Executive Secretary
Environmental Quality Council

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

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

**WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S
PRE-HEARING STATEMENT**

The Wyoming Department of Environmental Quality hereby submits its statement of issues and lists of witnesses and exhibits according to the Environmental Quality Council's April 19th Scheduling Order.

I. Statement of Issues

In 2011, the Council denied this permit application because it created a public nuisance, endangered public health and safety, and failed to comply with Executive Order 2010-4.

1. McMurry has reduced its proposed hours of operation to be consistent with the operations of other mines in the area. Do the reduced hours of operation continue to constitute a public nuisance in violation of Wyo. Stat. Ann. § 35-11-406(m)(vii)?

2. The Wyoming Department of Transportation improved the access to the mine from Highway 353. Does the improved mine access still endanger public health and safety in violation of Wyo. Stat. Ann. § 35-11-406(m)(vii), even though the Department of Transportation approved it?

3. Does the McMurry permit violate Executive Order 2011-5, even though the Wyoming Game and Fish Department and the Sage Grouse Implementation Team determined that the permit complies with the Order?

II. Witnesses

DEQ will call the following witnesses:

Tanya King
Wyoming Department of Environmental Quality
Land Quality Division
510 Meadowview Drive
Lander, Wyoming 82520
(307) 332-7726

- Ms. King will testify concerning her review of the McMurry permit at issue in this matter and the general nature of gravel mine permitting.

Mary Flanderka
Wyoming Game and Fish Department
5400 Bishop Boulevard
Cheyenne, Wyoming 82006
(307) 777-4587

- Ms. Flanderka will testify concerning her review of the McMurry permit for compliance with Executive Order 2011-5 and related predecessor orders.

DEQ may call any of the Objectors as witnesses.

III. Exhibits

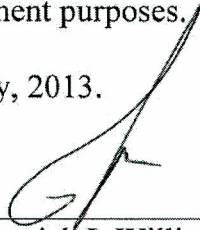
- DEQ Exhibit A: East Fork Ranch Pit Permit Application (TFN 5 1/237)
- DEQ Exhibit B: Aerial Photograph of Highway Entrance for Permit 771s Noble Bootjack Pit
- DEQ Exhibit C: Aerial Photograph of County Road Entrance for Permits 229cs and 783s Shriver and High Plains Ventures
- DEQ Exhibit D: Aerial Photograph of County Road Entrance for Permit 747s Teletractors
- DEQ Exhibit E: Letter from Tanya R. King to Ron McMurry (June 13, 2011)
- DEQ Exhibit F: Electronic mail correspondence between Tanya King and Steven J. Stresky (June 16-17, 2011)
- DEQ Exhibit G: Letter from Tanya R. King to Ron McMurry (June 15, 2011)
- DEQ Exhibit H: Letter from Steven J. Stresky to Tanya King (June 21, 2011)
- DEQ Exhibit I: Electronic mail correspondence between Sandra Goodwin and Tanya King (Sept. 1, 2011)
- DEQ Exhibit J: Letter from Steven J. Stresky to Ron McMurry (Nov. 3, 2011)
- DEQ Exhibit K: Letter from Tanya King to Ron McMurry (Nov. 1, 2012)
- DEQ Exhibit L: Letter from Steven J. Stresky to Tanya King (Jan. 16, 2013)
- DEQ Exhibit M: Letter from Steven J. Stresky to Tanya King (Oct. 5, 2012)
- DEQ Exhibit N: Objectors' Response to Department of Environmental Quality's First Interrogatories (May 14, 2013)
- DEQ Exhibit O: Report of 2013 Annual Inspection of LMO 1423ET (May 17, 2013)
- DEQ Exhibit P: Map of Proposed Mine Location in Relation to Existing Mines and Sage Grouse Leks (May 15, 2013)

DEQ Exhibits Q
through X: Photographs of mine access line of sight

DEQ Exhibits Y
through Z: Photographs of trucks exiting mine.

DEQ reserves the right to use exhibits identified by other parties as well as
exhibits used for rebuttal or impeachment purposes.

Submitted this 24th day of May, 2013.



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 24th day of May, 2013, a true and correct copy of the foregoing *Wyoming Department of Environmental Quality's Pre-Hearing Statement* was served by placing the same in the United States mail, postage prepaid, and via electronic mail to the following:

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Wyoming Attorney General's Office