

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

**FILED**  
SEP 02 2010  
Jim Ruby, Executive Secretary  
Environmental Quality Council

**IN THE MATTER OF THE OBJECTION            )**  
**TO THE SMALL MINE PERMIT OF            )**            **Docket No. 10-4802**  
**EVANS CONSTRUCTION COMPANY            )**  
**TFN 5 6/149                                    )**

**ORDER DENYING MOTION FOR CONTINUANCE AND MOTION TO RECESS**

On September 2, 2010 the Objector filed a Motion for Continuance and an Amended Motion for Continuance. On September 1<sup>st</sup>, 2010, the Permit Holder filed a Request for a Recess of the hearing scheduled for September 10, 2010.

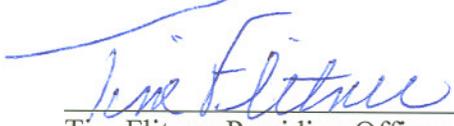
After reviewing the record the Motion and Amended Motion for Continuance is DENIED. Evans has declined to stipulate to a different hearing date. Such a stipulation is required under WYO.STAT.REV. 35-11-406(k) in order for the Council to hold a hearing outside of the twenty (20) day statutory period.

After reviewing the record the Motion for Recess is DENIED. The hearing is currently scheduled for the last day of a two day meeting of the Council. Counsel for Evans has failed to demonstrate that he is unable to have a different attorney handle this matter. In reviewing the file, at least two attorneys have now made an appearance on behalf of the Permit holder. At the time of the entry of appearance of the second attorney, who is requesting the recess, he would have been well aware that this hearing was scheduled within the twenty day statutory time requirement, that such hearing would be on the same day as a previously scheduled District Court case he is required to appear at. In that event, it would have been prudent for the permit holder's counsel to decline participation in this matter. The objector, due to an employment

conflict may have to attend this hearing by telephonic means. To recess this hearing for one hour would be an undue inconvenience to the parties and the Council. Good cause has not been shown why this matter and the Council's time should be subject to a scheduling conflict of Evan's Counsel that was perfectly clear before the attorney entered an appearance in this matter.

WHEREFORE, the Motion and Amended Motion for Continuance and the Request for Recess are hereby DENIED.

**DATED** this 2<sup>nd</sup> day of September, 2010.

  
Tim Flitner, Presiding Officer  
Environmental Quality Council 

## CERTIFICATE OF SERVICE

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 2<sup>nd</sup> day of September, 2010, I served a copy of the foregoing **ORDER DENYING MOTION FOR CONTINUANCE AND MOTION TO RECESS** by electronic mail to the following:

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