

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

APR 06 2010

Jim Ruby, Executive Secretary
Environmental Quality Council

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

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 **June 4, 2010**.
- c. Dispositive motions shall be filed by 12:00 noon on or before June 18th, 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 8th or 9th in Sundance Wyoming. The exact location and time of the arguments will be determined at a later date. 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.

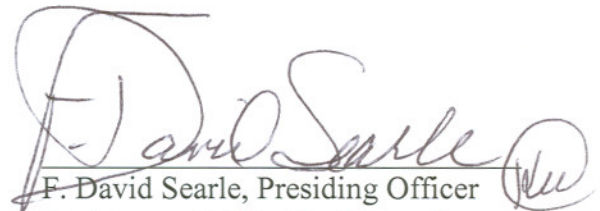
h. Final hearing in this matter is scheduled for September 9th and/or 10th 2010.

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 6th day of April, 2010.

A handwritten signature in black ink, appearing to read "F. David Searle", with a circled initial "DS" to the right.

F. David Searle, Presiding Officer
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CERTIFICATE OF SERVICE

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 6th day of April, 2010, I served a copy of the foregoing AMENDED SCHEDULING ORDER by electronic mail to the following:

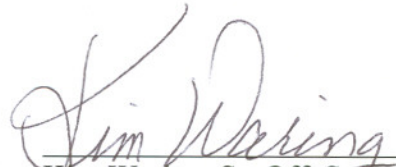
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