

HISTORY OF BRIAN WAITKUS OBJECTIONS/COMPLAINTS TO PERMITS

Exhibit No.	Permit Number	Date	Comments
<i>298C-A5</i>			<i>Permit for Pilot Peak Land and Livestock Company, Inc., (Etchepare) Acreage Purchased in 1994.</i>
1	298C-A5 (TFN 3 4/70)	3/31/1997	Filed complaint with other neighbors
2	298C-A5 (TFN 3 4/70)	5/9/1997	Rock Springs Hearing before EQC Waitkus Testimony
3	298C-A5 (TFN 3 4/70)	8/22/1997	Order of EQC following hearing
<i>298C-A6</i>			<i>Petition to change order of mining as specified in A5; allow use of Howe Lane to mine out of Section 36.</i>
4	298C-A6 (TFN 4 3/119)	12/3/2003	Objection to mining sequence changes to Area 6 and 7.
5	298C-A6 (TFN 4 3/119)	1/11/2004	Agreement to mine out Areas around his house. No mining in Area S-1.
<i>TFN 4 6/282</i>			<i>Blasting Complaint made by Waitkus followed by Permit Revision to Sec. 36 Area C mining.</i>
6		4/17/2006	Blasting complaint Waitkus
7		5/18-2006	NOV 3870-06 Issued as a result of Waitkus complaint
8	TFN 4 6/282	5/3/2006	Changes to blasting plan to address Waitkus initiated NOV. [Weather & three day inquiry to NWS before blasting.]
<i>298C-A6 (TFN 4 4/296)</i>			<i>Mine Sequence Revisions</i>
9	298C-A6 (TFN 4 4/296)	9/6/2006	Objection
10	298C-A6 (TFN 4 4/296)	10/16/2006	Stipulated Resolution to Objections
11	298C-A6 (TFN 4 4/296)	12/1/2006	DEQ approval to "Change No. 26"
<i>298C-A7 (TFN 4 2/220)</i>			<i>Permit expansion for Section 36.</i>
12	298C-A7 (TFN 4 2/220)	10/4/2007	Waitkus comments to the Permit App.
13	298C-A7 (TFN 4 2/220)		Hearing Decision
14	298C-A7 (TFN 4 2/220)	1/24/2008	MCC's permit revisions requested by EQC

Exhibit No.	NOV Number	Date	Comment
A	3488-033514-03	3/26/2005	Waitkus trespassed and observed a breach in MCC's sediment control device which he reported to DEQ resulting in NOV and a Settlement.
(6 & 7)	3870-06	4-17-2006	Waitkus files complaint on blasting resulting in NOV and Permit Modification. [I-66]
B		11/15/2006	Waitkus files complaint on quarry fuel storage facility. [I-74] Results in DEQ investigation, report and permit modification.
C	TFN 4 6/319	2-8-2007	MCC modified its permit, Change No. 28 to address the complaint/NOV.

Mountain Cement Company Exhibits  
EQC Docket No. 13-407  
LQD Permit No. 298C-A7; TFN 5 1/110  
MCC-10



Exhibit 1

JIM GERINGER  
GOVERNOR

## *Environmental Quality Council*

HERSCHLER BUILDING, ROOM 1714  
122 WEST 25TH STREET  
CHEYENNE, WYOMING 82002  
TEL: 307-777-7170  
FAX: 307-777-6363

April 1, 1997

**CERTIFIED MAIL #93631  
RETURN RECEIPT REQUESTED**

Mr. Brian R. Waitkus  
Box 1411  
Laramie, WY 82070

**RE: Mountain Cement Company, TFN 3 4/70, Docket No. 2826-97**

Dear Mr. Waitkus:

The Department of Environmental Quality (DEQ) has forwarded your objection to the application of Mountain Cement Co., Docket No. 2826-97, for a mining permit to the Environmental Quality Council (the Council). As provided for in the Environmental Quality Act, the Council will set a time and place for a hearing on your objection. This hearing will be conducted pursuant to the provisions of the Environmental Quality Act, the Administrative Procedures Act, and the DEQ Rules of Practice and Procedure. The hearing will be conducted as a contested case, and all witnesses will be sworn, direct and cross examination will be the means of eliciting testimony, and all documents must be introduced as exhibits. You are not required to have an attorney represent you in this proceeding, although you may choose to have an attorney present your case. The DEQ will be represented by a member of the Attorney General's staff, and Mountain Cement Company may have counsel present.

As the law requires the Council to hold a hearing on your objection within 20 days of the last day for filing objections, the hearing will be held by April 21, 1997. You have the option of proposing a continuance of the hearing date, however, all parties to the proceeding must agree to the continuance before the Council can extend the time. This is a condition that is set by

statute. If you seek a continuance please submit a written request to the Council along with evidence of DEQ's and Mountain Cement Company's agreement to the continuance.

We have tentatively scheduled this hearing to be in Rock Springs on April 17 to coincide with the Environmental Quality Council's meeting on April 18. You will be notified as soon as the schedule is finalized. A record of the hearing will be made by a court reporter and the decision on the permit application is appealable to a district court.

Should you determine that you do not want a hearing on your objection, please notify me in writing of your decision. If a hearing regarding your objection is not held, your comment will remain a matter of record in the DEQ files, and the director of DEQ will consider the comment when he makes a decision on issuance of the Mountain Cement Company's permit.

Please do not hesitate to call if you have questions concerning Council procedures. My phone number is 307-777-7170.

Sincerely,

ENVIRONMENTAL QUALITY COUNCIL

  
TERRI A. LORENZON  
Director

TAL:ccc

cc: Tom Roan - AG  
Rick Chancellor - DEQ/LQD  
Philip Nicholas - Mtn. Cement



Post-It* Fax Note	7871	Date	3/31/97	# of pages	2
To	Frank Plummer	From	G. Cash		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #		Fax #			

26 March 1997

Administrator-Land Quality Division  
 Department of Environmental Quality  
 Hershler Building  
 122 West 25th Street  
 Cheyenne, Wyoming 82002



This letter is being sent to protest the major revision amendment to Mountain Cement's permit 298C concerning limestone mining in Albany County, Wyoming. As a land owner with property adjoining the proposed mine addition this mining will greatly affect the quality of life and living on the property. The property value will also be affected. At the time I purchased this land Frank Plummer/Mountain Cement told me that their mine in the west 1/4 of section 30, T15N, R72W will be "reactivated" (my emphasis as they say this mine was never closed, though this could be debated). This additional mining would be completed by the years 2000/2001 and presumably the land would finally be re-vegetated. It was suggested during an information meeting with Mountain Cement, that I should not build on the eastern 80% of my property due to the mining activity. They plan on mining right up to the property line. Because of the problems associated with the mining, I had decided not to build my home until the end of this mining activity. Now I am told that Mountain Cement wants to continue mining in this area for an additional 30 years with adding portions of four sections of land to their present mine permits. Mountain Cement also informed me that my property is in a key (read problem) location in regards to the mining of sections 30 and 31. What will this mean for building on my property?

In addition to the lowering of my property value, which I think will be dramatic as a result of the 30 years of additional mining, many problems are apparent with the mining activity. Dust emission, noise from the rock crusher, lights from night mining activities, other types of pollution, and noise from transportation of the limestone to the processing plant will all impact our residential property and quality of life. Runoff or the lack of surface water from the east will affect the flora and fauna living in the vicinity of my property. As a natural history (animal, plant, and scenic) photographer this mining will affect my potential income originating from the use of my property.

Though I have not yet drilled a water well, I fear the impact of blasting on the well itself. I am concerned about the potential pollution of the aquifer both for my use and for my relatives in the city of Laramie caused by the fractures in the bedrock and the mining activity.

From my experience with Mountain Cement in the past, I do not believe that I can trust their word on what could be done to rectify these problems. An example of this lack of trust occurred when a new fence was constructed by Mountain Cement on

the east side of my property. Frank Plummer told me about the construction plans apparently only because I happened to be out there when the surveyors were staking the line. I asked Frank to keep the mechanical fencing equipment off my property. I was told this would not be a problem and this request would be complied with. Near the end of the fence construction project I had discovered that not only the fence was constructed from my side of the property line (my topography was apparently better situated for moving their equipment), but they also drove their equipment to the property line crossing my property using three different routes. This is not a way to build trust between neighbors. Frank said the company would pay for any trees destroyed. Nothing was said about the blading, deep tracks across the land, or even an apology.

I do not believe the interest of the local landowners will be served by allowing the additional mining lands to be added to the existing mine permit. This would not benefit anyone but Mountain Cement. As they said more than once to me "Our mine permit was here prior to you (me) purchasing your property. As a result we (Mountain Cement) do not need to do anything with our present mine permit to make it better for you new land owners." Now I am the existing and senior landowner assuming the lands are not added to the existing permit. At the same time I can not see any justification for the combining of the two separate mine permits with the proposed additional lands. That is unless the aim for Mountain Cement is to be able to "thumb their nose" at the concerns of the local residential land owners.

I would like to see these issues resolved though I am wondering if it can be possible given the past events and the projected length of additional mining. I hope that the Wyoming DEQ would not favor the money and size of Mountain Cement on this permit extension over my photography business and my rights as a local land owner. Finally it should be remembered that Mountain Cement in the past owned this section of land. If they were even remotely concerned about adjacent landowners they could have kept the ownership of this section.

Brian R. Waitkus



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1 BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
2 OF THE STATE OF WYOMING  
3 DOCKET NO. 2826-97

4 \* \* \* \* \*

6 IN THE MATTER OF: OBJECTIONS TO THE MINING PERMIT  
7 APPLICATION OF MOUNTAIN CEMENT COMPANY, TFN 3 4/70.

11 TRANSCRIPT OF PROCEEDINGS  
12 1:40 p.m., Friday  
13 May 9, 1997

14 PURSUANT TO NOTICE duly given to all parties in  
15 interest, this matter came on for hearing at the Albany  
16 County Library, Laramie, Wyoming, before the  
17 Environmental Quality Council, Hearing Examiner John  
18 Morris, presiding; with Board Members Keith Becker,  
19 Wendy Hutchinson, Den Costantino, Steve Youngbauer,  
20 Steve Williams; and Terri Lorenzon, attorney for the  
21 Council.

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1 THE HEARING EXAMINER: Will the meeting come  
2 to order. And we will commence where we cut off our  
3 hearing in Rock Springs.  
4 We've got a few things, I think some  
5 housekeeping chores that we need to take care of, and  
6 probably we will do those first.  
7 First thing we're going to take of is Mountain  
8 Cement, on their motion to limit issues and testimony,  
9 under paragraph 2. There has not been any new  
10 testimony and evidence, so that's okay.  
11 MR. NICHOLAS: That's right.  
12 THE HEARING EXAMINER: I think then on 3 we  
13 will consider that at the time.  
14 MR. NICHOLAS: Okay.  
15 THE HEARING EXAMINER: If you want to object  
16 then we will consider it at the time.  
17 Let me say first of all we have a time  
18 constraint thing here. We're going to let you people  
19 decide how you want to allot this time. We're going to  
20 shut it down at 6 o'clock. We've got to start back  
21 where we ended the other day because the protestants  
22 were cross-examining one of the State witnesses. We  
23 will finish that. Then we will move right on in and we  
24 will let each of you determine how much time that you  
25 want to take, and how you want to spend it is going to

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1 be up to you.

2 Now, the protestants sent a list of people  
3 that they would like to -- that wrote letters, they  
4 would like to be heard, and that's fine with us, but is  
5 it going to help your cause? I mean if it's not  
6 something that is going to help your testimony, you  
7 will just be using that time for people to either vent  
8 their frustration or their emotions, or repeating what  
9 maybe has already been said, but if there is expert  
10 testimony or something that will help your cause, that  
11 will help us in making a decision, we have no problem  
12 with it, because that's why we're here, is to try to  
13 make a fair and unbiased decision,.

14 MR. WALGREN: As it turns out we have only  
15 have one additional person that wants to be heard that  
16 wasn't at Rock Springs dealing with specific issues, so  
17 I don't think time wise that will be a big problem, and  
18 it is on a different subject matter.

19 THE HEARING EXAMINER: Okay. But I just want  
20 you to understand because of the time restraint, if all  
21 these people want to get up and talk, it will add to  
22 your case.

23 MR. NICHOLAS: Mr. Chairman, what I've written  
24 down here, and what I would recommend, we have, if you  
25 take breaks and things like that, if you're going to 6,

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1 you have approximately four hours of time. If you were  
2 to break that out one hour for the State, cut them off  
3 at an hour and a half, and do an hour and a half for  
4 protestants, and hour and a half for Mountain Cement  
5 Company, and then you say you use your hour and a half  
6 however you want. You want to use it for  
7 cross-examination, you can use it for  
8 cross-examination. If you want to use it for direct  
9 testimony, any cross-examination, that comes out of my  
10 hour and a half.

11 THE HEARING EXAMINER: Did you want to include  
12 your closing arguments?

13 MR. NICHOLAS: I think the hour and a half,  
14 it's fine with me to say we have an hour and a half and  
15 how we use it is -- we'll use it for cross-examination,  
16 direct or whatever, we'll sort it out as the day goes  
17 on. And then -- and if the State wants more, I'd be  
18 willing to say an hour, ten minutes for each party,  
19 everybody figures out what they want to cross-examine  
20 or how they use it, sort of up to them.

21 THE HEARING EXAMINER: Do you have a  
22 suggestion?

23 MR. WALGREN: The point I would bring up, at  
24 the last meeting the bulk of the time was used up by  
25 Mountain Cement in laying the ground work initially,

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1 and to split the remaining time equally doesn't exactly  
2 seem fair to me from the protestants' point of view.

3 THE HEARING EXAMINER: We're pretty close in  
4 time. We're pretty close in time, when you take the  
5 time that you have already addressed in  
6 cross-examination.

7 MR. NICHOLAS: Mr. Chairman, I would point out  
8 that I'm not -- make sure what I'm proposing, is that  
9 your cross-examination time comes out of your time so  
10 that if, while maybe it's true our witnesses were up  
11 there for an hour and a half, about half of that was in  
12 cross-examination, so I think we are about even, and  
13 what I'm talking about is if you -- your  
14 cross-examination comes out of your hour and a half,  
15 and so that if you want to have your witnesses up for  
16 long -- longer, then you need to cross-examine less.

17 THE HEARING EXAMINER: What is your comment?

18 MR. ROAN: Mr. Morris, Tom Roan with the State  
19 of Wyoming. I don't have any objection with the  
20 proposal. How we going to keep time?

21 THE HEARING EXAMINER: Well, Ms. Lorenzon can  
22 keep time.

23 MR. ROAN: That's fine. We'll take as little  
24 time as we can. I don't anticipate any more than a  
25 hour.

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1 THE HEARING EXAMINER: If you're through and  
2 there's some other time left, why, we can divide that  
3 up.

4 MR. ROAN: That's fair enough.

5 THE HEARING EXAMINER: Yes.

6 MR. WEGER: My name is James Weger,  
7 protestant. First of all time management will place an  
8 unfair burden on the protestants since, first, they  
9 don't have and don't desire unity of command.

10 Second, they are new to the law policy, and  
11 the case itself. Third, they're not professionally  
12 suited to the conduct of a formal hearing, and in each  
13 instance both the State and the applicant are at an  
14 advantage, yet both the State and applicant enjoy the  
15 individual representation.

16 Number two, so far in this hearing,  
17 protestants have been eager to manage their  
18 presentations in conformance with the advice and  
19 counsel of the State, of the council itself and even  
20 the applicant. Protestants will continue to respond to  
21 such advise in the future. Protestants do not want to  
22 duplicate testimony or give irrelevant or immaterial  
23 testimony. Protestants do not want to waste time.

24 Three, protestants fear that their  
25 presentations may suffer dramatically if they are

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1 cross-examination. They've taken about 12 minutes is  
2 all they've used.

3 MR. NICHOLAS: These rules are great for  
4 lawyers.

5 THE HEARING EXAMINER: Pardon?

6 MR. NICHOLAS: These rules are great on the  
7 lawyers. You don't have to listen to us.

8 THE HEARING EXAMINER: Okay. So everybody  
9 knows where we stand?

10 MR. WAITKUS: My name is Brian Waitkus. I'm a  
11 property owner in Summit Estates. Most of the  
12 information that I'm going to give is utilizing their  
13 existing permit application that Mountain Cement has  
14 submitted already as an exhibit, which I guess I'll  
15 just say this right now, instead of presenting this as  
16 an exhibit, since it's already in the record, I'm just  
17 handing you portions of the mine permit application,  
18 highlighting certain areas. If you want to look at  
19 them, fine. I will reference them by page or section,  
20 depending on what it is.

