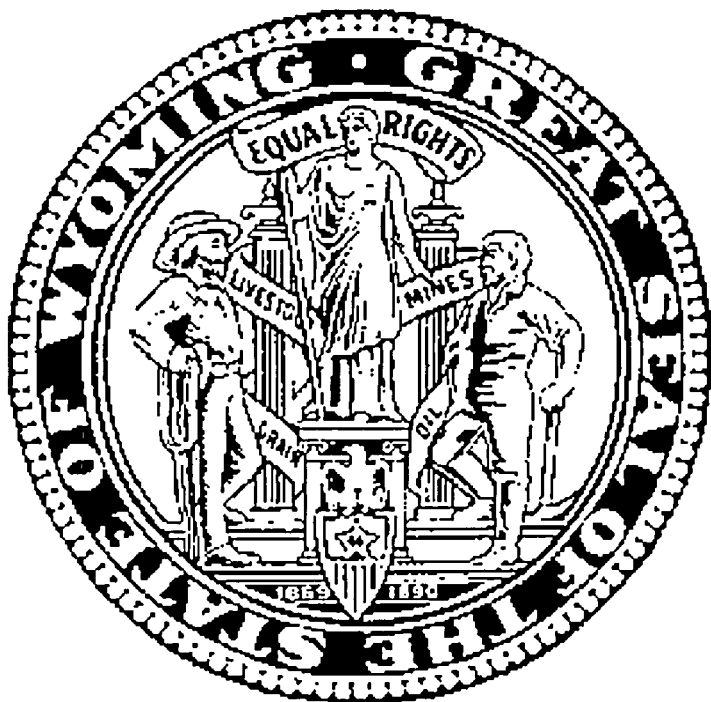


CONTESTED CASE
Intermountain Construction
& Materials
EQC Docket #08-4805





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Certified Fee	\$2.70	12
Return Receipt Fee (Endorsement Required)	\$2.20	Postmark Here
Restricted Delivery Fee (Endorsement Required)	\$0.00	
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Steve Wuthier

Street, Apt. No.;
or PO Box No.

279 Shell Creek Rd.

City, State, ZIP+4

Buffalo, WY 82834

7002 0460 0002 9828 0899

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
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- Attach this card to the back of the mailpiece, or on the front if space permits.

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Stevell Wuthier
 279 Shell Creek Rd.
 Buffalo, WY
 82834

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly) B. Date of Delivery

T Wuthier 10/22/08

C. Signature

X *T Wuthier*

- Agent
 Addressee

D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type

- Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

7802 0460 0002 9828 0899

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1. Article Addressed to:

CHUCK EVITT
 988 ROCK CREEK RD.
 BUFFALO, WY 82834

2. Article Number (Copy from service label)

7002 0460 0002 9828 0905

PS Form 3811, July 1999

Domestic Return Receipt

COMPLETE THIS SECTION ON DELIVERY

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B. Date of Delivery

10-16

C. Signature

X


 Agent Addressee Is delivery address different from item 1? Yes

If YES, enter delivery address below:

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4. Restricted Delivery? (Extra Fee)

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Certified Fee

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Restricted Delivery Fee
(Endorsement Required)

Total Postage & Fees

\$

Postmark
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Sent To

HECK EVITT

Street, Apt. No.;
or PO Box No.

988 ROCK CREEK RD.

City, State, ZIP+ 4

BUFFALO, WY 82834

7002 0460 0002 9828 0905

Name and Address of Sender

Kim Waring
 EDC
 132 W. 25th St. RM. 1714
 CHEYENNE, WY 82002

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Affix stamp here if issued as certificate of mailing, or for additional copies of this bill.

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Line	Article Number	Addressee Name, Street, and PO Address	Postage	Fee	Handling Charge	Actual Value (If Reg.)	Insured Value	Due Sender If COD	RR Fee	DC Fee	SC Fee	SH Fee	SD Fee	RD Fee	Remarks
1	78020460 000298280905	CHUCK EVETT 988 ROCK CREEK RD. BUFFALO, WY 82834													
2															
3															
4															
5															
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The full declaration of value is required on all domestic and international registered mail. The maximum indemnity payable for the reconstruction of nonnegotiable documents under Express Mail document reconstruction insurance is \$50,000 per piece subject to a limit of \$500,000 per occurrence. The maximum indemnity payable on Express Mail merchandise insurance is \$500. The maximum indemnity payable is \$25,000 for registered mail, sent with optional postal insurance. See Domestic Mail Manual R900, S913, and S921 for limitations of coverage on insured and COD mail. See International Mail Manual for limitations of coverage on international mail. Special handling charges apply only to Standard Mail (A) and Standard Mail (B) parcels.

Bilbrough, Carol

From: Rogaczewski, Mark
Sent: Monday, October 13, 2008 8:28 AM
To: Bilbrough, Carol
Cc: McKenzie, Don; Schellinger, David
Subject: RE: ICM objections

FILED

OCT 13 2008

Jim Ruby, Executive Secretary
Environmental Quality Council

Carol,

I spoke with Eva Brannian, wife of Larry Brannian, this morning. She provided the following list of concerns on her husband's letter:

Maintenance of the road – very rough with pot-holes.
Dust from the mine site and roads due to increased truck traffic.
Overall truck traffic was also mentioned.

Mrs. Brannian stated she would send a second letter outlining these concerns later this week.

Mark

From: Bilbrough, Carol
Sent: Friday, October 10, 2008 12:29 PM
To: Rogaczewski, Mark
Cc: McKenzie, Don
Subject: ICM objections

Mark, the final day of public notice is Monday the 13th – lets talk late Monday after we know who all the objectors are. Don indicated he was ok with trying to facilitate resolution, and that you should be the facilitator.

