

**Girardin, Joe**

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**From:** Ruby, Jim  
**Sent:** Friday, September 03, 2010 4:01 PM  
**To:** Girardin, Joe  
**Subject:** FW: PRE-HEARING DISCLOSURES Re: Evans Docket #10-4802  
**Attachments:** header.htm

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**From:** justice@silverstar.com [mailto:justice@silverstar.com]  
**Sent:** Friday, September 03, 2010 4:01 PM  
**To:** Esch, Luke; Chris Jorgenson; Matt Turner; McKenzie, Don; Moxley, Mark; Ruby, Jim  
**Cc:** DAVE HANSEN  
**Subject:** PRE-HEARING DISCLOSURES Re: Evans Docket #10-4802

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

**FILED**

SEP 03 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 )

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**OBJECTOR'S PRE-HEARING DISCLOSURES**

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The undersigned, Timothy J Bommer, referred to by the Environmental Quality Council (Council), as "Objector" (Bommer), pursuant to leave of the Council, hereby submits his Pre-Hearing Disclosures.

**SUMMARY OF FACTS:**

Based upon the information that Evans and the DEQ rely upon in seeking and agreeing to the issuance of the permit sought by Evans, the following issues are presented to the Council.

**LEGAL ISSUES:**

1. Was the Evans application *void ab initio* due to a cessation and/or termination of mining at the original site, which Evans seeks to use and expand? W.S. 35-11-103 (e)(xi); 35-11-405 (b)
2. Did Evans fail to provide proper and required notice to all interested parties? W.S. 35-11-406 (h)
3. Has Evans failed to meet its burden and has the Department of Environmental Quality, Land Division (DEQ) failed to perform its public duty and properly investigate the Evans application insofar as the application and the information relied upon by the DEQ provides compelling evidence that the operation to be

conducted by Evans will be a public nuisance and will likely endanger the public safety and human and animal life? W.S. 35-11-406 (b)(xiii); Anderson, et. al v. Lincoln County Board of Commissioners and Evans Construction Company, C.A. No. CV-2010-157-DC, filed in the District Court of Lincoln County, Wyoming.

4. Will granting of the permit to Evans irreparably harm the scenic value and/or result in a public nuisance and endanger public health and safety? W.S. 35-11-406 (m)(iv)&(vii).

**WITNESSES:**

May call:

Timothy J Bommer

Vicki K. Rohan [same address as stated below]

David C. Hansen  
P.O. Box 328  
Jackson, WY 83001  
307-733-4470

Leave is requested to call the witnesses by telephone if the testimony is necessary. Ms. Rohan and Mr. Hansen have an interest in adversely affected property and will testify that no notice was provided to them. One or all witnesses may provide testimony to authenticate ownership of the affected property.

Also, Bommer may call, as adverse witnesses, all witnesses named by Evans and the DEQ.

**EXHIBITS:**

Deeds evidencing the ownership interest in the adversely affected property. Leave is requested to supplement this disclosure with a copy of the documents.

Also, unless objected to, Bommer will rely upon the documents listed by other parties and/or will seek "judicial" notice of certain facts and/or documents referred to herein, e.g. the Anderson v. Board litigation.

\_\_\_\_\_/s/\_\_\_\_\_  
Timothy J Bommer, Pro Se  
P.O. Box 5186  
Etna, WY 83118  
307-883-3515  
307-883-0522 (Fax)  
602-300-3008 (Cell)

**CERTIFICATE OF SERVICE**

I hereby certify that on the 3rd day of September, 2010, a true and correct copy of the foregoing was placed in the U.S. mail, postage prepaid and/or sent by fax, and/or electronic mail, and/or hand delivered as indicated below and addressed to:

Matthew Turner, Esq.  
Christopher Jorgenson, Esq.  
P.O. Box 3894  
Jackson, WY 83001  
307-733-3947  
[cjorgenson@mislawyers.com](mailto:cjorgenson@mislawyers.com)  
[met@mislawyers.com](mailto:met@mislawyers.com)

[X ] Electronic Mail

Luke Esch, Esq.  
123 Capitol Bldg.  
Cheyenne, WY 82001  
307-777-3542 (Fax)  
[lesch@state.wy.us](mailto:lesch@state.wy.us)

[X ] Electronic Mail–Esch

Don McKenzie, LQD  
Administrator  
[dmcken@wyo.gov](mailto:dmcken@wyo.gov)

[X ] Electronic Mail

Mark Moxley  
DEQ Land Quality Division  
[mmosle@wyo.gov](mailto:mmosle@wyo.gov)

[X ] Electronic Mail

Jim Ruby, Executive Secretary  
Environmental Quality Council  
122 W. 25<sup>th</sup>. Rm. 1714  
Herschler Bldg.  
Cheyenne, WY 82001  
[jruby@wyo.gov](mailto:jruby@wyo.gov)

[X ] U.S. Mail

[X ] Electronic Mail

\_\_\_\_\_/s/\_\_\_\_\_  
Timothy J Bommer, Pro Se