21 THE HEARING EXAMINER: This is the document  
22 here?

23 MR. WAITKUS: Yes. That's, like I say, a  
24 portion of the mine documents, so there was no reason  
25 to present it as a special exhibit.

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1 Since the DEQ approves a mine permit based on  
2 the accuracy of submitted documents, I've used the  
3 document dated February 13th, 1997 to contest the  
4 permit. The only changes to this document are the  
5 locations of Etchepare's 6 and 7 that have been  
6 reversed during the EQC meeting in Rock Springs on  
7 April 17th, 1997.

8 First I'd like to address the hydrology of the  
9 area. Under ground water, it was stated that if ground  
10 water is intersected a mitigation plan will then be  
11 formulated. Since the ground water in the proposed  
12 area is between tens of feet and hundreds of feet below  
13 the surface it's unlikely that the proposed mining will  
14 directly contact the ground water. With this  
15 understanding it is stated in section DVII6.2.2 that  
16 the proposed quarries are in the recharge zone, Casper  
17 formation aquifer. This would suggest that water  
18 enters the Casper aquifer from this area.

19 I also need to take a moment here and state  
20 that Brad Walgren has touched on some of the things  
21 that I will talk on, but hopefully we won't overlap or  
22 overlap just briefly.

23 Now, on page DVII5.6 of the mine permit it is  
24 stated that limestone is generally unfractured,  
25 unfractured and impermeable, but sandstone below may be

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1 porous and broken. On page DVII6.2 the application  
2 states, infiltration is higher on the exposed sandstone  
3 as compared to the limestone due to the high porosity  
4 of the sandstone.

5 Chris Moody of the Wyoming Water Consultants,  
6 who I spoke to in a phone conversation, indicated that  
7 the area --

8 MR. GOODRICH: Objection. I'm sorry, but  
9 we're not going to hear hearsay on top of all the  
10 testimony.

11 MR. WAITKUS: I was led to believe -- and I  
12 could have documented this, but I was led to believe  
13 when we were in Rock Springs, that I could bring up  
14 phone conversations. I believe, maybe it was you,  
15 Terri Lorenzon said this, and you said that it would be  
16 okay. Now, I could have documented this, but if that's  
17 the case, then they're not documented right now, so I  
18 have many phone conversations, I have many contacts  
19 that I want to bring up in relation to this. Now, I  
20 was led, like I said, I was led to believe this would  
21 be okay.

22 MS. LORENZON: I don't recall this  
23 conversation, and I don't know the context of the  
24 comments so I can't speak to what this is.

25 MR. WAITKUS: It might have even been with the

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1 DEQ people too.

2 MS. LORENZON: The obvious problem is these  
3 people aren't here to testify and subject to  
4 cross-examination, that's the problem.

5 MR. WAITKUS: I realize.

6 MS. LORENZON: You could have called these  
7 people as witnesses if you had chosen to do so. That's  
8 something that I don't have any knowledge of.

9 MR. WAITKUS: And I could have tried that if I  
10 thought that we weren't going to be able to allow this  
11 type of information.

12 MS. LORENZON: So --

13 THE HEARING EXAMINER: This is a decision that  
14 you have made to do. I mean if you want to go ahead  
15 and tell us about it you can, but what credence we will  
16 you put into it without expert testimony to back it up,  
17 we will weigh that ourselves, but without these people  
18 here to testify and be cross-examined --

19 MR. WAITKUS: I may have been in error who  
20 told me this, but I was told that we could do this in  
21 our -- it might have been Tom Roan, that when we talked  
22 about phone conversations you said that --

23 MS. LORENZON: I think Mr. Morris is allowing  
24 you to proceed.

25 MR. WAITKUS: I just wanted to make that



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1 point. Try this again, and I'll still go through it.  
 2 You can decide whether you want to accept this or not.  
 3 Chris Moody with the Wyoming Water Consultants  
 4 indicated the area south of Laramie has more sandstone  
 5 while the area to the north of Laramie has more  
 6 limestone. This would suggest a potential for water or  
 7 liquid infiltration in the area could also be higher  
 8 even though limestone is reported to cap the proposed  
 9 mine.

10 MR. GOODRICH: Excuse me, Mr. Waitkus. Would  
 11 you please make clear as you're talking, whether you're  
 12 referring to hearsay from Mr. Moody or others, or  
 13 whether you're placing your own conclusion on top of  
 14 what you're suggesting someone else may have said.

15 MR. WAITKUS: I will do that. So far these  
 16 are comments made by Chris Moody.

17 THE HEARING EXAMINER: You can ask him in your  
 18 cross-examination, to back this up.

19 MR. WAITKUS: Okay. What you have here is  
 20 drainage E9, in quarry No. 7, which is the north one  
 21 listed as quarry No. -- It's drainage E9, quarry No. 6  
 22 and on the map it's listed as quarry No. 7. There was  
 23 a confusion apparently when Mountain Cement submitted  
 24 their maps, and so 6 and 7 are reversed on this map,  
 25 and that's what was cleared up in Rock Springs.

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1 So drainage in E9 in quarry No. 7 has exposed  
 2 sandstone with -- try this. Quarry E9, or drainage  
 3 number E9 quarry No. 6 has exposed sandstone bed which  
 4 is a permeable layer and potential source of ground  
 5 water pollution. The red indicates the sandstone at  
 6 the bottom of the drainage.

7 And the cross section is a cross section of  
 8 their quarry No. 6.

9 MR. WILLIAMS: Would it be possible to turn  
 10 off a few of those lights around the screen?

11 MS. LORENZON: Those lights are over here  
 12 right by that door.

13 MR. WAITKUS: Now --

14 THE HEARING EXAMINER: There's a switch on the  
 15 wall.

16 MR. WAITKUS: This map I just previously  
 17 showed you shows this drainage E9 in land view, and  
 18 this is the approximate location according to Mountain  
 19 Cement where the drainage will be crossed by mining  
 20 equipment and haul trucks when mining the southern  
 21 portions of Etchepare No. 6 and all of Etchepare No.  
 22 7. This crossing will consist of many years of 60  
 23 trucks per day crossing the drainage of a highly porous  
 24 sandstone. It would only take one accident,  
 25 apparently, in all these years to create a potential

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1 problem with the Casper aquifer and Laramie water  
 2 supply.

3 Next I'd like to discuss the Red Hills Fault  
 4 which we heard a little bit mention through here.

5 On page DVII5.5 and 5.6, it is stated that  
 6 mining will occur above the minor fault called the Red  
 7 Hills Fault.

8 This is the picture that was shown earlier.  
 9 On this page it's stated that a fault does not reach  
 10 the surface of the limestone or the sandstone deposits  
 11 below those deposits, which we already heard actually  
 12 is a solid line, it does reach the surface.

13 And it's not below, the fault does not run  
 14 below. This is Etchepare No. 1, approximate location.  
 15 It doesn't fall below the quarry, but actually goes  
 16 right through it.

17 Now, I have Exhibit -- Proponent's Exhibit No.  
 18 8, get it all on here -- or No. 7. This is the more  
 19 recent, the 1995 Ver Floeg map as compared to the map  
 20 used by Mountain Cement, which dated to 1977. Mountain  
 21 Cement does talk about Ver Floeg 1995, but I have no  
 22 idea if they had access to this map or not. All I know  
 23 is that they list things dated to Ver Floeg, 1995.

24 MR. ROAN: Excuse me just a second. Could you  
 25 identify who has colored this? We just need some

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1 foundation.

2 MR. WAITKUS: You're right. The yellow is,  
 3 from top to bottom, the quarries that they intend to  
 4 mine. These were taken off their -- Mountain Cement's  
 5 plans and just superimposed over these.

6 The red line is the, whatever it is, almost  
 7 four sections, the total permit area that Mountain  
 8 Cement is stating they want to permit with this, and  
 9 then the red line, which unfortunately you can't see,  
 10 is the where Soldier Springs is located.

11 MR. ROAN: Okay. Just for the objection, I  
 12 would like to know who applied the colors to the maps,  
 13 all the maps you're using?

14 MR. WAITKUS: Pardon?

15 MR. ROAN: Who applied the colors?

16 MR. WAITKUS: I applied the colors to the map.

17 THE HEARING EXAMINER: Mr. Roan, you can ask  
 18 him those questions, get that information on  
 19 cross-examination.

20 MR. ROAN: I'm sorry, Mr. Morris, it wasn't a  
 21 question, it was an objection. I was just trying to  
 22 establish the foundation for the evidence, because we  
 23 didn't know who had colored the map, and we need that  
 24 for the Council to properly consider the weight of the  
 25 evidence.

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1 MR. WAITKUS: Like I said, this map was given  
2 to me by the Wyoming GS, Geological Service, and I then  
3 took the maps presented by Mountain Cement, reduced  
4 them, enlarged them so they'd be correct, and then  
5 overlaid this. This is not something that Mountain  
6 Cement did.

7 Figure 4 indicates that the fault crosses the  
8 proposed Etchepare quarry Nos. 1 and 4. The fault does  
9 reach the surface as indicated on the solid line. The  
10 fault consists of a horizontal movement of bedrock in  
11 this area. The fault not only occurs on the surface  
12 but continues through the underlying granites below  
13 Casper aquifer, and this was told to me by Chris Moody  
14 of Wyoming Water Consultants in a phone conversation  
15 dated the 16th of April, 1997.

16 Mountain Cement states that previous 298C  
17 mining has occurred with no problems to the ground  
18 water, so none should be expected with the proposed  
19 quarries. The Red Hills Fault is a much larger fault  
20 system than they encountered to the north of Summit  
21 Estates, in Section 25 area, and is more complex in  
22 nature. In addition to the Red Hills Fault, additional  
23 faulting occurs in quarries 2, 3 and 5. Since the  
24 faulting, according to the mine permit application,  
25 does not occur in the areas of the proposed quarries,

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1 and no additional information is given, it appears safe  
2 to assume from their mine permit application that no  
3 testing was conducted to determine the rate of  
4 absorption through any faults.

5 The statement in the permit application on,  
6 it's page MPVII-11, Mountain Cement claims that the  
7 water resource impacts due to mining will be  
8 undetectable. I would like this to be true, though  
9 without additional work no other party appears to be as  
10 certain as Mountain Cement. If the faulting in the  
11 areas -- if the faulting -- If the faulting of the  
12 areas of any one of the quarries is cemented also, how  
13 deep is the cemented portion of the fault? Also what  
14 is affected on the cemented areas? What is the effect  
15 of the cemented areas where thousands of tons of  
16 limestone are going to be removed? The potential for  
17 ground water pollution cannot be determined by the lack  
18 of data in the Mountain Cement amendment proposal.

19 Now, here again these next three or four  
20 people are conversations I've had, and they're their  
21 words, not mine. I paraphrase them, but they're their  
22 words. I was taking notes when I talked to them.

23 According to conversations with Alan Ver  
24 Ploeg, the person who created this map, the geologist  
25 with the Wyoming Geologic Survey, on the 21st of April,

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1 1997, the Red Hills Fault is a major fault beginning  
2 east of Laramie, traveling to the state line and  
3 continuing into Colorado towards Fort Collins. This is  
4 a strike-slip right fault that reaches from the surface  
5 down to the Precambrian deposits. The strike-slip  
6 fault in this area has the western side moving north --  
7 western side moving north of the eastern side under  
8 pressure, and then at the time the pressure was  
9 relieved, the fault rebounded south creating a  
10 perpendicular faulting. Though some areas of the fault  
11 system do show some vertical displacement, more  
12 evidence exists to suggest that it is a strike-slip  
13 fault.

14 Ver Ploeg completed most of his work from  
15 aerial photographs and only spot checked locations in  
16 the field. He could not say what portions of the fault  
17 system were cemented, and the cemented portions, to  
18 what depth they were cemented. He did say it was his  
19 belief that there was a potential for ground water  
20 pollution in this area dealing with the fault system.

21 Now, according to conversation with professor  
22 of geology and geophysics, Peter Huntoon at the  
23 University of Wyoming, and it's generally agreed he is  
24 the person on the Casper aquifer, Casper formation  
25 aquifer, this conversation also took place on the 21st

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1 of April, 1997. The Red Hills Fault is the largest  
2 fault in the area, and is coming to the surface and is  
3 not cemented, in his words.

4 He leads students on summer field work to the  
5 area of the proposed quarries, apparently on the  
6 northern end somewhere, although I wasn't positive  
7 exactly where he was talking. The area he has studied  
8 appears to be a reverse fault with bedrock from the  
9 west overriding bedrock to the east. The faulting on  
10 the Ver Ploeg map, it was his impression, indicates  
11 only ten percent of all the faulting that actually  
12 occurs along the Red Hills Fault system. This area is  
13 a recharge location for Soldier Springs. He stated  
14 that there's potential for ground water contamination  
15 if any liquid pollution leak will occur in a quarry.

16 Mitigation plans for the operation of the mine  
17 is needed, in his estimation, because the contaminant  
18 will move fast. When asked what mitigation -- When I  
19 asked him what mitigations could be done after the  
20 pollution has reached the aquifer, Huntoon did not know  
21 what could be done.

22 His students and himself have spent time in  
23 this area, but I can't tell you specifically as a point  
24 where he was. He just pointed this out on these maps.

25 Now, according to my conversation with Jim

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1 Case, who's the geologic hazard specialist, Geologic  
2 Survey, 18th of April of 1997, Red Hills Fault also, he  
3 states, is not a minor fault, and is not a normal  
4 fault. He thinks that there's potential for hydrologic  
5 connection between the fault and the Soldier Springs  
6 location. The geologic map indicates the aquifer in  
7 this area is supplied from the quarry location. He  
8 suggests that there is a need to establish that the Red  
9 Hills Fault is cemented and how deeply it is cemented.  
10 The area around quarry 2 is of grave concern to him  
11 because of the extensive fracturing in the area. Case  
12 could not -- Case indicated that work in the area has a  
13 potential to cause pollution.

14 Finally, in a phone conversation that I had  
15 this morning, May 9th, 1997 with Mike Lytle, working  
16 with the Laramie Water Treatment Plant, Lytle indicated  
17 that a continuous 1.4 million gallons of water is  
18 removed each day from the Soldier Springs artesian  
19 well. This accounts for ten percent of all of  
20 Laramie's water in the summer, and 25 percent of all of  
21 Laramie's water during the winter.

22 Laramie city water, people are very concerned  
23 with water pollution resulting from activities  
24 occurring along the fault zones. The city and county  
25 are presently working on a well head protection plan

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1 concerning this very matter.

2 They know of the proposed mining on the fault  
3 zones and are very concerned, but since no well head  
4 plan is in effect, the protections they presently  
5 propose are not mandatory at this time.

6 Mountain Cement does not choose to work with  
7 the city, according to Mr. Lytle, with the city -- work  
8 with the city to ensure safe drinking water. Lytle  
9 also indicated that they have not been allowed access  
10 to the Mountain Cement quarry areas for studies. He  
11 did indicate that in the last few days or possibly even  
12 the last few weeks, Mountain Cement has recently  
13 exposed a fault during their mining activities. And  
14 I'm just throwing this out to show that apparently not  
15 all faults are known, and only ten percent on this map,  
16 it's likely that there are additional faults of the  
17 area.

18 From this -- Now, this is my thinking -- it is  
19 clear that the drainage and faulting are potential  
20 locations for ground water contamination even when the  
21 actual ground water is not contacted by mining. This  
22 application should be considered to be a public  
23 nuisance because the safety of the Laramie water supply  
24 is at risk. Mountain Cement states to the contrary  
25 based on statements of general and maybe, should have

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1 been clarified by presenting a more detailed study.

2 In addition there's a need to prepare a  
3 mitigation plan in advance, before problems occur,  
4 especially in the case of chemical pollutants including  
5 but not limited to oil, diesel, antifreeze,  
6 transmission fluid or other possible liquid  
7 contaminants. Because a high potential exists for  
8 material spills that could contaminate the ground  
9 water, for example as we noted earlier, 10,000 gallons  
10 of diesel fuel that was reported to be stored at the  
11 quarry during operation, as stated by Frank Plummer in  
12 Rock Springs, a detailed mitigation plan needs to be in  
13 place prior to the mining activities and not after the  
14 problem occurs. Large or small scale contamination of  
15 the ground may occur when the mine is active or it may  
16 occur during off hours. Again, I'm concerned about the  
17 potential pollution to the aquifer, both for my use and  
18 for my relatives and the City of Laramie.

19 Now, dealing with surface water -- Maybe I'll  
20 just leave this up. In Section DVII4.2 on page  
21 DVII4-2, it is stated that the local lands receive 11  
22 inches of annual moisture, all as sporadic snow or  
23 rain, and all runoff will be prevented from leaving the  
24 mine site. This includes the surface water traveling  
25 outside defined channels. As stated on page No. DVII6

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1 -- 6.2.6, the cumulative impacts according to the  
2 mine, will be undetectable. The permit does not  
3 address the issue of what effect a lack of moisture  
4 will have on down slope vegetation.

