

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

**FILED**

APR 05 2010

*Jim Ruby, Executive Secretary  
Environmental Quality Council*

IN THE MATTER OF: ) Docket 09-4602  
MULLINAX CONCRETE SERVICES CO. )  
LIMITED MINING OPERATION ) SCHEDULING ORDER  
APPLICATION TFN 54/123 AND TFN 4/117 )

ON THE 1st day of April, 2010, the Council through David Searle, the appointed presiding officer, conducted a scheduling conference with the parties. Present at said hearing by telephone was the Petitioners, Mullinax Concrete Services Co., represented by Tony Wendtland; the Department of Environmental Quality, represented by John Burbridge, Sr.Asst. Attorney General; and Jim Ruby, Exec. Secretary of the Council and Joe Girardin, paralegal for the Council.

The following schedule has been developed by the Presiding Officer through consultation. The parties are hereby ordered to comply with said schedule unless good cause is shown why the parties are unable to comply.

The following schedule is hereby Ordered:

- a. Discovery may begin immediately.
- b. All discovery, both written and oral, shall be completed by 12:00 noon on or before May 3<sup>rd</sup>, 2010.
- c. Dispositive motions shall be filed by 12:00 noon on or before June 18<sup>th</sup>, 2010
- d. Responses to dispositive motions shall be filed by 12:00 noon on or before June 30, 2010.
- e. Oral arguments on dispositive motions shall be held on July 8<sup>th</sup> or 9<sup>th</sup> in Sundance Wyoming. The exact location and time of the arguments will be determined at a later dater. Each party will have ten minutes for oral argument. The proponent of any dispositive motion shall also have an additional five minutes

for rebuttal argument.

f. Prehearing memorandums and three copies of all exhibits shall be filed with the Council by 12:00 noon on or before August 11th, 2010. A copy of all exhibits shall also be served on the opposing parties. At a minimum the memorandum shall identify all contested issues and all uncontested issues, will-call and may-call witnesses, exhibits and any other matters the Parties need to have considered at the prehearing conference.

g. The prehearing conference shall be held on August 16, 2010 at 1:30 p.m.. The exact location and time will be determined at a later date. The parties may appear by teleconference if personal attendance at the offices of the Council in Cheyenne Wy, is impractical. The purpose of the prehearing conference is to :

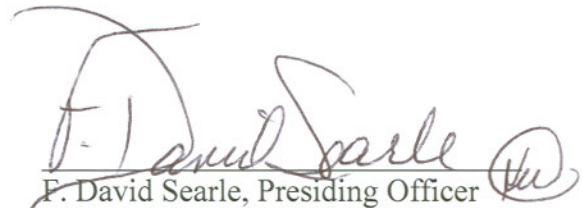
1. Identification of witnesses, their addresses, phone numbers, and the substance of their proposed testimony.
2. Clarification of the legal issues, both substantive and procedural, of all the parties, including the statutory provisions and regulations that form the basis of this appeal.
3. Stipulation to uncontested facts.
4. Examination and marking of proposed exhibits and entering into stipulations to the foundation and admissibility of the exhibits and testimony.
5. Pending motions.

h. Final hearing in this matter is scheduled for September 9<sup>th</sup> and/or 10<sup>th</sup> 2010. The exact location and time of the hearing will be determined at a later date.

i. All documents shall be delivered no later than 12:00 noon on the above referenced dates. For the purpose of this order, deliver shall mean that the recipient has the pertinent documents in hand. Delivery does not mean that the documents were placed in the mail or with a delivery service. The parties may deliver documents via fax or e-mail, if prior arrangements have been made with the recipients and the original is mailed at the same time.

The parties shall have ten days from the date of receipt of this Order to file any objections to this Scheduling Order.

SO ORDERED this 5th day of April, 2010.

  
F. David Searle, Presiding Officer  
Environmental Quality Council  
122 W. 25<sup>th</sup>, St. Rm 1714  
Herschler Bldg.  
Cheyenne WY 82002  
Phone: 307-777-7170  
Fax: 307-777-6134

## CERTIFICATE OF SERVICE

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 5<sup>th</sup> day of April, 2010, I served a copy of the foregoing SCHEDULING ORDER by electronic mail to the following:

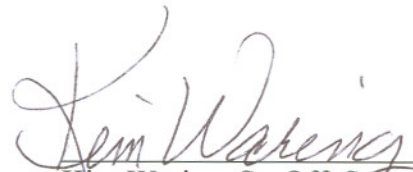
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