

Sep 01, 2010

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

**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)

EVANS CONSTRUCTION COMPANY PREHEARING DISCLOSURES

NOW COMES Evans Construction Company, (“Evans Construction”), applicant for the small mine permit at issue and, pursuant to the Notice of Hearing and Order dated August 25, 2010, submits the following Prehearing Disclosures.

WITNESSES

1. Mitch Lewis, Vice President Evans Construction Company, PO Box 4309, 7255 South US Highway 89, Jackson, WY 83001; telephone number 307-733-3029. Mr. Lewis’ testimony will address the history of the facility and its operation as it pertains to the small mining permit permit application.
2. Clyde Rainey or other representative, Sunrise Engineering, 47 East 4th Ave., P.O. Box 609, Afton, WY 83110; telephone number 307-885-8500. Mr. Rainey’s testimony will address the permit application and the facility design.
3. Other witnesses listed by other parties.
4. Other persons necessary for rebuttal or impeachment.

PROPOSED EXHIBITS

1. Etna facility mining area map
2. Small mine permit application dated February 5, 2010.
3. Application completeness letter dated June 7, 2010.

4. Notice of publication sent to Timothy Bommer.
5. Prior 10 acre exemption for the Etna facility.
6. Any other exhibits needed for purposes of rebuttal or impeachment or that are introduced by others.

Evans reserves the right to amend and supplement this listing.

SUMMATION OF FACTS AND LEGAL ISSUES

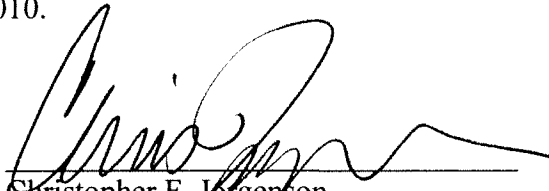
Evans Construction Company applied for a Small Mine Permit for a property referred to as the Etna Facility via application dated February 5, 2010. The facility is located in Lincoln County and is subject to a conditional use permit issued by the Lincoln County Commissioners. The application was determined to be complete by the Department of Environmental Quality Division of Land Quality (“DEQ”) on June 7, 2010. The application was deemed to be complete and compliant with law by the Department of Environmental Quality. Notice of the proposal to approve the permit request was put out for public notice per statutory requirements and was received by Mr. Bommer, the objecting person. Only one comment was received during the notice period; this comment was stated to be an objection to the application.

The legal issue in this case is whether the Department of Environmental Quality complied with the requirements of Wyoming Statute 35-11-406 in determining the permit should be granted. As set forth in Wyo. Stat. 35-11-406(m), the permit shall not be denied except for the reasons set forth therein. Based upon the letters submitted, Evans Construction believes the objection to be that the notice contained insufficient information regarding the facility. The issues are expected to be further clarified and/or limited during the prehearing conference.

REQUEST FOR RECESS

The undersigned has a previously scheduled hearing in United States District Court for the District of Wyoming on September 10, 2010, beginning at 9:30am. The undersigned therefore requests a recess from the contested case hearing in order to telephonically appear at the federal court hearing. The federal court hearing should not take more than 1 hour.

This 1st day of September, 2010.



Christopher F. Jorgenson
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Fax (307) 733-3947
ATTORNEY FOR EVANS CONSTRUCTION

CERTIFICATE OF SERVICE

I, Chris Jorgenson, certify that at Jackson, Wyoming, on the 1st day of September, 2010, I served a copy of the foregoing EVANS CONSTRUCTION COMPANY PREHEARING DISCLOSURES by electronic mail to the following:

Luke Esch
Asst. Attorney General
lesch@state.wy.us

Don McKenzie, LQD
Administrator
dmcken@wyo.gov

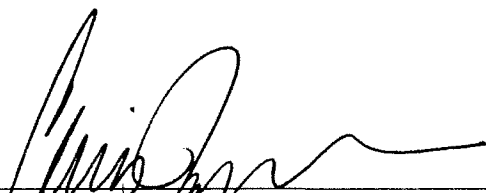
Mark Moxley
DEQ Land Quality Division
mmoxle@wyo.gov

Timothy J. Bommer
Attorney at Law
justice@silverstar.com also via facsimile

Kim Waring, Executive Assistant
Environmental Quality Council
kwarin@wyo.gov

and by depositing copies of the same in the Federal Express delivery system, postage prepaid, duly enveloped and addressed to:

Kim Waring, Executive Assistant
Environmental Quality Council
122 West 25th, Rm. 1714
Herschler Building
Cheyenne, WY 82002



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