5 And on page DVII6.25, the impacts of the  
6 Etchepare quarry to the water resources of the area,  
7 they state, will be minimal also. That was just  
8 another comment that they continue to make.

9 Now, my -- It's not really a question, but in  
10 my mind I wonder about the plants on my property that  
11 will not receive surface water from the east and thus  
12 affect my property, my plants and the wildlife that  
13 visit.

14 My next comment is on the air quality. The  
15 statement from section MPVII4.6 concerning public  
16 nuisance and safety, is Mountain Cement will make every  
17 effort to avoid blasting when the wind is toward any  
18 residence or residential area. If a blast is prepared  
19 when the wind is not towards a residence or residential  
20 area then the blaster may nonetheless detonate the  
21 blast. And that, to me, sounds like if the wind  
22 changes towards my land Mountain Cement will still  
23 blast.

24 Now, all these comments are stated because I  
25 an immediately adjacent to Etchepare No. 6. My

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1 property -- it's a little hard to see on this map. If  
2 I get this right, it's right about here, this area  
3 right here.

4 And this is a reason, for example, just this  
5 blasting where they might change, if the wind changes,  
6 still blast. This is a reason to have a large buffer  
7 zone, which does not exist for my property, and no  
8 buffer zone is suggested between my property and the  
9 quarry No. 6.

10 Concerning reclamation, according to Mountain  
11 Cement reclamation plan, the land will be recontoured  
12 to suggest the original surface with near normal  
13 movement of water. The mine plan calls for 300,000  
14 tons of limestone to be removed from the amendment area  
15 each year, and 13.5 years of mining planned for quarry  
16 6 and 7. This suggests a large depression, up to 14 to  
17 19 feet, is going to be created. With -- and I'm not  
18 sure whether you people had seen quarry 6 and 7 this  
19 morning, I was not with you, but with little original  
20 topsoil or only limestone existing in many portions of  
21 the quarry area, according to earlier testimony by  
22 Frank Plummer, how is Mountain Cement going to reclaim  
23 and recontour the land to match the surrounding  
24 surfaces? Without soil to place on the surface  
25 revegetating the quarry may prove difficult. Bringing

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1 soil from other quarries may work for a time, but  
2 taking what little soil exists at other locations would  
3 eventually catch up with the reclamation efforts.

4 In a field trip with Steve Goodrich and Frank  
5 Plummer yesterday, we walked over a portion of quarry  
6 No. 6. Frank indicated that a channel would likely be  
7 created on the west side of the quarry area to divert  
8 water into channel E9. If this occurs then water from  
9 this area would be permanently deflected from  
10 continuing to cross my property. The permit does not  
11 address this issue.

12 In discussing vegetation, as we heard there's  
13 been a couple different studies done, but the study  
14 performed by Walter Fertig, I believe he is with the  
15 Nature Conservancy, for Mountain Cement, indicated the  
16 presence of rock cress on the land. There are two  
17 known species, more rare Dagget rock cress, and the  
18 more common perennial rock cress. On page DVII8C-4, as  
19 was mentioned earlier, this is a letter from the Nature  
20 Conservancy, indicated a possible problem with their  
21 survey. The timing of their survey, late in the spring  
22 after blooming did not let them adequately identify  
23 certain plant species. In section DVII8C-7 the Dagget  
24 rock cress is considered by the U.S. Fish and Wildlife  
25 to have a 3C2 ranking as a candidate for listing under

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1 the Endangered Species Act of 1993. Sufficient  
2 information is not available for immediate rule making  
3 by the U.S. Fish and Wildlife.

4 So in addition to the rare Dagget rock cress,  
5 what other species could have been eliminated by this  
6 survey? It appears a more extensive survey is needed  
7 and possibly was done. We don't -- I don't know. I'm  
8 just going by what was stated by Nature Conservancy.  
9 An example of finding rare plant species is the rare  
10 and endangered Laramie false sagebrush. This was  
11 identified by the mine prior to the present mine  
12 application, occurring on the northern portion of the  
13 permit lands. According to the mine plan no  
14 application has been made for rare or uncommon plants  
15 to the EQC. Again, why is this if the Laramie false  
16 sagebrush exists on the northern portion of the permit  
17 area.

18 In dealing with the wildlife elk wintering  
19 habitat, in mine permit application, page DVII9-6, Rich  
20 Guenzel from the Wyoming Game and Fish, indicated that  
21 the western portion of the mine is out of the normal  
22 range of elk winter habitat. Figure No. DVII9-3 in the  
23 application shows elk habitat does not occur in Section  
24 25, township 15 north, range 73 west, and the west  
25 quarter of Sections 30 and 31, which, utilizing this

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1 map, is about here, western quarter of this.

2 I have found collaborative evidence of elk on  
3 my property in the southeast quarter southeast quarter  
4 of Section 25 at three different times this past winter  
5 and twice last -- the winter of 1995-96, and though I  
6 don't presently live on my property, so I'm not out  
7 there all the time to see if what I evidenced was  
8 suggesting even more, but at least three different  
9 times this year they were out there.

10 I reported my findings to Pat Deibert of the  
11 Cheyenne Wyoming Game and Fish. Pat indicated in a  
12 phone conversation dated April 9th, 1997, the need for  
13 mitigation for potential disturbance to wintering big  
14 game. Rich Guenzel from the Wyoming -- from the  
15 Laramie office of Wyoming Game and Fish was also  
16 contacted on the 9th of April, '97 about the same  
17 concerns presented above. He was interested in the  
18 matter concerning the presence of elk on the property.

19 While talking with Pat Deibert on the earlier  
20 conversation I inquired about the existence of the  
21 potential critical wildlife habitat located where the  
22 trees begin to grow in the drainages. You might have  
23 seen that this morning if you went out there. Farther  
24 west there are no trees in the drainage pretty much,  
25 but near where these quarries are proposed there is

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1 trees beginning to grow in the drainages. And I  
2 wondered whether these habitat areas, beginning  
3 immediately down slope from the quarry areas are --  
4 could be critical habitat areas. Pat said that she  
5 would look into these problems, but she has not gotten  
6 back with me.

7 In discussing migratory birds, the mourning  
8 dove and mountain plover on page DVII9-9, it was stated  
9 that the mourning dove was only a seasonal visitor to  
10 the area, most common during the spring and fall. In  
11 the summer of 1996 I photographed a mourning dove nest  
12 with eggs on my property, and noted numerous doves in  
13 the immediate area during the summer.

14 I do have pictures of that, and we could see  
15 those a little while later, but it would better to just  
16 go on with it now, I believe.

17 I reported the dove nest also to Pat Deibert  
18 from the Cheyenne Wyoming Game and Fish during the  
19 phone conversation on the 9th of April. She indicated  
20 Mourning Doves are covered under the Migratory Bird  
21 Treaty Act, and must be considered at the time of the  
22 application.

23 On Pat Deibert's visit to the site on the 26th  
24 of May, 1995, Pat noted the existence of the bird  
25 species, the mountain plover. This was told to me

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1 during the phone conversation of the 16th of April.  
2 Mine application states that the mountain plover is  
3 also a seasonal visitor to the area. That's on page  
4 DVII9-12. Pat Deibert indicated that the known  
5 environmental locations for the mountain plover is  
6 expanding, therefore old species location maps do not  
7 represent the true extent for this bird. It was her  
8 opinion that the plover may spend the summer in the  
9 area, and that further work would be required to  
10 determine this.

11 During a phone conversation with Mary Jennings  
12 of the U.S. Fish and Wildlife Service in Cheyenne on  
13 April 16th, 1997, Mary indicated that a survey would  
14 have to be completed. A plan would need to be  
15 developed to mitigate effects if the species were to  
16 found to occur in the mine area and if the U.S. Fish  
17 and Wildlife service believes the species would be  
18 impacted. Mary Jennings also stated that the  
19 disturbance of a nest or its destruction would be  
20 considered a taking by the U.S. Fish and Wildlife  
21 service. According to the mine application no survey  
22 was conducted since it was stated that these birds are  
23 only seasonal.

24 The mine application is not complete.

25 Now, dealing with raptor nests as was noted by

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1 Brad Walgren earlier, a study performed by Jim Orpet -  
2 hopefully that's how you pronounce your name, wherever  
3 you are - with Intermountain Resources, on the location  
4 of raptor nests, did not reveal the presence  
5 of two additional nests in section 36 -- Excuse me.  
6 Sections 36, quarry 6 and 7. This map is the map of  
7 the mine permit. The only thing that I added was here,  
8 this is my property, and these are the two raptor nests  
9 that I located while viewing the area. The colors on  
10 this map may or may not be of interest. They -- the  
11 purple is ferruginous hawks, the green is bald eagle,  
12 and orange is presently unknown. And I did the  
13 coloring on these maps.

14 As a result of finding these two nests no  
15 known species types could be assigned to these. In  
16 addition to the two undocumented nests, an additional  
17 seven raptor nest locations did not list a species.  
18 Since some raptors are more rare and endangered than  
19 others, until the species using the nest could be  
20 determined the most appropriate method of mitigation  
21 can not be determined.

22 In the mine application, page MPVII-19,  
23 section MPVII4.11, it stated that raptor nests and  
24 suitable nest locations do not occur within the  
25 affected area. This is obviously wrong. Mountain

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1 Cement wants to create a mitigation plan and monitoring  
2 program after finding nesting raptors. Here, I  
3 believe, and this is my thought, that this is a  
4 reactive plan instead of a proactive plan.

5 On the 9th of April, '97, talking with Pat  
6 Deibert by phone with the Cheyenne Wyoming Game and  
7 Fish, she was also contacted about the nest locations  
8 in 36, Section 36, T15N, range 73 west. I reported to  
9 her the two previously undetected nests occurring on  
10 the east central side of the section west and below  
11 quarry No. 7.

12 Rich Guenzel from the Laramie office of the  
13 Wyoming Game and Fish was also contacted on the 9th of  
14 April about these same concerns. He responded that the  
15 Game and Fish are interested in the locations of the  
16 raptor nests. He indicated they also needed to be  
17 checked out.

18 There's -- This is my comment. There's a need  
19 for a more detailed study concerning big game winter  
20 habits. The mine permit, mine permit applications did  
21 not complete a study on the mourning dove or the  
22 mountain plover. This would be required by the  
23 Migrating Bird Treaty Act. In addition, there's a need  
24 for a more detailed study on the environment of the  
25 Laramie Basin containing the critical habitat located

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1 in drainages where the conifers begin to grow. These  
2 habitats could potentially be affected by mining  
3 activity. These activities were not studied prior to  
4 the submission of the technically complete mining  
5 application.

6 Now, I'd like to address the archeology. I,  
7 besides being a photographer, professional  
8 photographer, I also work for the state archeologist's  
9 office as a project director.

10 In section MPVII4.7 on page MPVII-15, it is  
11 stated that no archeological or paleontological  
12 resources have been identified within the study site  
13 defined in appendix DVII3. Larson Tibesar Associates,  
14 the company performing the cultural survey for the mine  
15 recorded eight sites within the quarry areas No. 3 and  
16 4 and along the quarry roads nearby. Because of the  
17 confidential nature of the contents of the map  
18 indicating the location of the archeological sites this  
19 was kept out of the mine permit, the general mine  
20 permit application for view on public display.

21 I have in my possession a location map of  
22 these sites, but I would hope not to need to display  
23 it. If you'd like me to I can, but because of the  
24 nature that they try to keep the locations out of the  
25 public view, if somebody wants me to show it, I will

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1 show it but they would rather not.

2 MR. YOUNGBAUER: To make sure others don't go  
3 on and destroy this site before it's adequately  
4 mitigated?

5 MR. WAITKUS: They're trying to -- Because  
6 we're being paid by the federal and state governments  
7 and sometimes private industries, to locate these  
8 things, we do not feel it is in the interest of the  
9 science of archeology to publish these because of known  
10 collectors who scour through, if that would be a  
11 correct term, for these locations so they can then go  
12 out and locate the sites.

13 MR. YOUNGBAUER: Because I was getting a  
14 little confused. Were you in fact accusing them of  
15 trying to hide something?

16 MR. WAITKUS: No, I was not. It wasn't in the  
17 plan because they were trying -- in general they try to  
18 keep these maps out of the general public view.  
19 They're not trying to say they are -- I'm not trying to  
20 say that the mine was trying to keep this out -- They  
21 were trying to keep it out of the public view. They  
22 weren't trying to do anything else. Does that make  
23 sense?

24 MR. YOUNGBAUER: I'm just trying --

25 MR. WAITKUS: All I'm trying to say in here,

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1 no archeological or paleontological resources have been  
2 identified within the study area. I know this to be  
3 wrong. I have seen the maps where these are located.  
4 The mine permit does not adequately address the issue  
5 of the archeological locations proposed on the mine.  
6 They're saying that there are no sites there. There  
7 are sites there. That's all I'm saying.

8 The idea that the map was not included is no  
9 reflection, good or bad, on the mine. They were just  
10 doing what was asked of them, just to keep the map away  
11 from the general public.

12 Now, in dealing with photography, as I just  
13 mentioned, I am a professional photographer. I have a  
14 short list of some of the places that I have my  
15 photography in.

16 MS. LORENZON: Is this an exhibit that was  
17 listed in Rock Springs?

18 MR. WAITKUS: Yeah. This will be Exhibit 8;  
19 is that correct? This will be Exhibit 8. These were  
20 shown to people and they said fine.

21 I am a natural history photographer. I  
22 photograph animals, plants, and scenic areas. The  
23 allowing of the mine to go forth will affect my  
24 potential income originating from the use of my  
25 property. The Mountain Cement plan indicates large

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1 numbers of animals and plants in the area. Mining  
2 activity will decrease the wildlife appearance on the  
3 land near the proposed mining, and possibly reduce the  
4 types of vegetation, thus reducing potential subjects  
5 for my photography. A buffer zone similar to the one  
6 proposed for the Weaver quarry, of 3,000 feet would  
7 help mitigate, but would not eliminate the effects on  
8 my business.

9 I have made an overhead, not that I don't  
10 believe people would think one way or another about  
11 this, but I do have -- and I don't know how these are  
12 going to turn out, they didn't look very great, but  
13 these are pictures from Summit Estates area; the  
14 sandstone formations, here's the paintbrush, there's  
15 raptors, and I don't know if this is going to be  
16 pointed out to you, this is a ferruginous hawk nest  
17 that was about a mile west of Etchepare quarry No. 7.  
18 Like I say, it's not a great picture, but considering  
19 the overhead and that, just to give you an idea of  
20 what's here.

21 Now, concerning building on my property. It  
22 was suggested during the information meeting that  
23 Mountain Cement had in 1994, after I'd already bought  
24 my land, that I should not build on the eastern 30  
25 percent, northeastern 30 percent of my property.

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1 This is a map supplied by Mountain Cement to  
2 us at the time of this meeting. I just made an  
3 overhead of this and colored it myself. My property is  
4 purple, and when the Warren quarry was to go in, they  
5 suggested that we not build where the yellow, yellow/  
6 orange is. Obviously they knew they couldn't tell us  
7 where to build but they suggested that we don't build  
8 in that area. And this was due to the mining activity  
9 existing in the Warren quarry property. They planned  
10 on mining right up to the section line for this  
11 existing mine permit.

12 Because of the problems associated with  
13 mining, Frank Plummer -- I was told by Frank Plummer  
14 that he would not -- that -- see if I get this right.  
15 Because of the problems associated with the mining I  
16 told Frank Plummer I would not build my home until the  
17 end of this present mining activity, which is  
18 approximately two years from now. Now I'm told that  
19 Mountain Cement wants to continue mining adjacent areas  
20 for an additional 30 years, adding portions of four  
21 sections of land to their present mine permit.

22 The brown area indicates the area of my  
23 property that would be affected with future mining of  
24 additional lands. This was also told to me in the  
25 summer of '94 after I'd already purchased my property

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1 and -- but, of course, nothing was said. They're now  
2 trying to get their permit for this property, and it's  
3 -- it was questionable in my mind whether they'd  
4 actually get it or not, or they changed their location,  
5 so stating where they'd like to put their mine is not  
6 the same thing as already having it.

7 What this also means is that this suggests  
8 that 80 percent of my property should be unsuitable for  
9 a house location. At the time of this information  
10 meeting Mountain Cement also informed me that my  
11 property is in the key, or as Frank said, a problem  
12 location in regards to mining Sections 30 and 31. This  
13 is the only property contacting the proposed mine  
14 amendment area. Again Mountain Cement, when approached  
15 concerning the creation of a buffer for my property,  
16 indicated that this was not possible.