Carol

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

OCT 21 2008

Jim Ruby, Executive Secretary
Environmental Quality Council

IN THE MATTER OF THE OBJECTION)
TO THE SMALL MINE PERMIT OF)
INTERMOUNTAIN CONSTRUCTION)
& MATERIALS, TFN 4 1/361)

Docket No. 08-4805

ORDER

The Applicant in the above-entitled matter has withdrawn the small mine permit application and the Protestants have withdrawn their request for a hearing. The Environmental Quality Council being fully advised in the premises,

HEREBY ORDERS: That this matter should be and is hereby dismissed.

DATED this 31ST day of Oct, 2008.


F. David Searle, Presiding Officer
Environmental Quality Council
Herschler Building, Room 1714
122 West 25th Street
Cheyenne, Wyoming 82002
Tel: (307) 777-7170
FAX: (307) 777-6134

CERTIFICATE OF SERVICE

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 21ST day of October, 2008, I served a copy of the foregoing **ORDER** by depositing copies of the same in the United States mail, postage prepaid, duly enveloped and addressed to:

Steve Wuthier
279 Shell Creek Road
Buffalo, WY 82834

Jeff Williams
Intermountain Construction & Materials
P.O. Box 2469
Gillette, WY 82717

Larry Brannian
445 Lake Ridge Road
Buffalo, WY 82834

Chuck Evitt
988 Rock Creek Rd.
Buffalo, WY 82834

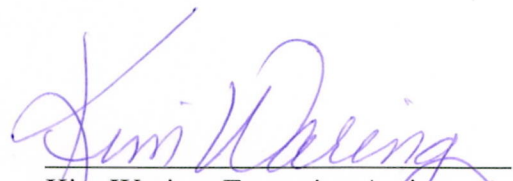
Lonabaugh and Riggs, LLP
Thomas J. Klepperich
P.O. Drawer 5059
Sheridan, WY 82801

by electronic mail to the following;

John Burbridge
Asst. Attorney General
Jburbl@state.wy.us

Don McKenzie, Coordinator
Land Quality Division
dmcken@wyo.gov

John Corra
Director, DEQ
jcorra@state.wy.us



Kim Waring, Executive Assistant
Environmental Quality Council
122 W. 25th, Rm. 1714
Herschler Bldg.
Cheyenne, WY 82002
Phone: 307-777-7170
FAX: 307-777-6134



INTERMOUNTAIN CONSTRUCTION & MATERIALS

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Gillette, WY 82717-2469
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FAX: 307-686-6433

SHERIDAN

1618 KROE Lane
Sheridan, WY 82801
PHONE: 307-672-8407
FAX: 307-674-7585

MR LB DE SP
KK MT JS JM
PS GM DC DS

October 16, 2008

FILED

OCT 16 2008

Dave Schellinger
WYDEQ

Jim Ruby, Executive Secretary
Environmental Quality Council

Re: 718(s)

Intermountain Construction and Materials is giving notice that ICM is cancelling the application to amend the current 718(s) Small Mine Permit to a regular mine permit.

A regular mine permit is no longer necessary at this location. The remaining area within the current permit boundary contains approximately 5 acres that is economically feasible to mine. There will be no further expansion of the permit boundaries.

The only reason ICM was pursuing the permit change, was to be able to comply with WYDEQ regulations regarding annual overburden removal and disturbed area volume.

ICM will continue to operate 718(s) under the small mine regulations, until the mine is depleted and all materials are processed. ICM anticipates mining and processing to be completed by 2012, with reclamation activities taking place in the same time frame.

Respectfully,

Jeff Williams

Gravel Properties Manager, Intermountain Construction and Materials





THE STATE OF WYOMING
ENVIRONMENTAL QUALITY COUNCIL

October 15, 2008

Dave Freudenthal,
Governor

Dennis Boal,
Chair

F. David Searle,
Vice-Chair

Kirby Hedrick,
Secretary

John N. Morris

Dr. Fred Ogden

Tom Coverdale

Tim Flitner

Jim Ruby
Executive Secretary

Kim Waring,
Executive Assistant

Joe Girardin,
Paralegal

122 W. 25th, Herschler
Bldg., Rm. 1714,
Cheyenne, WY 82002
(307) 777-7170
FAX: (307) 777-6134
<http://deq.state.wy.us/eqc>

CERTIFIED MAIL #

RETURN RECEIPT REQUESTED

Larry Brannian
445 Lake Ridge Road
Buffalo, WY 82834

RE: Intermountain Construction & Materials, TFN 4 1/361—Docket No. 08-4805

Dear Mr. Brannian:

The Department of Environmental Quality (DEQ) has forwarded your objection to the application of Intermountain Construction & Materials, TFN 4 1/361, Docket No. 08-4805, for a mining permit to the Environmental Quality Council (the Council). As provided for in the Environmental Quality Act, the Council will set a time and place for a hearing on your objection. This hearing will be conducted pursuant to the provisions of the Environmental Quality Act, the Administrative Procedures Act, and the DEQ Rules of Practice and Procedure. The hearing will be conducted as a contested case, and all witnesses will be sworn, direct and cross examination will be the means of eliciting testimony, and all documents must be introduced as exhibits. You are not required to have an attorney represent you in this proceeding, although you may choose to have an attorney present your case. The DEQ will be represented by a member of the Attorney General's staff, John Burbridge, and Intermountain Construction & Materials may have counsel present.