17 What does this mean for my intended building  
18 on my property if the permit is approved as planned?

19 In dealing with a buffer zone, in quoting from  
20 section No. DVIII-0, page DVIII-1, a buffer zone of  
21 undisturbed land surrounding the quarries are to  
22 preclude development which may impact the project. I  
23 added the "are". In other parts of the mine permit  
24 they repeat, a buffer zone for residential  
25 development.

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1 In a letter dated the 6th of September, 1996,  
2 in the Mountain Cement document it is stated,  
3 Additional portions of the sections are for a buffer  
4 for the proposed nearby residential community. On the  
5 9th of April, '97, I called Frank Plummer of Mountain  
6 Cement. After informing him about the numerous  
7 comments in the Mountain Cement amendment application  
8 describing the use of buffer zones around the quarries  
9 to keep residential locations away from mining  
10 activity, I asked him about quarry No. 6 in relation to  
11 my property immediately adjacent. He informed me that  
12 no buffer was planned for this area.

13 In the Albany County Commissioners meeting of  
14 April 8th, 1994, Phil Nicholas, this is Mountain Cement  
15 Exhibit No. 18, stated the need for a half mile buffer  
16 for limestone mines. In the meeting he states it is  
17 also consistent with the experience of Mountain Cement  
18 and other mining operations that a half mile buffer  
19 generally mitigates the adverse effects of blasting,  
20 noise, dust, and visual intrusions on residential  
21 neighbors.

22 And a half a mile buffer, or approximately,  
23 actually 3,000 feet; 3,000 feet to the section line  
24 would be this. Again I just used one of their existing  
25 mines. I added the distance and colored it myself in

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1 the yellow.

2 Statement that I have is where's the buffer  
3 zone for my property? The Weaver quarry, the north end  
4 of the Piper quarry will or have a buffer zone both of  
5 3,000 feet between the mine and residences. Summit  
6 Estates should also receive this buffer. Though I have  
7 yet to build, Mountain Cement permit does not take into  
8 consideration my statements to Frank Plummer made in  
9 1994, and again more recently that I will build a house  
10 on this property when the Warren quarry has neared  
11 completion. My 36 acre property contacts quarry No.  
12 6. The present suggestion made during phone  
13 conversations with Frank Plummer on the 9th of April,  
14 to alter the sequence of mining, placing the excavation  
15 of quarries 6 and 7 first would still have mining  
16 occurring at a minimum through the year 2012 beside my  
17 property. This mine permit states that a minimum of  
18 13.5 years will be needed to mine these quarries.

19 And about the last statement I need to make is  
20 the -- is on the lack of trust and other problems  
21 concerning Mountain Cement. From my experience with  
22 Mountain Cement in the past, I do not believe I can  
23 trust the words of what can be done to rectify the  
24 arising problems. An example of this lack of trust  
25 occurred when a new fence was constructed by Mountain

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1 Cement, was constructed by Mountain Cement on the east  
 2 side of my property. Frank Plummer and land surveyors  
 3 were on my property when I happened to stop out at my  
 4 land. I was informed only at that time that Mountain  
 5 Cement would be replacing a fence. I asked -- which  
 6 was fine, it was right on the boundary, and there was a  
 7 problem with the fence actually coming too far into my  
 8 -- or I had actually some of Mountain Cement's  
 9 property on my side of the fence.

10 So I was informed at the time that Mountain  
 11 Cement would be replacing the fence. I asked Frank to  
 12 keep the mechanical fencing equipment off my property.  
 13 I was told that this would not be a problem, and this  
 14 request would be complied with. Near the end of the  
 15 fence construction project I discovered that not only  
 16 the fence was constructed from my side of the property  
 17 line, but they also drove their equipment to the  
 18 property line crossing my property, using numerous  
 19 different routes, creating erosional problems.

20 This is not a way to build trust between  
 21 neighbors as they continue to state in their mine  
 22 permit application. After I contacted Frank Plummer,  
 23 he only said the company would pay for my destroyed  
 24 trees. Nothing was said about the blading, the deep  
 25 tracks across the land, nor was I even given an

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1 apology. If this is how Mountain Cement builds rapport  
 2 and is a good neighbor, something is not right.

3 As to the good relations indicated by Mountain  
 4 Cement, the only contact I have had has been initiated  
 5 by myself, and has been met generally with negative  
 6 results.

7 And this is actually finally a couple of  
 8 sentences on the confusion that has arisen with the  
 9 changing of permit numbers at quarries. Warren quarry  
 10 No. 319 was combined under 298C. Though this may have  
 11 been viewed as a convenience to combine the two  
 12 quarries under the one permit with more stringent  
 13 requirements, with the mine -- would the present mine  
 14 permit application addition areas have been allowed if  
 15 the two mines were not recently combined?

16 THE HEARING EXAMINER: Mr. Waitkus. How much  
 17 longer are you going to take?

18 MR. WAITKUS: I have this page.

19 THE HEARING EXAMINER: You have run over your  
 20 allotted time now. We will let you finish this page,  
 21 but you're limiting yourselves from any other  
 22 testimony.

23 MR. WAITKUS: The mining activity of quarry 6,  
 24 1 and 7, without any extended buffer zone, will limit  
 25 the usable area of my land.

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1 The value of land will be dramatically  
 2 decreased by mining related activities, pollution and  
 3 intrusions for at least 30 years.

4 Our quality of life on the property will be  
 5 affected by this proposed mining activity, including  
 6 lights, dust, and noise, traffic.

7 Wildlife will be impacted by the proposed mine  
 8 addition if no detailed studies have been completed on  
 9 these mine related problems.

10 Vegetation on my land will be affected by  
 11 decreased amount of available water and transport  
 12 activity. Additional rare plant species may occur  
 13 within the proposed mine related areas.

14 Impact of the mining activities on the  
 15 environment will affect the use of the area for my  
 16 photography.

17 The safety of the Casper aquifer and Laramie's  
 18 water supply has been questioned by scientists at the  
 19 University of Wyoming, and officials of the City of  
 20 Laramie. The mine application does not even address  
 21 the issue as a potential concern.

22 Finally, the proposed mine amendment should  
 23 have taken a pro-active approach to mitigate problems  
 24 dealing with human safety and wildlife and not the  
 25 reactive approach that Mountain Cement is presently

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1 intending to take. So I would ask you to deny the  
 2 application due to the incomplete nature of the  
 3 application and potential problems with the ground  
 4 water contamination.

5 If the mine application is approved I would  
 6 like to see a 3,000 foot buffer zone, between --  
 7 similar to the one between the Butte subdivision and  
 8 Mountain Cement as also applied to the Etchepare  
 9 quarries.

10 Thank you for your time.

11 THE HEARING EXAMINER: Thank you. Do you have  
 12 any questions, Mr. Roan?

13 MR. ROAN: Yes, I do.

CROSS-EXAMINATION

14 BY MR. ROAN:

15 Q. You mentioned early in your testimony that  
 16 you're concerned about the pollution at the surface  
 17 migrating to the aquifer?

18 A. That's true.

19 Q. I think part of your testimony was based on  
 20 the experts you spoke to, the sandstone, you were  
 21 concerned about the sandstone, the permeability of the  
 22 sandstone?

23 A. In the Mountain Cement mine application they  
 24 stated that the limestone is permeable and sandstone  
 25



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1 may be porous. In other places they say it's highly  
2 porous. That had me wondering, so if indeed there's  
3 exposed sandstone I was wondering about the potential  
4 for pollution either through the sandstone to reach the  
5 water of the aquifer. I think that was the question  
6 raised.

7 Q. Yes, it is. You're aware the aquifer is not  
8 polluted?

9 A. That's true.

10 Q. I wanted to make sure I understood where you  
11 were going with that. You had a map, an overhead,  
12 D-82, the fault?

13 A. The Mountain Cement one or the one that -- or  
14 the Ver Ploeg?

15 Q. It's the one in red, you highlighted the fault  
16 location.

17 It was an earlier one.

18 A. I think this is what you want.

19 Q. This is what I'd like. It looks to me like  
20 the Red Hills Fault is actually identified on the map?

21 A. Yes, it is.

22 Q. It's actually spelled out there?

23 A. Yes, it is.

24 Q. And according to your legend you got the Red  
25 Hills Fault as being outlined in red. It appears to me

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1 that the line next to the -- to Red Hills Fault line is  
2 not part of the fault. Can you explain that?

3 A. I could not tell by the map, at the time I put  
4 this together, and I'm still not sure if the fault is  
5 one line or multiple fault lines. It could be one or  
6 either; could be one fault. The fault could be  
7 consisting of more than one line on the map is what  
8 I've been told, just like you can tell farther up where  
9 it splits, there's two actual fault lines there, so I  
10 can not tell on this map if the Red Hills Fault is one  
11 or two, because they don't list what the other one is  
12 called, it's called something different.

13 Q. Okay. But we've heard testimony today that  
14 the Red Hills Fault is in fact the one that's  
15 identified in red on the map?

16 A. Well, can I put up this other map?

17 Q. Yes.

18 A. Now, here you can see the thing listed as the  
19 Red Hills Fault, and there's numerous horse tail  
20 fractures coming off, a term that was told to me here  
21 by one of the scientists, I think Ver Ploeg. All of  
22 these, as far as I can tell, the fault as listed on  
23 this one, only shows one fault. The other map shows  
24 two faults. I don't know where the problem lies. They  
25 don't even show a second fault in that area. That was

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1 on the earlier map.

2 Q. That's Mr. Ploeg's map?

3 A. Ver Ploeg.

4 Q. That's off the map you offered, Exhibit No. 7,  
5 is that right?

6 A. That's right.

7 Q. That's a preliminary geologic map, is that  
8 correct?

9 A. Is that what that says?

10 Q. Yeah, it is. I'm sorry, I'll let you look at  
11 it.

12 A. Yeah. If that's what it says, yes.

13 MS. LORENZON: Gentleman, you're going to have  
14 to be careful. It's hard for the court reporter to  
15 hear with all the noise in the room, you're going to  
16 have speak up and direct your comments towards  
17 Merissa.

18 MR. ROAN: Okay. Thank you.

19 Q. (By Mr. Roan) So based on the information that  
20 we have from our geologist, the testimony that you  
21 heard earlier, the Red Hills Fault is the line that  
22 runs -- that is identified on that map as well? I  
23 don't know how accurate that is because it identifies  
24 preliminary, but assume it's accurate, it is the line  
25 that is identified on your other map --

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1 A. Yes.

2 Q. -- in red? But the one next to it I question  
3 the accuracy of that given the fact it's not identified  
4 as the Red Hills Fault. And you are sure where it is?

5 A. That is true, and also when comparing these  
6 two maps they don't even show another fault right  
7 beside it, about where the red in Red Hills Fault is,  
8 is where this other one is.

9 See, my problem was, is that one map shows two  
10 faults, one map shows one fault.

11 Q. One is published and one is not, correct?

12 A. One is stated as a Red Hills Fault, the other  
13 one, I don't know.

14 MS. LORENZON: Please.

15 Q. (By Mr. Roan) The map that you're using, the  
16 one with the red lines on it, this one, is off from  
17 which map?

18 A. This is from the mine permit. Right at the  
19 moment I couldn't tell you which map it is, but this is  
20 the mine permit map.

21 Q. A published map, and the other is the  
22 preliminary map, correct?

23 A. Preliminary, apparently still published  
24 though. I mean it could be a preliminary map, but it's  
25 still published as far as I know.

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1 Q. Well, we know that it is a preliminary map.  
 2 That was the question I had.  
 3 A. This is the actual map.  
 4 Q. That's good. Let's see. You talked about  
 5 several conversations you had on the telephone with a  
 6 different scientist. I was just curious if they sent  
 7 you any reports they had prepared in conjunction with  
 8 the studies? Apparently they'd done some studies; is  
 9 that correct?  
 10 A. I would think so.  
 11 Q. Based on the comments they gave you?  
 12 A. About this particular area maybe or maybe  
 13 not. Only Ver Ploeg, I know he actually has things  
 14 produced on this area, which is the map.  
 15 Q. Okay.  
 16 A. And he also has a map in the mine application  
 17 describing the bedrock that's exposed on the surface, I  
 18 believe is what the map shows.  
 19 Q. Several of these scientists did have  
 20 conclusions, factual conclusions about -- about their  
 21 disciplines --  
 22 A. Yes.  
 23 Q. -- which are relative to this site?  
 24 A. That's correct.  
 25 Q. So you would assume they studied the site,

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1 correct?  
 2 A. Yes.  
 3 Q. We'll assume that for the sake of argument.  
 4 A. Well, the one he had taken his students out to  
 5 that area, so he had taken a look at it.  
 6 Q. Did they send you copies of their reports in  
 7 conjunction with their studies they did?  
 8 A. No, they didn't.  
 9 Q. Did you ask for those reports?  
 10 A. Unfortunately, no, I didn't.  
 11 Q. I'm just curious if we had anything else to  
 12 share.  
 13 One comment you had, one part of your  
 14 testimony was your concern about Mountain Cement's  
 15 operations intercepting surface water and basically  
 16 pooling it and not allowing it to flow away from your  
 17 settling ponds?  
 18 A. That's what they state in their mine plan,  
 19 yes.  
 20 Q. There's a document that I want you to look at,  
 21 and I'll refer the Council to Mountain Cement's Exhibit  
 22 -- I don't remember the number. That's the entire  
 23 application.  
 24 MR. NICHOLAS: Exhibit 1.  
 25 Q. (By Mr. Roan) Mountain Cement's Exhibit No. 1,

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1 which contains this document. This is out of the mine  
 2 plan, it's MPVII-22, and there's a table on this.  
 3 There's a table on this, and there's some  
 4 notes at the bottom of the table. If you just identify  
 5 the table, just identify the top line.  
 6 A. It says Sediment Pond Capacity.  
 7 Q. Then read the third note listed below the --  
 8 A. Operation HWL may fluctuate, depending on  
 9 storm event intensity and duration, frequency.  
 10 However, Mountain Cement will pump evacuate any or all  
 11 active ponds, three at any one time, when they reach  
 12 their individual pond capacities as shown in the table  
 13 above, once acceptable water quality is met.  
 14 Q. So perhaps when Mountain Cement's looking at  
 15 this, do you suppose that they're considering that  
 16 actually they're not pooling the water without  
 17 releasing it from the sediment ponds?  
 18 A. I believe what that states is they're going to  
 19 pump water, apparently into the existing drainages.  
 20 This was -- This will still not comply to my land which  
 21 is down slope from a very small drainage, and would add  
 22 water to my property. Apparently according to that, it  
 23 doesn't say, they just say they're going to pump it.  
 24 That doesn't mean they're going to take it away in  
 25 trucks, it just says that water is not going to be

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1 transported down slope, necessarily, to my property.  
 2 MR. ROAN: Okay. I understand. Thank you.  
 3 That's all. Thank you.  
 4 THE HEARING EXAMINER: Mr. Goodrich.  
 5 MR. GOODRICH: Thank you, Mr. Morris.  
 6 CROSS-EXAMINATION  
 7 BY MR. GOODRICH:  
 8 Q. Mr. Waitkus, a couple quick questions.  
 9 Initially regarding your contact with people you talked  
 10 to on the telephone, did you provide any of these  
 11 people with copies of the permit amendment application  
 12 of which we've been speaking today?  
 13 A. I would have very much like to have given them  
 14 copies of this, but at one dollar a page I could not  
 15 afford to copy this entire report. I did have some  
 16 maps that I showed them.  
 17 Q. Well, you talked to them on the telephone?  
 18 A. When I talked to the three scientists at the  
 19 university, the ones on the phone were all generally  
 20 aware of the areas that I was talking about.  
 21 Q. So your discussion with them was in general  
 22 terms?  
 23 A. How do you mean?  
 24 Q. They were generally aware of the area, how do  
 25 you mean?

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

SEP 24 1997  
Thomas A. Roan, Senior Assistant Attorney General  
Environmental Quality Council

IN THE MATTER OF OBJECTIONS TO )  
THE MINING PERMIT APPLICATION ) DOCKET NO. 2826-97  
OF MOUNTAIN CEMENT COMPANY )  
TFN 3 4/70

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER**

The Environmental Quality Council (the Council) held a public hearing in the above entitled matter on April 17, 1997 in Rock Springs, Wyoming and on May 9, 1997 in Laramie, Wyoming. At a regularly scheduled public meeting held on June 23, 1997 in Casper, Wyoming, the Council reached a unanimous decision in this matter.

Appearances at the hearings were entered by Philip A. Nicholas and Stephen N. Goodrich of Anthony, Goodrich, Nicholas and Sharpe, LLC for applicant Mountain Cement Company (Mountain Cement); Thomas A. Roan, Senior Assistant Attorney General for the Department of Environmental Quality, Land Quality Division (DEQ); and by the following persons: James Weger and Aleida Matthies, Bill Brantz and Holly Brantz, Edward J. Delaney and Mary R. Delaney, Brian R. Waitkus, Stuart B. Wohl, Millard Johnson and Deanna Johnson, Summit Estates Landowners Association, Linda Blair and Family, and Richard Uren (the Protestants).

Pursuant to W.S. § 35-11-406(p) and W.S. § 16-3-110 the Environmental Quality Council adopts the following Findings of Fact, Conclusions of Fact, Conclusions of Law and Order.

**FINDINGS OF FACT**

1. Mountain Cement is a cement manufacturer whose plant is located approximately two miles south of Laramie, Wyoming.

2. Mountain Cement uses limestone as a raw material in the manufacture of cement.
3. Mountain Cement or its predecessor has mined limestone east of its plant since at least the 1950's. Mountain Cement's predecessor held two permits under the Open Cut Reclamation Act and later obtained two "conversion" permits when the Environmental Quality Act was adopted. These permits are Permit No. 298C and Permit No. 319C. In 1987 Mountain Cement applied for and received Permit No. 298C-A4 which expanded original Permit No. 298C. Mountain Cement currently quarries limestone the Permit No. 298C-A4 area. Permit No. 319C has been consolidated into Permit No. 298C-A4.
4. On April 26, 1996, Mountain Cement submitted a Permit Amendment Application to the DEQ for Permit No. 298C by adding an additional 2160 acres which will include seven quarries affecting 289 acres within the new permit area. The application was designated by DEQ as TFN 3 4/70.
5. Although the application is designated as an amendment to an existing permit, it meets all the requirements of a new permit application.
6. On February 10, 1997, DEQ informed Mountain Cement that TFN 3 4/70 was deemed technically complete under the Environmental Quality Act (the Act) and was ready for publication.
7. Mountain Cement published notice of its permit amendment application and provided DEQ proof of publication as required by W.S. §35-11-406(j).
8. The Protestants filed objections to the application. All of the Protestants are residents of Summit Estates, a subdivision located west of, and sharing a common boundary with, the proposed permit area. Summit Estates is separated from the proposed permit area by existing permit areas of Permit No. 298C.
9. Pursuant to §35-11-406(k), the EQC issued a Notice of Hearing and Order on April 3, 1997 setting this matter for a contested case hearing in Rock Springs, Wyoming on April 17, 1997.
10. The Council received prehearing statements from applicant Mountain Cement, DEQ and Protestants Summit Estates and James Weger.
11. The contested case hearing in this matter was convened in Rock Springs on April

17, 1997. The hearing was not completed on that date, and the Council continued the hearing to a date and location to be determined later. Present at the first day of hearing were Council Members Steve Williams, Den Constantino, John Morris, Keith Baker, Wendy Hutchinson, Pat Hand, and the Council's Director and legal advisor, Terri A. Lorenzon.

12. On April 30, 1997, following communication with the parties, the EQC set May 9, 1997, as the date for completing the hearing in Laramie, Wyoming. All parties had an opportunity to propose changes to their prehearing documents.

13. Preceding the May 9, 1997 hearing, the Council toured the proposed permit area with representatives of Mt. Cement, DEQ, and the Protestants. The tour encompassed the proposed expansion area and the area permitted under Permit No. 298C, Mountain Cement's current permit.

14. The hearing was reconvened and concluded on May 9, 1997. Present at the second day of hearing were Council Members Steve Williams, Den Constantino, John Morris, Keith Becker, Wendy Hutchinson, Steve Youngbauer, and the Council's Director and legal advisor, Terri A. Lorenzon. Mr. Youngbauer read a transcript of the proceedings held on April 17, 1997 prior to participating in the hearing held on May 9. Mr. Hand could not attend the hearing on May 9, and he then read the transcript of and examined the exhibits introduced at the hearing held on May 9 prior to participating in the decision on June 23 in Casper.

15. Protestants, all of whom are from the Summit Estates development, objected to the issuance of the permit on the bases that the application is incomplete; the proposed quarry is a public nuisance; Mountain Cement has pending violations and has failed to properly reclaim lands already mined; Mountain Cement has not proposed a reclamation schedule that complies with §35-11-402(a)(iii) and the DEQ Noncoal Regulations; Mountain Cement failed to identify the source, quantity and quality of water it intends to use for the new mining area; Mountain Cement has not identified the nature and depth of its limestone seam; Mountain Cement's blasting will damage water wells or the groundwater aquifer; the operation will interfere with surface water flow; the operation is too close to existing and proposed residences; Mountain Cement's haul trucks will create traffic hazards on the access road; the existing haul road was not more than 300 feet from an existing dwelling; and the proposed operations will damage the area's

scenic and archaeological values. General concerns were raised at the hearing concerning faults and spills.

16. Expert testimony on the impacts of Mountain Cement's expansion on the hydrology, geology, surface water, groundwater, and wildlife and the impacts of blasting, lights, and noise on the neighboring residences was presented.

17. The land included within this permit amendment has not been previously mined, and there is no outstanding reclamation obligation on this acreage.

18. Mountain Cement has no pending violations.

19. Mountain Cement has proposed a reclamation schedule which requires it to commence reclamation at the earliest feasible time and, in any event, within two years of the completion of mining in each section. Mountain Cement has submitted a map showing the sequence of mining and reclamation. It commits to reclaiming 10 to 30 acres per year, which is the approximate number of acres it plans to disturb per year. Therefore, Mountain Cement is required to backfill, grade, contour and seed a minimum of ten acres per year, depending on the acreage affected in that year.

20. Mountain Cement's permit amendment application addresses public safety by controlling access to its operations by using signs, fences, and gates.

21. Mountain Cement has identified the nature and depth of the limestone deposit in the area covered by the permit amendment. Limestone will be mined from the Casper Formation which consists of calcarenite and calcilutite, and the deposit is two to sixteen feet thick. Most of the deposit is near the surface.

22. No portion of the permit amendment area has been designated as rare or uncommon under W.S. §35-11-112(a)(v).

23. Evidence at the hearing demonstrated that Mountain Cement has not proposed to disturb any land within 300 feet of an existing occupied dwelling.

24. Occupied dwellings are located within 300 feet of land, including the haul road, disturbed under the terms of existing permits. These mining areas were affected prior to the 1969 Open Cut Reclamation Act and the Environmental Quality Act. Summit Estates was developed after Mountain Cement and its predecessors began mining in the area.

25. Residences or proposed residences on land adjacent to the area included within this permit amendment or current permit areas, will have some impact from Mountain Cement's operations. However, Mountain Cement's mine plan includes the construction of earthen berms to limit the amount of noise and light emanating from active pit areas. Mountain Cement has agreed to limit quarrying operations to daylight hours until the pit floor is deep enough that the crusher and accompanying lights can be placed inside the pit, out of the view of quarry neighbors.

26. Protestants complained that Mountain Cement's permit amendment area did not include a buffer zone between active mining areas and adjacent property. The only buffer zone required of a mining operation is that there can be no affected lands within 300 feet of certain structures or features without the landowner's consent. Mountain Cement meets this requirement.

27. The evidence showed that Mountain Cement's plan for mitigation of impacts on neighboring homes will limit the light, noise, and dust from the mining operation. Mountain Cement must obtain an air quality permit which will control air emissions.

28. The haul road that will be used for the new permit area was included in the original Permit #319C and has been used since Permit #319C was issued. Part of the haul road is a paved county road and Mountain Cement purchased a permanent easement to use the remaining portion of the road. Mountain Cement will maintain all of the road and has plans to use dust suppressants on the unpaved portions of the road.

29. Mountain Cement's mine plan includes a blasting plan which meets DEQ standards. These standards are designed to prevent damage to property outside the permit area. If damage occurs, procedures are available in the Act to evaluate and mitigate such damage. No evidence was introduced which would show that blasting at the quarry sites will damage either water wells or structures near Mountain Cement's proposed operations.

30. A blasting expert testified concerning the effects of blasting. He stated that while people living nearby may hear and feel a blast, the blasting will not affect structures or wells. He testified that blasts will generally occur once a week, and explained how climatological factors including wind and cloud cover will further limit the impact on anyone within the vicinity.

31. Mountain Cement identified the source and quality of water that will be used in

its operations. Water will come from the City of Laramie or from water wells already permitted by Mountain Cement.

32. Mountain Cement's amendment application contains plans to divert water from surface drainages that intersect quarries and plans to build culverts to accommodate roads. The diversions around quarries will be temporary and the flow will be directed back into the natural drainage downstream of the quarry.

33. Although the Protestants argue that Mountain Cement failed to address potential contamination of the aquifer from a fuel spill, no technical or scientific evidence was presented to validate this concern. The prospect of groundwater contamination was also raised when concerns over possible impacts to a fault in the area were raised. Experts testifying on hydrology and on the design and implementation of the blasting plan concluded there is little chance of surface contaminants reaching the aquifer or water wells. Although fuel will be stored close to quarry sites, no evidence was introduced to support the argument that a fuel spill could reach the aquifer.

34. Although the permit area is subject to faulting, the evidence showed that it is unlikely the faults could convey contaminants from the surface to the aquifer even if the faults were "opened" by mining activity.

35. Mountain Cement has a spill prevention, containment, and countermeasure plan to address spills.

36. Monitoring wells are required by the mine plan and these wells are designed to provide information on the quality of the aquifer.

37. If impacts to surface water or groundwater occur, mechanisms are available in the Act that require mitigation of the impacts by Mountain Cement.

38. DEQ Rules and Regulations require a map of wells within 1/2 mile of the permit boundary, and a list of permitted wells within three miles of the permit boundary. This map of well sites and the required list of wells is found in the application.

39. A Class III archaeological survey was conducted by a contractor for Mountain Cement, and the study was reviewed by the State Historic Preservation Office. A State Historic Preservation Office approval letter is in the mine permit file. No evidence was presented to



suggest that the Historic Preservation approval is in error or that archaeological sites, not identified by Mountain Cement, exist within the proposed expansion area.

40. Evidence was presented that showed federal and state agencies with expertise in wildlife were consulted in the preparation of and review of the permit amendment application. In addition, the mine plan contains provisions for monitoring raptors and working with the United States Fish & Wildlife Service to protect raptor nests within 1/2 mile of mining operations

41. A wildlife biologist who performed or supervised the wildlife field studies testified on behalf of Mountain Cement. The wildlife report, which is included in the application, was completed in October 1995, and the mine plan anticipates that additional information on wildlife in the permit area may become available in the future through monitoring or from the public. Mitigation of impacts from Mt. Cement's mining operations may be required should state or federal wildlife agencies determine that it is necessary.

42. Evidence presented by the Protestants did not contradict the findings of the wildlife study and it did not show that the plan for accommodating wildlife is inadequate.

43. The Protestants discovered a labeling error, whereby 2 quarries, Etchepare six and Etchepare seven, were reversed on some application maps. This labeling conflict was corrected.

44. Competent scientific and technical testimony was offered to support Mountain Cement's Permit Amendment Application, and by DEQ concerning its review of the application and its finding that the application was technically complete. This testimony demonstrated that the proposed expansion of Mountain Cement's operations will not cause pollution of the waters of the state, will not cause a public nuisance, and will not irreparably harm or materially impair wildlife habitat.

#### CONCLUSIONS OF LAW

1. The Environmental Quality Council has jurisdiction of this matter pursuant to W.S. §35-11-112(a)(iv), due notice was given to all parties, and publication was made as required by law.

3. Mountain Cement's Permit Amendment Application TFN 3 4/70 complies with

the requirements of the Act and the regulations promulgated pursuant to the Act.

4. The mining operation proposed in Mountain Cement's Permit Amendment Application TFN 3 4/70 does not constitute a public nuisance or endanger the public health and safety.

5. The proposed mining operation will not pollute any waters in violation of law.

6. The existing haul road in Section 25 of Summit Estates is currently permitted under

Permit No. 298C-A4 (originally Permit No. 319C) and is not properly before the Environmental Quality Council in this matter.

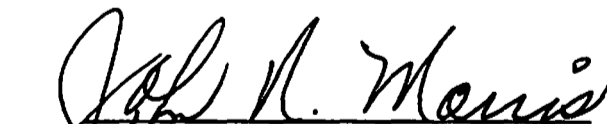
7. The affected lands identified in Mountain Cement's Permit Amendment Application TFN 3 4/70 are not within 300 feet of any existing occupied dwelling, home, public building, school, church, community or institutional building, park or cemetery.

**ORDER**

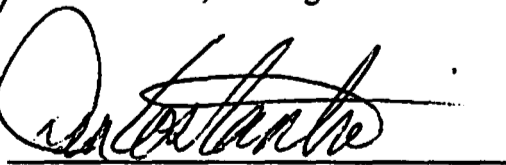
Based upon these findings of fact and conclusions of law, it is ordered that the Director of DEQ issue a mine permit amendment to Mountain Cement Company in accordance with the permit amendment application filed as TFN 3 4/70.

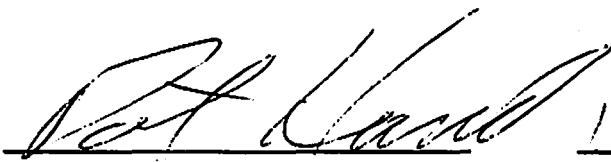
Dated: August 22<sup>nd</sup>, 1997.

ENVIRONMENTAL QUALITY COUNCIL

  
John N. Morris, Hearing Examiner

  
Keith Becker

  
Den Costantino



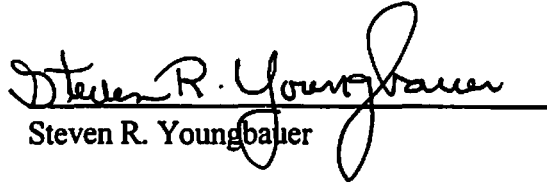
Pat Hand



Wendy Hutchinson



Stephen E. Williams



Steven R. Youngbauer

**From:** <wildphoto1@juno.com>  
**To:** <jcorra@state.wy.us>  
**Date:** 12/3/03 9:16AM  
**Subject:** Mountain Cement 298-C mine revision

Exhibit 4

3 December 2003  
Mr. Corra

This letter is in response to the Public Notice published in the Laramie Boomerang newspaper concerning the revision in the Mountain Cement 298-C mining plan. This would allow the mining of Etchepare mine areas six (6) and seven (7) prior to the mining of Etchepare mines two through five (2-5). The revision is also asking for the continued use of Howe Lane to access Etchepare mines 6 and 7 to haul out the mined limestone.

In addition to the e-mail that was sent to you on the 2nd December 2003 I want to object to the revision of Mountain Cements 28C mine plan. The revision does not address two points I believe need to be clarified. As stated in the Public Notice Howe Lane will only be used for the mining of Etchepare mines 6 and 7 then I believe the following conditions should be added to the revision:

1. The use of Howe Lane would only be used for Etchepare mines 6 and 7 as they are presently plotted, not for any anticipated or unanticipated expansion of these mines.
2. As the use of Howe Road would only be used for Etchepare mines 6 and 7, there is a need to set a time limit for the use of the road.

Bob Kersey indicated the mining of Etchepare 7 and 6 would take about 9.5 years and potentially less time [if his thoughts on the amount and quality of the limestone are accurate]. With this being the case, I would like to see a time limit of 10 years set for the continued use of Howe Lane, beginning in 2004. This time limit would help encourage the mine to keep to their schedule and would aid in the prevention the use of Howe Lane for other mining in the vicinity. A ten year time limit, hopefully, would also not unduly burden any new owner in Summit Estates with an agreement between the mine and past owners of Summit Estates.

These small problems could be overcome by placing conditions on the revision to the Mountain Cement 298-C mining plan. If these two conditions are added to the revision, I would have no objection to the plan.

Brian R. Waitkus  
Vice President, Summit Estates Landowners Association  
1105 E. Canby  
Laramie, Wyoming

---

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**CC:** <rchanc@state.wy.us>

**BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
LAND QUALITY DIVISION  
STATE OF WYOMING**

IN THE MATTER OF THE MINE PERMIT AMENDMENT )  
APPLICATION OF MOUNTAIN CEMENT COMPANY, )  
TO PERMIT NO. 298C, A-5; TFN 4 3/119. )

**STIPULATED RESOLUTION TO OBJECTIONS**

**I. RECITALS.**

A. Mountain Cement Company (MCC) filed an application with the Department of Environmental Quality, Land Quality Division (LQD) to revise its mining permit 298C-A5 which was approved January 5, 1998, by the LQD. The purpose of the revision is to (1) allow Mountain Cement Company to use Howe Lane to haul limestone from areas identified as Etchepare 6 and 7, located in the South one half of the permit area, and (2) to change the mining sequence to permit the mining of the areas designated as Etchepare 6 and 7, before mining the area identified as Etchepare 2.