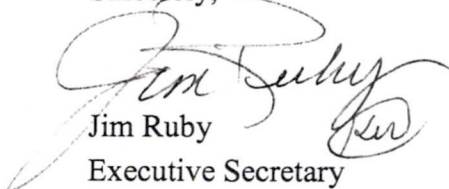
The law requires the Council to hold a hearing on your objection within 20 days of the last day for filing objections, and this hearing must be held by October 31, 2008.

You have the option of proposing a continuance of the hearing date, however, all parties to the proceeding must agree to the continuance before the Council can extend the time. This is a condition that is set by statute. If you seek a continuance, please submit a written request to the Council along with evidence of DEQ's, Intermountain Construction & Materials, and any other objectors' agreement to the continuance.

A record of the hearing will be made by a court reporter and the decision on the permit application is appealable to a district court. Should you determine that you do not want a hearing on your objection, please notify me in writing of your decision. If a hearing regarding your objection is not held, your comment will remain a matter of record in the DEQ files, and the director of DEQ will consider the comment when he makes a decision on issuance of the Intermountain Construction Companies permit.

Please do not hesitate to call if you have questions concerning Council procedures. My phone number is 307-777-7170.

Sincerely,



Jim Ruby
Executive Secretary

JR/kw

CC: Don McKenzie
John Burbridge
John Corra
Intermountain Construction & Materials

△ 11.11.11



THE STATE OF WYOMING
ENVIRONMENTAL QUALITY COUNCIL

October 15, 2008

Dave Freudenthal,
Governor

Dennis Boal,
Chair

F. David Searle,
Vice-Chair

Kirby Hedrick,
Secretary

John N. Morris

Dr. Fred Ogden

Tom Coverdale

Tim Flitner

Jim Ruby
Executive Secretary

Kim Waring,
Executive Assistant

Joe Girardin,
Paralegal

122 W. 25th, Herschler
Bldg., Rm. 1714,
Cheyenne, WY 82002
(307) 777-7170
FAX: (307) 777-6134
[http://deq.state.wy.us/
eqc](http://deq.state.wy.us/eqc)

CERTIFIED MAIL #70020460000298280905

RETURN RECEIPT REQUESTED

**Chuck Evitt
988 Rock Creek Rd.
Buffalo, WY 82834**

RE: Intermountain Construction & Materials, TFN 4 1/361—Docket No. 08-4805

Dear Mr. Evitt:

The Department of Environmental Quality (DEQ) has forwarded your objection to the application of Intermountain Construction & Materials, TFN 4 1/361, Docket No. 08-4805, for a mining permit to the Environmental Quality Council (the Council). As provided for in the Environmental Quality Act, the Council will set a time and place for a hearing on your objection. This hearing will be conducted pursuant to the provisions of the Environmental Quality Act, the Administrative Procedures Act, and the DEQ Rules of Practice and Procedure. The hearing will be conducted as a contested case, and all witnesses will be sworn, direct and cross examination will be the means of eliciting testimony, and all documents must be introduced as exhibits. You are not required to have an attorney represent you in this proceeding, although you may choose to have an attorney present your case. The DEQ will be represented by a member of the Attorney General's staff, John Burbridge, and Intermountain Construction & Materials may have counsel present.

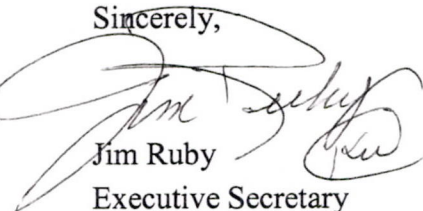
The law requires the Council to hold a hearing on your objection within 20 days of the last day for filing objections, and this hearing must be held by October 31, 2008.

You have the option of proposing a continuance of the hearing date, however, all parties to the proceeding must agree to the continuance before the Council can extend the time. This is a condition that is set by statute. If you seek a continuance, please submit a written request to the Council along with evidence of DEQ's, Intermountain Construction & Materials, and any other objectors' agreement to the continuance.

A record of the hearing will be made by a court reporter and the decision on the permit application is appealable to a district court. Should you determine that you do not want a hearing on your objection, please notify me in writing of your decision. If a hearing regarding your objection is not held, your comment will remain a matter of record in the DEQ files, and the director of DEQ will consider the comment when he makes a decision on issuance of the Intermountain Construction Companies permit.

Please do not hesitate to call if you have questions concerning Council procedures. My phone number is 307-777-7170.

Sincerely,



Jim Ruby
Executive Secretary

JR/kw

cc: Don McKenzie
John Burbridge
John Corra
Intermountain Construction & Materials

ALLEN 23

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

FILED

OCT 14 2008

Jim Ruby, Executive Secretary
Environmental Quality Council

**IN THE MATTER OF THE OBJECTION)
TO THE SMALL MINE PERMIT OF) Docket No. 08-4805
INTERMOUNTAIN CONSTRUCTION)
& MATERIALS, TFN 4 1/361)**

NOTICE OF HEARING AND ORDER

NOTICE IS HEREBY GIVEN THAT:

1. The Environmental Quality Council (the Council) will conduct a hearing on October 27, 2008 at the Campbell County Extension Office, 1000 S. Douglas Hwy. 59, Powder River Conference Room, Gillette, Wyoming commencing at 9:30 A.M. This hearing will be conducted as a contested case hearing under the Wyoming Administrative Procedure Act. F David Searle, a member of the Council will serve as Presiding Officer and Deborah Baumer, Office of Administrative Hearings, will be the hearing examiner.
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. Intermountain Construction & Materials, (Intermountain) applied for a small mining permit from the Department of Environmental Quality (DEQ).
4. Intermountain and the DEQ contend the permit application is complete and should be granted.
5. The Protestants objected to Intermountain's small mining permit. The particular statutes and rules upon which the Protestants base their objections have not been specified at this time.
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.