B. MCC's application was protested by Brian R. Waitkus.

C. An informal meeting was scheduled by the LQD on January 7, 2003, at the Albany County Public Library to attempt resolution of the protest filed by Mr. Waitkus. The meeting was attended by the Administrator and Staff of LQD, representatives of MCC, Mr. Waitkus and Deanna Johnson.

D. MCC and Mr. Waitkus have agreed to conditions and requirements which resolve the objections raised by Mr. Waitkus to the approval of MCC's permit application to revise its existing Permit 298C-A5.

**II. ADDITIONAL STIPULATED CONDITIONS TO PERMIT.**

Mountain Cement Company agrees that the following additional conditions be made a part of Permit Application No. TFN 4 3/119 to be issued by the Land Quality Division to MCC

for its Etchepare Quarry:

1. MCC agrees that it will not mine within the area identified as "Area S-1" on the attached USGS quadrangle map. The foregoing restriction does not prohibit MCC from placing or stockpiling topsoil or overburden within Area S-1.

Area S-1 encompasses the area within the SW1/4SW1/4 of Section 30, T15N, R72W, Albany County, Wyoming, lying between the western section line of Section 30 and a line beginning at the SW corner of Section 30 and then extending northeast on a 45° angle to a point 200 feet from the western section line and the southern section line of Section 30, and then extending north from that point to a point located 200 feet east of the western section line of Section 30 along the northern most boundary line of the SW1/SW1/4.

2. MCC agrees to the following conditions for mining within "Area A" on the attached USGS quadrangle map, also described as the SW1/4SW1/4 of Section 30, T15N, R72W, Albany County, Wyoming, less Area S-1:
  - (i) MCC agrees to notify Mr. Waitkus and LQD of its intent to mine within Area A no later than July 1, 2004;
  - (ii) In the event that MCC elects to mine within Area A it agrees to file an amendment to Permit No. 298C-A5, as amended, to allow such mining activity no later than September 1, 2004;
  - (iii) Any mining within Area A shall take place prior to commencing mining in the area identified as Etchepare 7B; and
  - (iv) Upon MCC's (1) failure to notify of its intent to mine in Area A within the time provided above, (2) failure to apply for a permit amendment for Area A within the time provided above, or (3) commencing mining operations in Etchepare 7B, it agrees that its right to mine within Area A are forfeited and that it will not return at any time to mine Area A.

3. MCC agrees that it will not mine within the area identified as "Area S-2" on the attached USGS quadrangle map. The foregoing restriction does not prohibit MCC from placing or stockpiling topsoil or overburden within Area S-2.

Area S-2 encompasses an area 200 feet in width along the length of the northern most boundary line of NE1/4NE1/4 of Section 36, T15N, R73W, Albany County, Wyoming.

4. MCC agrees to the following conditions for mining within "Area C" on the attached USGS quadrangle map, also described as the NE1/4NE1/4 of Section 36, T15N, R73W, Albany County, Wyoming, less Area S-2:
  - (i) In the event that MCC desires to mine limestone within Area C it agrees to

notify Mr. Waitkus and LQD of its intent to mine within Area C no later than July 1, 2005;

- (ii) In the event that MCC desires to mine limestone within Area C it agrees to file an amendment to Permit No. 298C-A5, as amended, to allow such mining activity no later than September 1, 2005;
- (ii) Any mining within Area C shall take place prior to commencing mining in the area identified as Etchepare 7B; and
- (iii) Upon MCC's (1) failure to notify of its intent to mine in Area C within the time provided above, (2) failure to apply for a permit amendment for Area C within the time provided above, or (3) commencing mining operations in Etchepare 7B, it agrees that its right to mine within Area C are forfeited and that it will not return at any time to mine Area C.

The Land Quality Division agrees that the above conditions will be made a part of MCC's Permit Application TFN 4 3/119.

**III. ADDITIONAL CONDITIONS AGREED TO BUT NOT TO BE INCLUDED AS A PART OF THE PERMIT TO BE ISSUED BY DEQ.**

The following agreement is not to become a condition to the permit to be issued by the Land Quality Division. In order to anticipate and then resolve problems before they arise the parties agree as follows:

MCC agrees to meet with Mr. Waitkus prior to beginning quarry operations within the areas identified as Etchepare 7A, and Areas A and C on the attached quadrangle map, and as often thereafter as requested by Mr. Waitkus, to identify and address issues of operation which may impact Mr. Waitkus' lot. The meetings shall be directed towards identifying and addressing issues and concerns of the Mr. Waitkus, including, but not limited to, blasting, night mining, fugitive dust, and hydrology and the methods of mitigation of the impacts of such, as well as the development of schedules aimed at accommodating MCC's operations and Mr. Waitkus' enjoyment of his property.

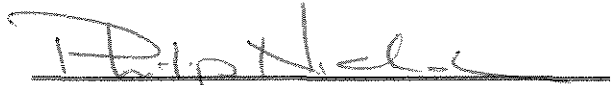
**IV. FINAL RESOLUTION OF DISPUTES AND WITHDRAWAL OF OBJECTIONS.**

Based upon the foregoing stipulations, Mr. Waitkus does hereby withdraw his objections to the proposed issuance of Land Quality Permit No. TFN 4 3/119 to MCC.

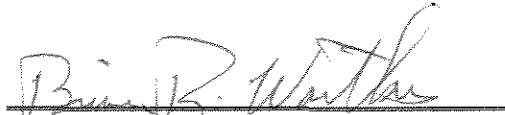
Mr. Waitkus waives any right to an additional hearing on the permit application before the Environmental Quality Council, and agrees that the Land Quality Division may issue a permit to MCC for its application TFN 4 3/119 with the additional conditions stipulated herein in Part II.

This Stipulated Resolution to Objections will become effective when all of the undersigned have signed this Stipulation.

Mountain Cement Company, a Nevada Corporation



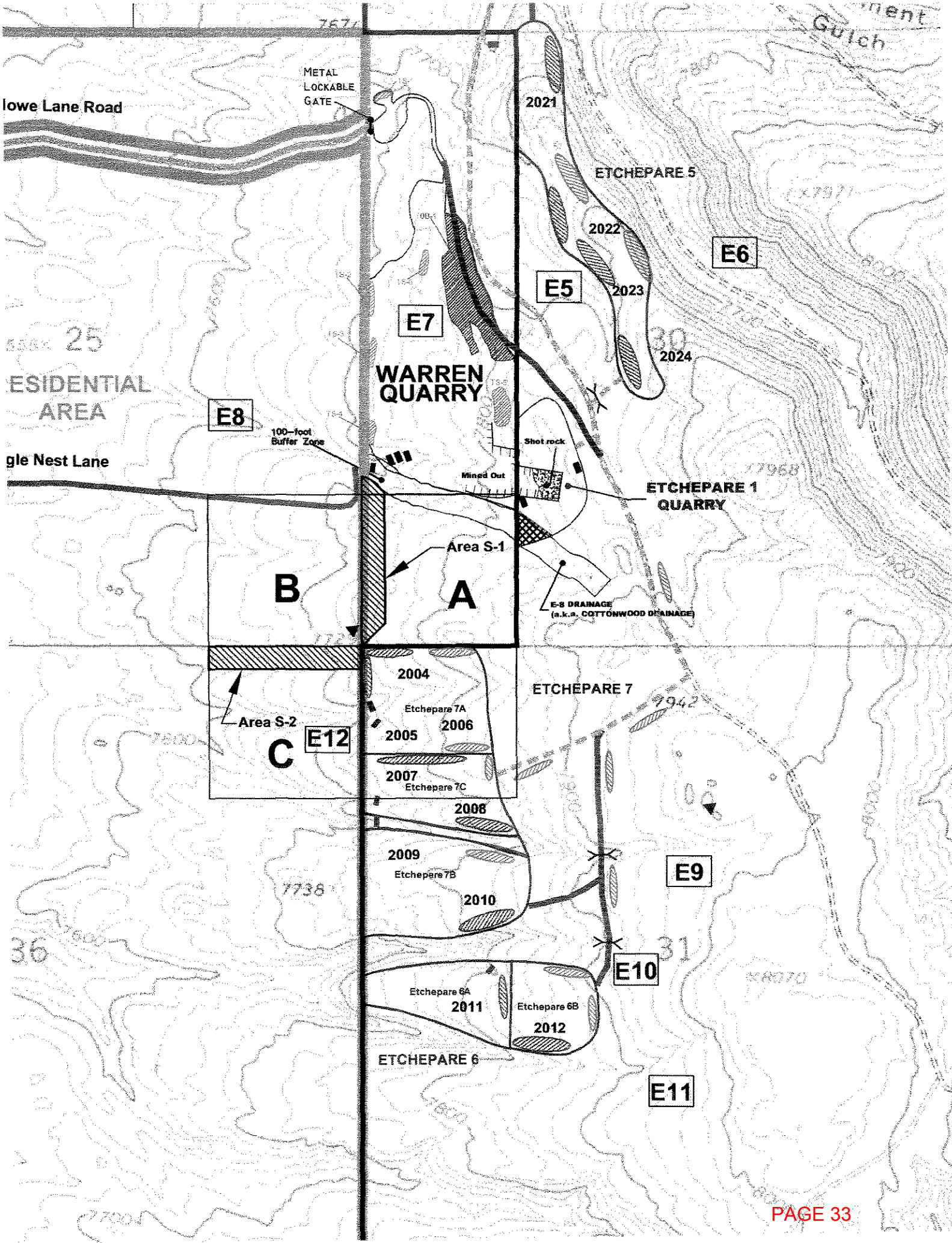
Philip A. Nicholas  
Anthony, Nicholas, Tangeman & Yates, LLC  
170 No. 5th  
PO Box 928  
Laramie, WY 82070  
(307) 742-7140  
Attorneys for Applicant Mountain Cement  
Company  
Date: 1-11-04



Brian R. Waitkus  
1105 E. Canby  
Laramie, Wyoming  
307-745-8723.

Date: 1-11-04





241C

HAY

Exhibit 6

BH 4-19-06  
BB ✓ copy  
Complaint  
RAC 4-19-06

1  
Monte Buchanan  
MCC  
307 742-3426

18 April 2006

Bill Hogg  
Land Quality, DEQ  
Herschler Building, 3<sup>rd</sup> Floor  
122 West 25<sup>th</sup> Street  
Cheyenne, WY 82002

Bill

Yesterday 17<sup>th</sup> April 2006 about mid day I was on my property on Eagles Nest lane in Summit Estates. The wind was blowing out of the southeast. This wind was sending dust raised at the mine directly toward our house. I called the mine about 12:30 pm to ask if they could do something about the problem. I was given the cell phone number of Monty Buchanan. I called this number and only got his message service. I left the message concerning the fugitive dust and ask that something be done to mitigate the problem. At approximately 12:45 the mine set off a blast at the Echepare 7 mine. The blast sent a very large white cloud into the air heading directly toward our house. As I watched I was a couple of hundred meters from the house and noticed the dust started to enter my property. I headed to the house to remove myself from the wall of white dust coming toward me. Before I could get to the house the entire property appeared to be engulfed in a fog-like cloud of dust with a strong smell of explosives. This is a likely violation of their mine permit and I would like once again for something to be done concerning the mining procedures at the Mountain Cement Echepare quarries. They seem to have a problem being held to their own mining procedures. These problems will only potentially get worse as they move into the state section directly south of our property.

*Brian R. Waitkus*  
Brian R. Waitkus

Box 1411  
Laramie, WY 82073



Exhibit 7



# Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

May 18, 2006

Mr. Monte Buchanan  
Mountain Cement Co.  
5 Sand Creek Road  
Laramie, WY 82070

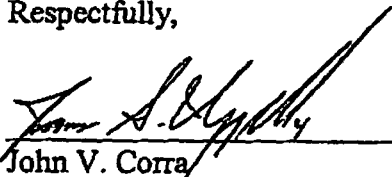
**RE: Permit 298c, Mountain Cement Company (MCC), Land Quality Division (LQD)  
Notice of Violation (NOV), Docket # 3870-06**


Dear Mr. Buchanan:

Enclosed you will find a Notice of Violation issued under the provisions of W.S. §35-11-701(c). The Notice of Violation is based on a blast to shoot limestone that occurred at 12:50 on April 17, 2006. The violation is a result of the failure to follow the approved Mine Plan.

As a result of our meeting with you and other representatives of Mountain Cement Company (MCC) on May 11, 2006, MCC will be required to submit a permit revision to address the issues that were identified at that meeting. Please submit that permit revision no later than May 30, 2006. Should you have any questions, please contact Mr. Lowell Spackman.

Respectfully,

  
\_\_\_\_\_  
John V. Corra  
Director  
Department of Environmental Quality

  
\_\_\_\_\_  
Richard A. Chancellor  
Administrator  
Land Quality Division

Enclosure: Notice of Violation

cc: Lowell Spackman, LQD, District I  
Tom Del Vecchio, MCC  
Phil Nicholas, Attorney for MCC



DEPARTMENT OF ENVIRONMENTAL QUALITY  
STATE OF WYOMING

NOTICE OF VIOLATION

IN THE MATTER OF THE NOTICE OF	)	
VIOLATION ISSUED TO	)	
MOUNTAIN CEMENT COMPANY	)	
ATTEN: MR. MONTE BUCHANAN	)	DOCKET NO. 3870-06
5 SAND CREEK ROAD	)	
LARAMIE, WY 82070	)	
PERMIT 298C	)	

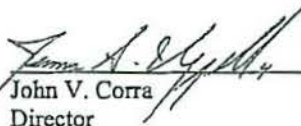
NOTICE


NOTICE IS HEREBY GIVEN THAT:

1. Notice of Violation (NOV) is being sent to you pursuant to Wyoming Statute §35-11-701(c)(i) which requires that a written notice shall be issued in the case of failure to correct or remedy an alleged violation.
2. The violations noted on this mine site were self reported by the company to Bill Hogg, Land Quality Division (LQD), District I, on April 17, 2006. This mining disturbance is located southeast of Laramie Wyoming in Albany County.
3. A citizen's complaint was received by the LQD in a letter dated April 18, 2006. Both Mountain Cement Company (MCC) and the citizen who complained agreed that a blast had occurred at 12:50 pm on April 17, 2006. The dust cloud generated from the blast was blown to the northwest over the residential area to the northwest. This action is in violation of the Department of Environmental Quality Act §35-11-415(a) and the blasting section of Permit 298C.
4. MCC's Permit 298c has a long history of blasting complaints and has been issued several Notices of Violation (NOV) for blasts that have affected native lands and residences off the permit boundary. After a NOV in 2003, MCC modified the 298c blasting plan. MCC committed to not blasting during the noon hour, not blasting when the wind would carry dust onto the residential area and to work with the blasting contractor to reduce NOX from future blasts.
5. This NOV is being issued MCC for their failure to follow the blasting plan contained in the 298C permit. The shot occurred during the noon hour, the winds were in the direction of the residential area.
6. Wyoming Statute §35-11-901(a) provides that any person who violates any provision of the Environmental Quality Act or any rule, standard, permit, license or variance adopted hereunder is liable to a penalty of ten thousand dollars (\$10,000.00) for each day of violation, which penalty may be recovered in a civil action brought by the Attorney General in the name of the People of the State of Wyoming.

NOTHING IN THE NOTICE shall be interpreted to in any way limit or contravene any other remedy available under the Environmental Quality Act, nor shall this NOV be interpreted as being a condition precedent to any other enforcement action.

SIGNED this 18<sup>th</sup> day of May, 2006

  
John V. Corra  
Director  
Department of Environmental Quality

  
Richard A. Chancellor  
Administrator  
Land Quality Division

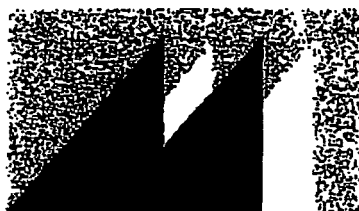
Please direct all inquires regarding this Notice of Violation to Mr. Lowell Spackman, District I Supervisor, Wyoming Department of Environmental Quality/Land Quality Division, Herschler Building, 3<sup>rd</sup> W, 122 West 25<sup>th</sup> Street, Cheyenne, WY 82002

CERTIFIED MAIL # 7005 0390 0001 7735 5303  
RETURN RECEIPT REQUESTED  
DOCKET NO. 3798-05  
PERMIT 298C

cc: Lowell Spackman, LQD

8058 0 1 YAM

RECEIVED  
MAY 19 2006



**MOUNTAIN CEMENT COMPANY**

5 Sand Creek Road  
Laramie, WY 82070  
Tel : (307) 745-4879  
Fax: (307) 742-4534

**PRIVILEGED AND CONFIDENTIAL**

DATE: 5/19/06 TIME: 3:46 pm  
TO: Phil Nicholas FROM: Monte B.  
FAX NUMBER: 742-7160 FAX NUMBER: (307) 742-4534

TOTAL NUMBER OF PAGES: 4 (INCLUDING COVER PAGE)

COMMENTS: Phil, when I get time - I'll get it scanned.  
Monte.