NOTICE IS FURTHER GIVEN THAT:

1. A prehearing conference in this matter will be conducted on October 22, 2008 at 1:30 p.m. via telephone conference call. The parties shall inform the EQC office of a telephone number where they can be reached for the prehearing on or before October 21,

2008. Failure to appear at the prehearing conference may result in dismissal from this case.

2. The purpose of the prehearing conference is:
 - a. Identification of witnesses, their addresses, phone numbers, and the substance of their proposed testimony;
 - b. Clarification of the legal issues, both substantive and procedural, of all the parties, including identification of the statutory provisions and regulations that form the basis of the appeal;
 - c. Stipulation to uncontested facts;
 - d. Examination and marking of proposed exhibits and entering into stipulations to the foundation and admissibility of the exhibits and testimony; and
 - e. Pending motions.
3. To facilitate the hearing process, all parties shall deliver a list of witnesses, their addresses, phone numbers, the substance of their proposed testimony, a list of exhibits, and a summation of the facts and legal issues, to all parties to this case (Intermountain, the Protestants, and the Department of Environmental Quality) and the Environmental Quality Council by 4:00 P.M. on October 21, 2008.
4. The Parties shall exchange and submit 3 copies to this office of all exhibits on or before the Prehearing Memorandum due date, October 21, 2008.

ORDER


IT IS HEREBY ORDERED THAT:

1. All parties shall appear at the prehearing conference call on October 22, 2008 at 1:30 P.M. Failure to appear at the prehearing will result in dismissal from the case.
2. All parties shall appear on October 27, 2008 at 9:30 A.M. to present evidence. Failure to appear at the hearing will result in dismissal from the case.
3. A court reporter will transcribe the Prehearing and the hearing. The DEQ shall pay for the transcripts.
4. All parties shall deliver the prehearing document and exhibits in accordance with the schedule set forth in this Notice of Hearing and Order. All other documents shall be filed with the Environmental Quality Council at the address below, and all documents shall be

served to all other parties to the case.

5. Documents may be served or delivered by fax transmission or via-email if prior arrangements for the transmission are made with the recipients, the e-mailed document is in either Word for Windows or WordPerfect 6.0, and the original document is mailed to the Council prior to or at the same time as transmission by fax or e-mail. The fax number for the Environmental Quality Council is 307-777-6134 and the e-mail address is kmcgee@state.wy.us.
6. All motions shall be filed by 4:00 p.m. October 21, 2008, and parties shall be prepared to argue pending motion(s) at the prehearing; and
7. No continuances shall be granted unless a motion showing good cause for the continuance is filed with the EQC no later than 4:00 p.m. on October 21, 2008 and the Presiding Officer finds that good cause has been shown.

DATED this 14 day of October, 2008.



F. David Searle, Presiding Officer *ms*
Environmental Quality Council

CERTIFICATE OF SERVICE

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 14th day of October, 2008, I served a copy of the foregoing **NOTICE OF HEARING AND ORDER** by depositing copies of the same in the United States mail, postage prepaid, duly enveloped and addressed to:

Steve Wuthier
279 Shell Creek Road
Buffalo, WY 82834

Jeff Williams
Intermountain Construction & Materials
P.O. Box 2469
Gillette, WY 82717

Larry Brannian
445 Lake Ridge Road
Buffalo, WY 82834

Chuck Evitt
988 Rock Creek Rd.
Buffalo, WY 82834

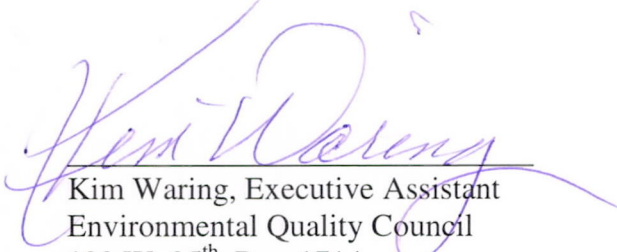
Lonabaugh and Riggs, LLP
Thomas J. Klepperich
P.O. Drawer 5059
Sheridan, WY 82801

by electronic mail to the following;

John Burbridge
Asst. Attorney General
Jburbl@state.wy.us

Don McKenzie, Coordinator
Land Quality Division
dmcken@wyo.gov

John Corra
Director, DEQ
jcorra@state.wy.us


Kim Waring, Executive Assistant
Environmental Quality Council
122 W. 25th, Rm. 1714
Herschler Bldg.
Cheyenne, WY 82002
Phone: 307-777-7170
FAX: 307-777-6134



Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

**CERTIFIED MAIL #7008 0150 0001 1179 3278
RETURN RECEIPT REQUESTED**

October 14, 2008

Chuck Evitt
988 Rock Creek Rd
Buffalo, WY 82834

RE: Intermountain Construction & Materials, TFN 4 1/361

Dear Mr. Evitt:

We have received your letter regarding the proposed issuance of a mining permit to Intermountain Construction & Materials. As allowed by Wyoming Statute '35-11-406(k), a section of the Environmental Quality Act, we are considering your letter an objection to the issuance of a permit. The Environmental Quality Council will set the date, time and place for a hearing. Jim Ruby, the Council's Attorney, will notify you by mail once this has been done.

The hearing will be conducted as a contested case, pursuant to the provisions of the Environmental Quality Act, the Administrative Procedure Act, and Department of Environmental Quality Rules of Practice and Procedure. To obtain a copy of the Department of Environmental Quality Rules of Practice & Procedure, check off the appropriate area of page two and return it to our office at the above address.