IF YOU DO NOT RECEIVE ALL OF THE PAGES, PLEASE CALL (307) 745-4879 AS SOON AS POSSIBLE.

THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED AND CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA U.S. POSTAL SERVICE.

**MPVII4.8 Blasting**

Mountain Cement Company must use blasting methods to economically mine limestone. There could be homes within one-half mile of the activity quarry site. When blasting, Mountain Cement Company agrees to comply with the following conditions, as applicable.

**A. General Requirements for all Blasting.**

The following procedures will be followed for all blasting within the entire permit area:

1. Mountain Cement Company agrees to use blasting methods and techniques as described in “Rock Blasting & Explosives Engineering” handbook, Per-Anders Persson, Roger Holmberg, and Jaimin Lee, 1994.
2. The coal surface mine blasting limitations for peak particle velocity and PSI over pressure contained in Chapter VI of the 1989 Rules and Regulations enforced by the Department of Environmental Quality, Land Quality Division, will be applicable to this quarry operation. Those responsible for performing blasting will be advised of the location of nearby piping and cable and they will adjust their detonation design appropriately. See MPVII4.10 and MPVII4.11.
3. Mountain Cement Company will maintain records of its blasting operations which will be made available to the Administrator or the Land Quality Division upon request. The records will be available for three years following any blast.

The records shall include the following information:

- a. Name of permittee, operator, or other person conducting the blast;
- b. Location, date and time of blast;
- c. Name, signature, and certification number of blaster conducting blast;
- d. Identification, direction and distance, in feet from the nearest blast hole to the nearest dwelling, outside the amendment area;
- e. Type of material blasted;
- f. Diameter and depth of holes;
- g. Types of explosives used;
- h. Number of holes loaded and detonated;
- i. Number of delays and number of holes per delay detonated;
- j. Maximum weight of explosion detonated within any 8 millisecond period;
- k. Initiation systems;



l. Type and length of stemming; and  
m. Direction of prevailing wind at time of blast.

4. Mountain Cement Company will follow the requirements of Wyoming Statutes § 30-2-501 to 503, Article 5. Shot-Firers, which require that blasting be done under the supervision of a State certified shot-firer.

5. Mountain Cement Company will attempt to limit blasting to once per week. This will be increased if there is a limestone shortage, quality control problems or overburden to be blasted.

6. Mountain Cement will make every effort to avoid blasting when the wind is toward any residence or residential area. If a blast is prepared when the wind is not toward a residence or residential area, the blaster may nonetheless detonate the blast.

7. No blasting will take place prior to sunrise or after sunset.

**B. Additional Requirements when Blasting in the Proximity of Homes.**

8. When Mountain Cement Company blasts within 500 feet of its permit boundary in the proximity of homes, the following additional procedures will be followed:

- a. The shot pattern will be decreased to an 8 X 8 pattern.
- b. The diameter of the holes will be decreased to no more than 3 ½ inches.
- c. Mountain Cement Company will use adequate stemming to reduce flyrock.
- d. All other procedures will be followed as previously described.

**C. Additional Requirements when Blasting Downwind from Homes.**

9. When Mountain Cement Company blasts within the SE1/4 of Section 31 T15N, R72W, or Section 36 T15N, R73W, the following additional procedures will be followed:

- a. The weather forecast will be checked by the internet once on the preceding day and again on the morning of the day planned for blasting. Mountain Cement will check the forecast for cloud cover, rain, snow and wind direction. Using the internet service, Mountain Cement will use its best efforts to avoid scheduling blasts during days with the following weather forecasts:

Mountain Cement Company will contract the National Weather Service in Cheyenne, Wyoming within 3 days prior to a scheduled blast and select a day

for blasting which seeks to avoid the following weather conditions:

- (i) The entire day is forecasted to have low cloud cover which is likely to create inversion conditions; and
  - (ii) The wind directions for the entire day is forecasted to blow towards nearby residences.
- b. Mountain Cement will use its best efforts to prevent blasting between the hours of 12:00 AM to 1:00 PM, and after 3:00 PM.
  - c. Mountain Cement will use its best efforts to avoid blasting when there is low cloud cover or a temperature inversion.
  - d. Mountain Cement will use its best efforts to avoid blasting when the wind is blowing in the direction of nearby residences.
  - e. In the event that Mountain Cement is required to set off a blast when the wind is in the direction of nearby homes, or when there is a temperature inversion, the Company will call (i) any nearby neighbors expected to be affected by the blast, and (ii) DEQ-LQD prior to setting off any such blast.

Because there may be times when the foregoing conditions may come into conflict, it shall be understood that the foregoing conditions are listed in order of priority, with the first being the most important, and the last being the least important. Once holes are loaded with blasting material it is understood that the blast will take place during that same day for the safety of all persons.

**MPVII4.9 Airblast Limitations**

Airblast shall not exceed the values specified below at any dwelling, public building, school, church and community or institutional building outside the amendment area, unless the building is owned by the operator and not leased to another, or, if leased, the lessee signs a waiver relieving the operator from meeting the limitations. If necessary to prevent damage the Administrator shall specify lower maximum allowable airblast levels.

Lower frequency limit of measuring system, Hz (+/-3dB)	Maximum level in dB
0.1 Hz or lower-flat response /1	134 peak
2 Hz or lower-flat response	133 peak
6 Hz or lower-flat response	129 peak

/1 Only if approved by the Administrator.

At the request of the Administrator, the operator shall conduct periodic monitoring to ensure compliance with the airblast standards. The Administrator may request copies of compliance records when the blasting is in sensitive areas, and in areas where there is reason to believe airblast limits may be exceeded. The measuring systems shall have a upper-end flat frequency response of at least 200 Hz.

#### **MPVII4.10 Peak Particle Velocity Limitations**

Maximum peak particle velocity applicable when seismograph records are provided for each blast:

Distance (D) from the Blasting Site in Feet	/1 Maximum allowable peak particle velocity (vmax) for ground vibration in inches/seconds	/2 Scaled distance factor to be applied without seismic monitoring
0 to 300	1.25	50
301 to 5,000	1.00	55
5,001 and beyond	0.75	65

/1 Ground vibration shall be measured as the particle velocity. Particle velocity shall be recorded in three mutually perpendicular directions. The maximum allowable peak particle velocity shall apply to each of the three measurements.

/2 Applicable to the scaled-distance equation of the following paragraph.

An operator may use the scaled-distance equation,  $W=(D/D_s)^2$ , to determine the allowable charge weight of explosives to be detonated in any 8 millisecond period, without seismic monitoring; where W - the maximum weight of explosives, in pounds; D = the distance, in feet, from the blasting site to the nearest protected structure; and  $D_s$  = the scaled-distance factor, which may initially be approved by the Administrator using the values for scaled distance factor listed in the above paragraph.



# Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

September 8, 2006

**CERTIFIED MAIL #7004 2890 0004 5120 9506  
RETURN RECEIPT REQUESTED**

Mr. Brian R. Waitkus  
80 Eagle Nest Lane  
Laramie, WY 82070

**RE: Mountain Cement Company, TFN 4 4/296, Permit #298C**

Dear Mr. Waitkus:

We have received your letter regarding the proposed revision of a mining permit to Mountain Cement Company. As allowed by Wyoming Statute 35-11-406(k), a section of the Environmental Quality Act, we are considering your letter an objection to the issuance of a permit. The Environmental Quality Council will set the date, time and place for a hearing. Terri Lorenzon, the Council's Attorney, will notify you by mail once this has been done.

The hearing will be conducted as a contested case, pursuant to the provisions of the Environmental Quality Act, the Administrative Procedure Act, and Department of Environmental Quality Rules of Practice and Procedure. To obtain a copy of the Department of Environmental Quality Rules of Practice & Procedure, check off the appropriate area of page two and return it to our office at the above address.

Thank you for your interest in this matter.

Sincerely,

  
Richard A. Chancellor  
Administrator  
Land Quality Division

RC:bb

xc: Terri Lorenzon  
John Burbridge  
John Corra  
Mountain Cement Company  
Lowell Spackman, District 1

Herschler Building • 122 West 25th Street • Cheyenne, Wyoming 82002 • <http://deg.state.wy.us>

<b>ADMIN/OUTREACH</b> (307) 777-7758 FAX 777-3610	<b>ABANDONED MINES</b> (307) 777-6145 FAX 777-6462	<b>AIR QUALITY</b> (307) 777-7391 FAX 777-5616	<b>INDUSTRIAL SITING</b> (307) 777-7368 FAX 777-6937	<b>LAND QUALITY</b> (307) 777-7756 FAX 777-5864	<b>SOLID &amp; HAZ. WASTE</b> (307) 777-7752 FAX 777-5973	<b>WATER QUALITY</b> (307) 777-7781 FAX 777-5973
---	--	--	--	---	---	--



Mr. Brian Waitkus  
Mountain Cement Company, TFN 4 4/296  
Page 2

Please send me a copy of:

\_\_\_\_\_ The DEQ Rules of Practice and Procedure

Mr. Brian R. Waitkus  
80 Eagle Nest Lane  
Laramie, WY 82070


Signed \_\_\_\_\_

cc: LS ✓  
BH ✓  
JB ✓

Mr. Rick Chancellor  
Administrator of the Land Quality Division  
Department of Environmental Quality  
Herschler building  
122 West 25<sup>th</sup> Street  
Cheyenne, Wyoming 82002

6 September 2006

I am objecting to the proposal of Mountain Cement Co to revise their mining sequence of the 298c mining permit. The original mining sequence for the Echeperre mine locations was to mine these locations in numerical order from 1 through 7. A change in the mining sequence was asked for in 2003 and granted in 2004. This sequence change allowed 7 A, C, B and 6 A , B, nearest to Summit Estates be mined prior to mining the remaining Echeperre quarries. Mountain Cement Co stated that their sole purpose of altering the mining sequence (mine Echeperre 7 A, C, B and 6 A before Echeperre 2-5) was to mine the areas closest to Summit Estates first. This 2004 change in the mining sequence would more quickly remove problems associated with mining close to the housing subdivision. In a January 2004 meeting with Mountain Cement Co I was told this mining change would also likely mine Echeperre 7 and 6 more quickly than the proposed mining time table. Granting a second mine sequence change would extend the time needed to mine Echeperre quarries 7 and 6. As a result I am objecting to the proposed sequence change.

  
Brian R. Waitkus  
80 Eagle Nest Lane  
Laramie, Wyoming 82070



BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
LAND QUALITY DIVISION  
STATE OF WYOMING

IN THE MATTER OF THE MINE PERMIT AMENDMENT )  
APPLICATION OF MOUNTAIN CEMENT COMPANY, )  
TO PERMIT NO. 298C- A5; TFN 4 4/296. )

**STIPULATED RESOLUTION TO OBJECTIONS**

**I. RECITALS.**

A. Mountain Cement Company (MCC) filed an application with the Department of Environmental Quality, Land Quality Division (LQD) to revise its mining permit 298C-A5 which was first approved January 5, 1998, by the LQD. The purpose of this application is to allow mining to take place in more than one mine sequence area at the same time and to immediately open a quarry in Mine Sequence Area 5.

B. MCC's application was protested by Brian R. Waitkus in a letter dated September 6, 2006.

C. An informal meeting was held by the LQD on September 21, 2006, at LQD's offices in Cheyenne, Wyoming, to attempt resolution of the protest filed by Mr. Waitkus. The meeting was attended by the Administrator and Staff of LQD, representatives of MCC, and Mr. Waitkus. Those negotiations were there after continued, resulting in this Stipulated Resolution.

D. MCC and Mr. Waitkus have agreed to the following additional conditions to the approval of MCC's permit application TFN 4 4/296 which revises MCC's existing Permit 298C-A5.

E. This Stipulated Resolution resolves the objections raised by Mr. Waitkus to the issuance of TFN 4 4/296.

F. This Stipulated Resolution to Objections supersedes and replaces the *Stipulated Resolution to Objections dated January 11, 2004, in TFN 4 3/119*, entered into between Brian R. Waitkus and Mountain Cement Company and approved by the DEQ, resulting in the dismissal of Docket No. 03-4805 before the Environmental Quality Council on January 11, 2004.

**II. ADDITIONAL STIPULATED CONDITIONS/MODIFICATIONS TO PERMIT.**

Mountain Cement Company agrees that the following additional conditions be made a part of TFN 4 4/296 which amends MCC's Permit No. 298C-A5:

1. The *Stipulated Resolution to Objections dated January 11, 2004, in TFN 4 3/119*,

entered into between Brian R. Waitkus and Mountain Cement Company and any conditions adopted by the DEQ implementing that agreement, are hereby rescinded and replaced in total by this agreement and the conditions to be adopted herein.

2. MCC agrees that it has completed mining limestone in Area A identified on the attached Exhibit A.
3. MCC agrees that it will not mine limestone within the area identified as "Area S-2" on the attached Exhibit A. The foregoing restriction does not prohibit MCC from placing, storing or stockpiling topsoil or overburden within Area S-2.

Area S-2 encompasses an area 200 feet in width along the length of the northern most boundary line of NE1/4NE1/4 of Section 36, T15N, R73W, Albany County, Wyoming.

4. Upon issuance of a permit to mine Area C as identified on Exhibit A, MCC agrees to commence mining limestone from Area C as soon as practicable.
5. Following initial disturbance within Area C as identified on Exhibit A, which is agreed to be the commencement of removing topsoil and overburden, MCC agrees as follows:
  - i. To complete all mining of limestone within Area C as soon as practicable. It is understood that MCC will have to mine from other areas within the Etchepare Quarry to blend with limestone extracted from Area C; and
  - ii. To re-seed Area C north of the southern most drainage within 12 months of completion of mining the limestone north of the southernmost drainage.
6. Upon issuance of TFN 4 4/296, MCC may proceed to mine in areas 7B, 6A and 6B at the same time. This will allow a greater selection of limestone for blending with Area C limestone, to promote faster consumption of the Area C limestone.
7. MCC will restrict its mining within the Etchepare Quarry to Areas 7B, 6A and 6B so long as MCC is mining within Area C.
8. Once MCC completes mining within Area C, it may mine from Etchepare 5 as allowed by TFN 4 4/296.
9. MCC agrees that all crushing operations will be conducted outside of Area C as identified on Exhibit A.
10. In the event that MCC conducts screening operations within Area C, it shall construct a 10 foot high topsoil/overburden berm on the north end of its quarry operation and shall position its screening operations south of the berm.
11. It is understood that MCC's Application to Modify its Permit is granted subject to these additional conditions.



MCC agrees that the above conditions will be made a part of its Permit Application TFN 4 4/296.

**III. FINAL RESOLUTION OF DISPUTES AND WITHDRAWAL OF OBJECTIONS.**

Based upon the foregoing stipulations, Mr. Waitkus does hereby withdraw his objections to the proposed issuance of **Land Quality Permit No. TFN 4 4/296** to MCC.

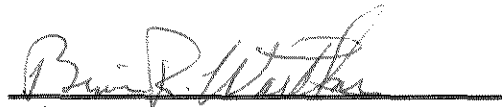
Mr. Waitkus waives any right to an additional hearing on the permit application before the Environmental Quality Council, and agrees that the Land Quality Division may issue a permit to MCC for its application TFN 4 4/296 with the additional conditions stipulated herein in Part II.

This Stipulated Resolution to Objections may be signed in counterparts by the undersigned. It will become effective when all of the undersigned have signed a copy of this Stipulation.