Thank you for your interest in this matter.

Sincerely,

Donald R. McKenzie
Administrator
Land Quality Division

RC:bb

xc: Lonabaugh and Riggs, LLP: Thomas J. Klepperich
Jim Ruby
John Burbridge
John Corra
Intermountain Construction & Materials
Mark Rogaczewski, District 3

FILED

OCT 14 2008

*Jim Ruby, Executive Secretary
Environmental Quality Council*



LAW OFFICES
LONABAUGH AND RIGGS, LLP

SUITE 110, 50 EAST LOUCKS STREET

DRAWER 5059

SHERIDAN, WYOMING 82801

TELEPHONE (307) 672-7444
FAX (307) 672-2230
E-MAIL: Lawyers@Lonabaugh.com

DAN B. RIGGS
JEFFREY J. GONDA
ROBERT G. BERGER
ROBERT W. BROWN
HAULTAIN E. CORBETT
THOMAS J. KLEPPERICH*
LORI A. McMULLEN
DAVID G. SMITH*
MICHAEL C. STEEL**

AMANDA M. WEBER
JACOB L. BROOKS
AMANDA K. ROBERTS

*ADMITTED IN COLORADO
**ADMITTED IN MONTANA

E. E. LONABAUGH
(1861-1938)

A. W. LONABAUGH
(1896-1971)

RETIRED:
E. E. LONABAUGH

October 10, 2008

OBJECTION TO AMENDMENT TO MINING PERMIT

Administrator of Land Quality Division
Department of Environmental Quality
Herschler Building
122 West 25th Street
Cheyenne, Wyoming 82002

RECEIVED
OCT 14 2008
LQD

Re:

Permitee: Intermountain Construction and Materials of Gillette, Wyoming
Protestant: Chuck Evitt
Permit Area: SW¼ SE¼ Section 15, T. 52M, R. 83W; NE ¼ Section 22, T. 52N,
R. 83W; NW¼ NE¼ Section 22 T. 52N, R. 83W; Johnson County,
Wyoming

Adminstrator:

As attorneys for Protestant Chuck Evitt, we wish to file this formal objection to the application of Intermountain Construction and Materials of Gillette, Wyoming ("ICM") to amend the ICM mine permit upon the lands identified above.

1. Name and Address of Protestant and Protestant's Attorney. The name and address of the Protestant is Chuck Evitt, 988 Rock Creek Road, Buffalo, Wyoming, 82834. The name and address of Protestant's attorneys are Lonabaugh and Riggs, LLP, Attention: Thomas J. Klepperich, P.O. Drawer 5059, Sheridan, Wyoming 82801.

2. Action Upon Which Hearing is Requested. This is an objection to, and request for a public hearing upon, the application of ICM, for an amendment to their mining permit as described in the public notice published by ICM in the Buffalo Bulletin on (among other dates) August 21, 2008.

3. Concise Statement of Issues.

Chuck Evitt is the owner of land in Johnson County, Wyoming, upon which a part of ICM's "Evitt Pit" sits. The Evitt Pit is the location covered by the permit that ICM

LONABAUGH AND RIGGS, LLP

Department of Environmental Quality
October 10, 2008
Page - 2 -

now seeks to amend. ICM's right to access the Evitt Pit for purposes of mining and, subsequently, reclaiming its permit area previously existed by virtue of a "Haul Road License" among Mr. Evitt and ICM's predecessor. However, ICM is currently in default of that "Haul Road License" for, among other things, failing to regularly and properly account for the quantity of materials that has been hauled across the Evitt Ranch, failing to pay Mr. Evitt the fees required by the Agreement, storing aggregate mined from neighboring property on the Evitt Ranch, and locating upon the Evitt Ranch certain machinery, equipment, and structures for handling aggregate that was mined elsewhere. As a result of these defaults on the part of ICM, it is Mr. Evitt's position that the "Haul Road License" is no longer effective and, consequently, ICM no longer has any right to access the permit area. That being the case, Mr. Evitt believes that the Department should not only refuse ICM the requested amendment, but that it should also initiate action to revoke the permit in its existing form.

4. Request for Hearing. The Protestant hereby requests a hearing on its above objection.

DATED this 10th day of October, 2008.

LONABAUGH AND RIGGS, LLP

By: _____

Thomas J. Klepperich
P.O. Drawer 5059
Sheridan, WY 82801
307-672-7444 - Telephone
307-672-2230 - Fax
Attorneys for Chuck Evitt

RECEIVED
OCT 14 2008
LQD

LONABAUGH AND RIGGS, LLP

Department of Environmental Quality

October 10, 2008

Page - 3 -

CERTIFICATE OF SERVICE

The undersigned hereby certifies that I served true and correct copies of the within and foregoing Objection by mailing copies thereof this 10th day of October, 2008, as follows:

Director - Wyoming Department of Environmental Quality
122 West 25th Street
Herschler Building
Cheyenne, Wyoming 82002

Administrator of Land Quality Division
Department of Environmental Quality
Herschler Building
122 West 25th Street
Cheyenne, Wyoming 82002

Chairman
Wyoming Environmental Quality Council
Herschler Building
122 West 25th Street
Cheyenne, Wyoming 82002

Intermountain Construction & Materials
P.O. Box 2469
Gillette, Wyoming 82717



Thomas J. Klepperich

RECEIVED
OCT 14 2008
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OCT 1 2008
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AFFIDAVIT OF PUBLICATION

STATE OF WYOMING)
) SS.
County of Johnson)

Public Record

SECOND PUBLICATION PUBLIC NOTICE

The Intermountain Construction and Materials of Gillette, Wyoming has applied for a mining permit (amendment) from the Land Quality Division of the Department of Environmental Quality for the State of Wyoming. The mining permit (amendment) area will be located in: SW 1/4 SE 1/4 Section 15; T. 52N., R. 83W; NE 1/4 Section 22; T. 52N., R. 83W; NW 1/4 NE 1/4 Section 22; T. 52N., R. 83W; Johnson County, Wyoming. The Evil Pit is approximately 1.1 miles North West of Buffalo, via I-80 and Shell Creek Road. The proposed operation is scheduled to begin May 2008 and is estimated to continue until 2032. The land, after mining, will be returned to a grazing land use. Information regarding the proposed mining operation and reclamation procedures may be reviewed in the Office of the Land Quality Division of the Department of Environmental Quality in Cheyenne and Sheridan, Wyoming, the office of Intermountain Construction and Materials in Gillette, Wyoming or the Johnson County Clerk's Office, Wyoming. Written objections to the proposed mining operation must be received by the Administrator of the Land Quality Division of the Department of Environmental Quality, Herschler Building, 122 West 25th Street, Cheyenne, WY 82002, before the close of business October 13, 2008. If an objection is submitted a public hearing shall be held within twenty (20) days after the final date for filing objections unless a different period is stipulated to by the parties. The Council of Director shall publish notice of the time, date and location of the hearing or conference in a newspaper of general circulation on the locality of the proposed operation once a week for two (2) consecutive weeks immediately prior to the hearing or conference. The hearing shall be conducted as a contested case in accordance with the Wyoming Administrative Procedure Act (W.S. §16-3-101 through §16-3-115); and the right of judicial review shall be afforded as provided in that act. All parties as given in W.S. §35-11-406(j) will be mailed a copy of this notice. The Wyoming Oil and Gas Commission will be mailed a copy of the application mine plan map as required in W.S. §35-11-406(j).

Publish: August 21, 28, September 4, 11, 2008

I Susan Carr, of the Buffalo Bulletin, a newspaper of general circulation, published every week at Buffalo, Wyoming, do solemnly swear that the notice attached hereto and which is a part of this affidavit, was published for four (4) consecutive weeks in said newspaper. The first publication having been made in the issue for the week of August 21, 2008 and the last publication having been made in the issue for the week of September 11, 2008 and that said notice appeared in the regular issue of said newspaper.

In Witness Whereof, I have here unto set my hand this 11th day of September 2008.

Susan Carr

Subscribed and sworn to before me this 11th day of September 2008.

Evelyn J. Lack
Notary Public



4/361

△ 1.1.1.1.1

LAW OFFICES
LONABAUGH AND RIGGS, LLP

SUITE 110, 50 EAST LOUGKS STREET
DRAWER 5059
SHERIDAN, WYOMING 82801

TELEPHONE (307) 672-7444
FAX (307) 672-2230
E-MAIL: Lawyers@Lonabaugh.com

DAN B. RIGGS
JEFFREY J. GONDA
ROBERT G. BERGER
ROBERT W. BROWN
HAULTAIN E. GORBETT
THOMAS J. KLEPPERICH*
LORI A. McMULLEN
DAVID C. SMITH*
MICHAEL C. STEEL**

AMANDA M. WEBER
JACOB L. BROOKS
AMANDA K. ROBERTS

*ADMITTED IN COLORADO
**ADMITTED IN MONTANA

October 10, 2008

E. E. LONABAUGH
(1861-1938)

A. W. LONABAUGH
(1896-1971)

RETIRED:
E. E. LONABAUGH

OBJECTION TO AMENDMENT TO MINING PERMIT

Administrator of Land Quality Division
Department of Environmental Quality
Herschler Building
122 West 25th Street
Cheyenne, Wyoming 82002

FILED COPY
OCT 14 2008

Jim Ruby, Executive Secretary
Environmental Quality Council

Re:

Permitee: Intermountain Construction and Materials of Gillette, Wyoming
Protestant: Chuck Evitt
Permit Area: SW $\frac{1}{4}$ SE $\frac{1}{4}$ Section 15, T. 52N, R. 83W; NE $\frac{1}{4}$ Section 22, T. 52N,
R. 83W; NW $\frac{1}{4}$ NE $\frac{1}{4}$ Section 22 T. 52N, R. 83W; Johnson County,
Wyoming

Adminstrator:

As attorneys for Protestant Chuck Evitt, we wish to file this formal objection to the application of Intermountain Construction and Materials of Gillette, Wyoming ("ICM") to amend the ICM mine permit upon the lands identified above.

1. Name and Address of Protestant and Protestant's Attorney. The name and address of the Protestant is Chuck Evitt, 988 Rock Creek Road, Buffalo, Wyoming, 82834. The name and address of Protestant's attorneys are Lonabaugh and Riggs, LLP, Attention: Thomas J. Klepperich, P.O. Drawer 5059, Sheridan, Wyoming 82801.

2. Action Upon Which Hearing is Requested. This is an objection to, and request for a public hearing upon, the application of ICM, for an amendment to their mining permit as described in the public notice published by ICM in the Buffalo Bulletin on (among other dates) August 21, 2008.

3. Concise Statement of Issues.

Chuck Evitt is the owner of land in Johnson County, Wyoming, upon which a part of ICM's "Evitt Pit" sits. The Evitt Pit is the location covered by the permit that ICM

LONABAUGH AND RIGGS, LLP

Department of Environmental Quality

October 10, 2008

Page - 2 -

now seeks to amend. ICM's right to access the Evitt Pit for purposes of mining and, subsequently, reclaiming its permit area previously existed by virtue of a "Haul Road License" among Mr. Evitt and ICM's predecessor. However, ICM is currently in default of that "Haul Road License" for, among other things, failing to regularly and properly account for the quantity of materials that has been hauled across the Evitt Ranch, failing to pay Mr. Evitt the fees required by the Agreement, storing aggregate mined from neighboring property on the Evitt Ranch, and locating upon the Evitt Ranch certain machinery, equipment, and structures for handling aggregate that was mined elsewhere. As a result of these defaults on the part of ICM, it is Mr. Evitt's position that the "Haul Road License" is no longer effective and, consequently, ICM no longer has any right to access the permit area. That being the case, Mr. Evitt believes that the Department should not only refuse ICM the requested amendment, but that it should also initiate action to revoke the permit in its existing form.

4. Request for Hearing. The Protestant hereby requests a hearing on its above objection.

DATED this 10th day of October, 2008.

LONABAUGH AND RIGGS, LLP

By: _____

Original Signed By
Thomas J. Klepperich
Thomas J. Klepperich
P.O. Drawer 5059
Sheridan, WY 82801
307-672-7444 - Telephone
307-672-2230 - Fax
Attorneys for Chuck Evitt

LONABAUGH AND RIGGS, LLP

Department of Environmental Quality

October 10, 2008

Page - 3 -

CERTIFICATE OF SERVICE

The undersigned hereby certifies that I served true and correct copies of the within and foregoing Objection by mailing copies thereof this 10th day of October, 2008, as follows:

Director - Wyoming Department of Environmental Quality
122 West 25th Street
Herschler Building
Cheyenne, Wyoming 82002

Administrator of Land Quality Division
Department of Environmental Quality
Herschler Building
122 West 25th Street
Cheyenne, Wyoming 82002

Chairman
Wyoming Environmental Quality Council
Herschler Building
122 West 25th Street
Cheyenne, Wyoming 82002

Intermountain Construction & Materials
P.O. Box 2469
Gillette, Wyoming 82717

Original Signed By
Thomas J. Klepperich

Thomas J. Klepperich



Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

**CERTIFIED MAIL #7008 0150 0001 1179 3063
RETURN RECEIPT REQUESTED**

October 13, 2008

Larry Brannian
445 Lake Ridge Road
Buffalo, WY 82834

RE: Intermountain Construction & Materials, TFN 4 1/361

Dear Mr. Brannian:

FILED
OCT 13 2008
Jim Ruby, Executive Secretary
Environmental Quality Council

We have received your letter regarding the proposed issuance of a mining permit to Intermountain Construction & Materials. As allowed by Wyoming Statute '35-11-406(k), a section of the Environmental Quality Act, we are considering your letter an objection to the issuance of a permit. The Environmental Quality Council will set the date, time and place for a hearing. Jim Ruby, the Council's Attorney, will notify you by mail once this has been done.

The hearing will be conducted as a contested case, pursuant to the provisions of the Environmental Quality Act, the Administrative Procedure Act, and Department of Environmental Quality Rules of Practice and Procedure. To obtain a copy of the Department of Environmental Quality Rules of Practice & Procedure, check off the appropriate area of page two and return it to our office at the above address.

Thank you for your interest in this matter.

Sincerely,

Donald R. McKenzie
Administrator
Land Quality Division

RC:bb

xc: Jim Ruby
John Burbridge
John Corra
Intermountain Construction & Materials
Mark Rogaczewski, District 3

Herschler Building • 122 West 25th Street • Cheyenne, Wyoming 82002 • <http://deq.state.wy.us>

ADMIN/OUTREACH (307) 777-7758 FAX 777-3610	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7368 FAX 777-6937	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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October 7, 2008

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Land Quality Division
Department of Environmental Quality
122 West 25th St.
Cheyenne, WY 82002

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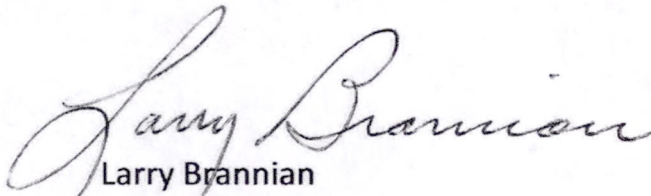
OCT 13 2008

Jim Ruby, Executive Secretary
Environmental Quality Council

Re: Small Mining Permit No. 718 (s)

To Whom It May Concern:

This letter is to inform you that I object to the proposed ICM Mining permit for the Evitt Pit. The location of the pit is approx. 11 miles north west of Buffalo, WY. In Section 15 of T. 52M., R. 83W and Section 22, T. 52N, R. 83W, Johnson County.



Larry Brannian
445 Lake Ridge Rd.
Buffalo, WY 82834



THE STATE OF WYOMING
ENVIRONMENTAL QUALITY COUNCIL

October 10, 2008

Dave Freudenthal,
Governor

Dennis Boal,
Chair

F. David Searle,
Vice-Chair

Kirby Hedrick,
Secretary

John N. Morris

Dr. Fred Ogden

Tom Coverdale

Tim Flitner

Jim Ruby
Executive Secretary

Kim Waring,
Executive Assistant

Joe Girardin,
Paralegal

122 W. 25th, Herschler
Bldg., Rm. 1714,
Cheyenne, WY 82002
(307) 777-7170
FAX: (307) 777-6134
[http://deq.state.wy.us/
eqc](http://deq.state.wy.us/eqc)

CERTIFIED MAIL #70020460000298280899

RETURN RECEIPT REQUESTED

Steve Wuthier
279 Shell Creek Rd.
Buffalo, WY 82834

RE: Intermountain Construction & Materials, TFN 4 1/361—Docket No. 08-4805

Dear Mr. Wuthier:

The Department of Environmental Quality (DEQ) has forwarded your objection to the application of Intermountain Construction & Materials, TFN 4 1/361, Docket No. 08-4805, for a mining permit to the Environmental Quality Council (the Council). As provided for in the Environmental Quality Act, the Council will set a time and place for a hearing on your objection. This hearing will be conducted pursuant to the provisions of the Environmental Quality Act, the Administrative Procedures Act, and the DEQ Rules of Practice and Procedure. The hearing will be conducted as a contested case, and all witnesses will be sworn, direct and cross examination will be the means of eliciting testimony, and all documents must be introduced as exhibits. You are not required to have an attorney represent you in this proceeding, although you may choose to have an attorney present your case. The DEQ will be represented by a member of the Attorney General's staff, John Burbridge, and Intermountain Construction & Materials may have counsel present.

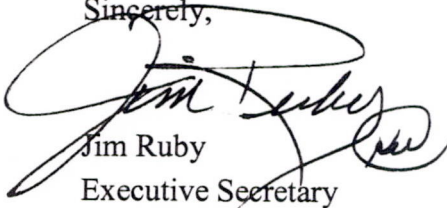
The law requires the Council to hold a hearing on your objection within 20 days of the last day for filing objections, and this hearing must be held by October 31, 2008.

You have the option of proposing a continuance of the hearing date, however, all parties to the proceeding must agree to the continuance before the Council can extend the time. This is a condition that is set by statute. If you seek a continuance, please submit a written request to the Council along with evidence of DEQ's, Intermountain Construction & Materials, and any other objectors' agreement to the continuance.

A record of the hearing will be made by a court reporter and the decision on the permit application is appealable to a district court. Should you determine that you do not want a hearing on your objection, please notify me in writing of your decision. If a hearing regarding your objection is not held, your comment will remain a matter of record in the DEQ files, and the director of DEQ will consider the comment when he makes a decision on issuance of the Western Wyoming Construction Companies permit.

Please do not hesitate to call if you have questions concerning Council procedures. My phone number is 307-777-7170.

Sincerely,

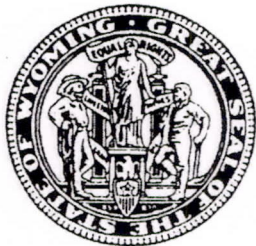


Jim Ruby
Executive Secretary

JR/kw

cc: Don McKenzie
John Burbridge
John Corra
Intermountain Construction & Materials

DS-4805



Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

CERTIFIED MAIL #7008 0150 0001 1179 3193
RETURN RECEIPT REQUESTED

October 10, 2008

Steve Wuthier
279 Shell Creek Road
Buffalo, WY 82834

FILED
OCT 10 2008
Jim Ruby, Executive Secretary
Environmental Quality Council

RE: Intermountain Construction & Materials, TFN 4 1/361

Dear Mr. Wuthier:

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The hearing will be conducted as a contested case, pursuant to the provisions of the Environmental Quality Act, the Administrative Procedure Act, and Department of Environmental Quality Rules of Practice and Procedure. To obtain a copy of the Department of Environmental Quality Rules of Practice & Procedure, check off the appropriate area of page two and return it to our office at the above address.

Thank you for your interest in this matter.

Sincerely,

Donald R. McKenzie
Administrator
Land Quality Division

RC:bb

xc: Jim Ruby
John Burbridge
John Corra
Intermountain Construction & Materials
Mark Rogaczewski, District 3

Herschler Building • 122 West 25th Street • Cheyenne, Wyoming 82002 • <http://deq.state.wy.us>

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JEFF WILLIAMS
INTERMOUNTAIN CONSTRUCTION & MATERIALS
PO BOX 2469
GILLETTE WY 82717

FILED

OCT 10 2008

Jim Ruby, Executive Secretary
Environmental Quality Council

FILED

8-4805

OCT 10 2008

Jim Ruby, Executive Secretary
Environmental Quality Council

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OCT 2008
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Public Record

SECOND PUBLICATION PUBLIC NOTICE

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Publish: August 21, 28, September 4, 11, 2008

STATE OF WYOMING)
) SS.
County of Johnson)

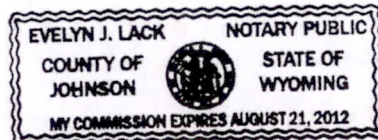
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In Witness Whereof, I have here unto set my hand this 11th day of September 2008.

Susan Carr

Subscribed and sworn to before me this 11th day of September 2008.

Evelyn J. Lack
Notary Public



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08-4805

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OCT 10 2008
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Administrator of the Land Quality Division
Dept. of Environmental Quality
Herschler Bldg.
122 West 25th Street
Cheyenne, WY 82002

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OCT 10 2008
Jim Ruby, Executive Secretary
Environmental Quality Council

Re: Small Mining Permit No. 718 (S)

08-4805

Dear Administrator,

As a small land owner and neighbor to the Evert Pit, operated by Intermountain Construction and Materials, I believe there is sufficient reason to call a hearing regarding the mining permitting process. ICM has greatly contributed to poor air quality and contamination of HA creek. Your response to this matter is greatly appreciated.

Sincerely

Steve Wuthier

Steve Wuthier
279 Shell Creek Road
Buffalo, WY 82834