Mountain Cement Company, a Nevada Corporation

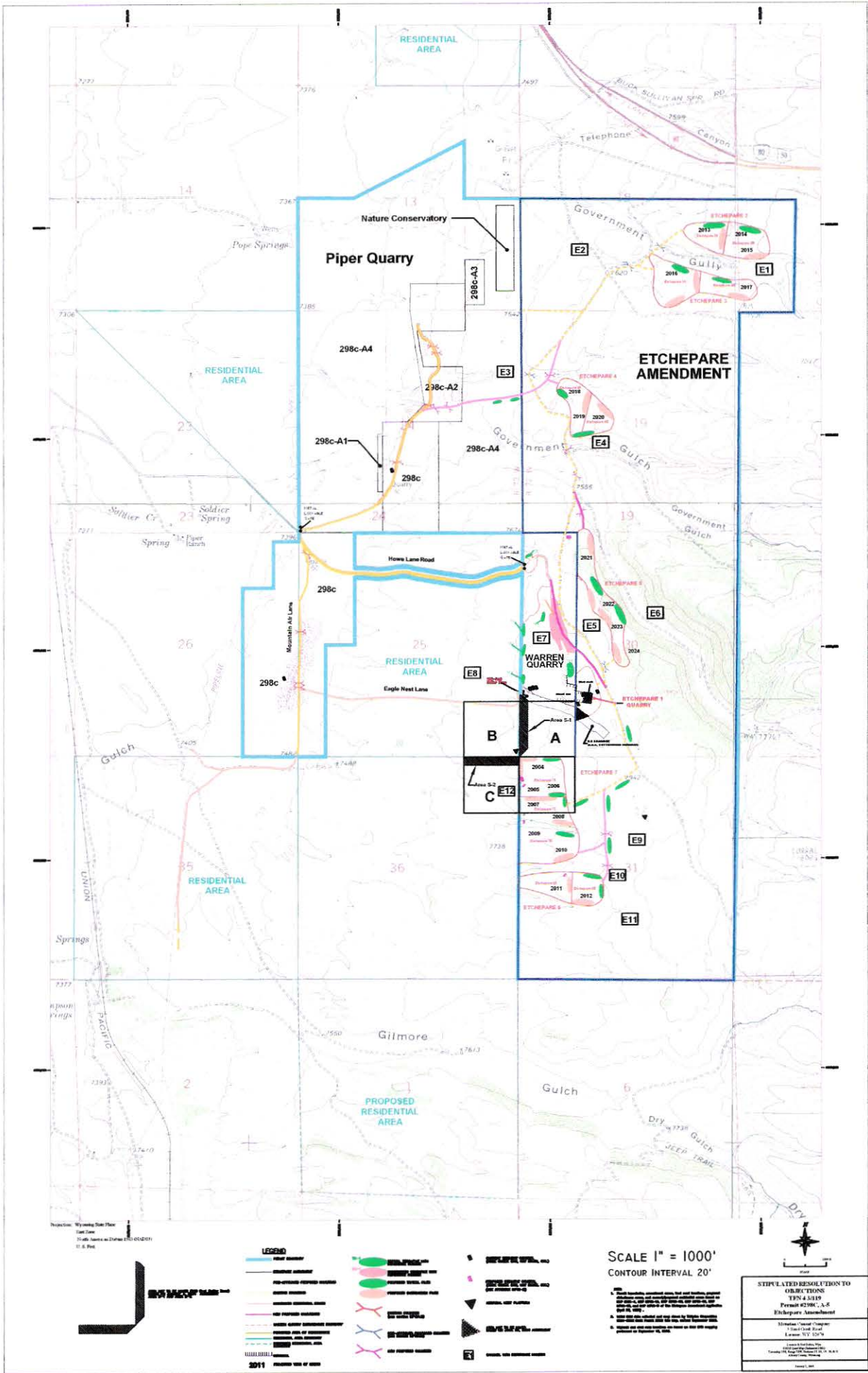


Philip A. Nicholas  
Anthony, Nicholas & Tangeman, LLC  
170 No. 5th  
PO Box 928  
Laramie, WY 82070  
(307) 742-7140  
Attorneys for Applicant Mountain Cement Company  
Date: 10-16-06



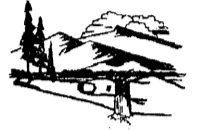
Brian R. Waitkus  
80 Eagle Nest Lane  
Laramie, Wyoming 82070  
307-745-8723.

Date: 10-16-06





## Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

December 1, 2006

Mr. Monte Buchanan  
Mountain Cement Co.  
5 Sand Creek Road  
Laramie, WY 82070

**RE: TFN 4 4/296, Approval to Incorporate the "Stipulated Resolution of Objections" into Permit 298C, Mountain Cement Company, Change No. 26**

Dear Mr. Buchanan:


As a result of an objection by Brian Waitkus to the required public notice for the proposed sequence change, a "Stipulated Resolution of Objections" was signed by Mr. Waitkus and Mr. Phil Nicholas on October 16, 2006. This agreement changed the proposed sequence revision to make it acceptable to Mr. Waitkus. Therefore, the proposed sequence change under TFN 4 4/296 has been negated. The objection was dismissed in the Environmental Quality Council (EQC) Order of Dismissal dated Nov 13, 2006. With the approval of the Form 11, a condition has been placed on the Form 11 to ensure the stipulated resolution is included in the permit. This condition states:

**The text and map changes contained in the mining sequence revision (TFN 4 4/296) will not be inserted into the approved permit. The "Stipulated Resolution of Objections" that was signed by Philip Nicholas and Brian Waitkus on October 16, 2006 will be attached to this permit and the sequence described in the agreement will govern the mining operation sequence. The previous Stipulated Resolution of Objections dated January 11, 2004 has been superseded and replaced by this new resolution. As a result of this resolution, the mining sequence in the permit must be updated to agree with the sequenced agreed to within the resolution. MCC is required to submit a mine plan sequence revision within ten (10) days of the date of this approval.**

The changes that will occur as a result of this conditioned sequence revision must be reflected in the Amendment "C" application (TFN 4 2/220) before it can be approved. Also, depending upon the timing of the approval for the Etchepare fueling proposal and the Amendment C application, any inconsistencies must be addressed in the package that will be approved last.

If you should have any questions regarding this letter, please feel free to contact Bill Hogg at 307-777-7057.

Sincerely,

  
Richard A. Chancellor  
Administrator  
Land Quality Division

c: Brian Waitkus  
Phil Nicholas

Herschler Building • 122 West 25th Street • Cheyenne, Wyoming 82002 • <http://deg.state.wy.us>



NOTE: Submit two (2) copies one of which must be an original.  
 Do not make corrections to this form after printing. Forms bearing strikeouts, ink changes, etc will not be accepted.

**STATE OF WYOMING  
 DEPARTMENT OF ENVIRONMENTAL QUALITY  
 LAND QUALITY DIVISION  
 APPLICATION FOR PERMIT REVISION**

COPY

An application for a permit revision shall be required whenever the operator proposes to conduct a revised mining or reclamation operation, as defined in Chapter 1, Section 2, of the Coal and Noncoal Land Quality Rules and Regulations. An application for a permit revision shall be filed with the Administrator before the date on which the operator expects to conduct the revised mining or reclamation operation.

1. Name, telephone number, and mailing address of applicant:

Name: Mountain Cement Company Telephone: (307)745-4879 Fax: (307)742-4534

5 Sand Creek Road; Laramie, WY 82070

2. Name, telephone number, and address of the agent of the applicant to whom any notices under the provisions of the Wyoming Environmental Quality Act or Land Quality Division Rules and Regulations adopted thereunder may be sent:

Monte Buchanan, Quarry Technician (307)745-4879 ext. 121

5 Sand Creek Road Laramie, WY 82070

3. The permit number and date approved: # 298C, 03/26/1975

4. Brief description of permit revision:

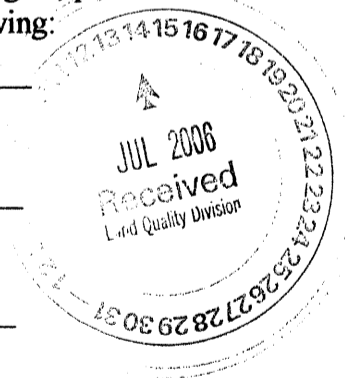
Pit #5 Mine Sequence Change- MCC will mine the Etchepare pit # 5 (E5) area in conjunction with E7 disturbance pit (section 31). This will allow MCC to build feed inventory, blend various chemistries for the plant, and provide mineral deposit alternatives to ensure the availability of the product. This will also allow MCC to balance high cost mining with low cost mining and stabilize the budget.

5.	Permit Acres	Acreage to Affect
Approved	<u>3373.3</u>	<u>647.08</u>
Estimated Revision Increase or (Decrease)	<u>0.0</u>	<u>0.0</u>
Total	<u>3373.3</u>	<u>647.08</u>

6. Attach revised permit elements and an index indicating what parts of the approved permit are effected by this revision. The revised elements and index shall be sufficient to fulfill the requirement of Chapter 13, Section 1.(d) for coal permittees or Chapter VII, Section 1.(d) for noncoal permittees.

7. If the applicant is a  partnership,  association,  corporation or  limited liability company and the revision is for changes to the name and addresses of all managers, partners and executives directly responsible for operations in this State, complete the following:

Name: _____	Address: _____; _____, <u>WY</u> _____
Title: _____	Phone No. _____
Date of Appointment: _____	
Name: _____	Address: _____; _____, <u>WY</u> _____
Title: _____	Phone No. _____
Date of Appointment: _____	
Name: _____	Address: _____; _____, <u>WY</u> _____
Title: _____	Phone No. _____
Date of Appointment: _____	
Name: _____	Address: _____; _____, <u>WY</u> _____
Title: _____	Phone No. _____
Date of Appointment: _____	



Form 11, Rev. 6/00  
 Page 1 of 3

Initial [Signature]  
 Date 7/13/06

Permit No. 298C - B6  
 Temporary Filing No. 44/296

8. The provisions of this permit revision are severable, and if any provision of the permit revision or the application of any provision of this permit revision to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit revision shall not be affected thereby.
9. For surface coal mining operations, right of entry to or inspection of any operation, premises, records, or equipment shall not require advance notice.

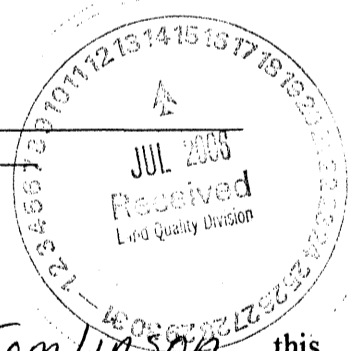
FINAL SWORN STATEMENT

State of WY )  
 )ss  
 County of Albany )

I Stuart Tomlinson being duly sworn on my oath that I am the applicant (President or Vice President if the applicant is a corporation) for the foregoing permit revision; that I have read the said application and fully know the contents thereof; that all statements contained in the permit revision application are true, correct, and complete to my best knowledge and belief, by execution of this statement I certify that Mountain Cement Company, applicant, or entities controlled by or under common control with the applicant has the right and power by legal estate owned to mine from the land for which this permit revision is desired; that applicant or entities controlled by or under common control with the applicant has not forfeited, or is not involved in forfeiture proceedings for, a bond posted for reclamation purposes; and if a **surface coal mining application**, that applicant or entities controlled by or under common control with the applicant has paid the reclamation fees for this and all coal mining operations under the jurisdiction of PL. 95-87 as required by Title IV of that law; and that applicant or entities controlled by or under common control with the applicant has not had any Federal or State coal mining permits suspended or revoked in the five years preceding the date of this application; and by completion and submission of this application, hereby give consent to allow the Director, the Administrator and/or his authorized representatives, at reasonable times and upon presentation of appropriate credentials, to enter upon and have access to any and all lands covered by this permit and amendments thereto and to inspect and copy any records or documents, obtain or monitor any samples or sampling, for any activities associated with the operation and permit.

Dated this 13<sup>th</sup> day of July, 2006.

Signature *Stuart Tomlinson*  
 Name (Printed or typed) Stuart Tomlinson  
 Title President



(Corporate Seal)

The foregoing instrument was acknowledged before me by Stuart Tomlinson this 13<sup>th</sup> day of July, 2006.

Witness my hand and official seal. *Lindsay Eller Holichuk*  
 (Notary Public or Secretary if a Corporation)  
LINDSAY ELLER HOLICHEK  
 (Name printed or typed)

(Notary Seal) My Commission Expires: 13 Nov. 2007

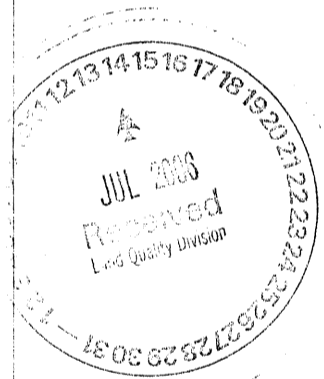
Form 11, Rev. 6/00  
 Page 2 of 3  
 Initial *ST*  
 Date 7/13/06

Permit No. 298 C-R6  
 Temporary Filing No. 4 4/296

This is to certify that I have examined the foregoing application and do hereby grant the same subject to the following limitations and conditions:

This permit revision grants only the right to affect the land described in Appendix "C" of the original permit and amendments. Any condition/special condition attached to approval of this revision shall supersede and/or replace any conflicts with the original permit, amendments, coal renewals or any other revision.

The text and map changes contained in the mining sequence revision (TFN 4 4/296) will not be inserted into the approved permit. The "Stipulated Resolution of Objections" that was signed by Philip Nicholas and Brian Waitkus on October 16, 2006 will be attached to this permit and the sequence described in the agreement will govern the mining operation sequence. The previous Stipulated Resolution of Objections dated January 11, 2004 has been superseded and replaced by this new resolution. As a result of this resolution, the mining sequence in the permit must be updated to agree with the sequenced agreed to within the resolution. MCC is required to submit a mine plan sequence revision within ten (10) days of the date of this approval.



Approved: *Rina A. Chancelor*  
Administrator  
Land Quality Division  
Department of Environmental Quality

Approved: *John W. Cunniff*  
Director  
Department of Environmental Quality

Form 11, Rev. 6/00  
Page 3 of 3

Initial *RC*  
Date *7/13/06*

Effective Date: *12-1-06*  
Permit No. *298C-R6*  
Temporary Filing No. *4 4/296*



307 742-7160

Exhibit 12

# Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

October 9, 2007

**CERTIFIED MAIL #7005 1820 0005 1478 8477  
RETURN RECEIPT REQUESTED**

Mr. Brian R. Waitkus  
80 Eagle Nest Lane  
Laramie, WY 82070

**RE: Mountain Cement Company, TFN 4 2/220, Permit #298C**

Dear Mr. Waitkus:

We have received your letter regarding the proposed amendment of a mining permit to Mountain Cement Company. I clarified during a telephone conversation on October 9, 2007, that your comments should be regarded as objections to the permit amendment application. Therefore, as allowed by Wyoming Statute §35-11-406(k), a section of the Environmental Quality Act, we are considering your letter an objection to the issuance of a permit. The Environmental Quality Council will set the date, time and place for a hearing. Terri Lorenzon, the Council's Attorney, will notify you by mail once this has been done.

The hearing will be conducted as a contested case, pursuant to the provisions of the Environmental Quality Act, the Administrative Procedure Act, and Department of Environmental Quality Rules of Practice and Procedure. To obtain a copy of the Department of Environmental Quality Rules of Practice & Procedure, check off the appropriate area of page two and return it to our office at the above address.

Thank you for your interest in this matter.

Sincerely,

Richard A. Chancellor  
Administrator  
Land Quality Division

RAC:bb  
xc: Terri Lorenzon  
John Burbridge  
John Corra  
Mountain Cement Company  
Lowell Spackman, District 1

Post-it® Fax Note	7671	Date	10/9/07	# of pages	9
To	Mitch Edwards	From	Lowell Spackman		
Co./Dept.		Co.	WDEQ/LQD		
Phone #		Phone #	777-7052		
Fax #	307742-7160	Fax #			



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4 October 2007

Brian R. Waitkus

80 Eagle Nest Lane

Laramie, Wyoming 82070

The following comments are in response to Mountain Cement Company's submission for public notice their proposal to mine Amendment 298C-A7 of mine permit 298c

1. Section DVIII6.2.2 Groundwater.

It is stated that "Infiltration is higher on exposed sandstone, as compared to exposed limestone, due to the higher porosity of the sandstone." and "Hydraulic conductivity of the sandstone and limestone limits downward flow of water." In general, region wide geology covering the Casper formation limestones may have "a conductivity of 0.8 ft/day", this statement does not take into account the acknowledgment of open and sand filled fractures up to ±30 inches wide observed by Mountain Cement and the Wyoming Geologic Service of the Casper limestone in the adjacent Etchepare quarry to the east (Figure 1). This Area "C" portion of section 36 is highly jointed as noted on page DVII5-3 (Figure 2). I do not believe the aquifer properties of this area have been studied adequately and completely enough. Has Mountain Cement studied these open and sand filled fractures that pass through multiple beds of limestone and sandstone? Mountain Cement has still not attempted to preform trace analysis concerning the time it takes for water or various types of pollutants to reach the aquifer and Laramie's Solider Spring drinking water source. This section appears to discuss only the upward and horizontal movement of water and suggests that downward movement is impeded. Mountain Cement needs to address the downward movement of water and any potential fluid pollutants more throughly in light of this existing jointing and fracturing of the bedrock. As spills of liquid pollutants can occur outside of the Mountain Cement controlled fueling area prior to approving the amendment, I want Mountain Cement to test the porosity of the fractures and jointed bedrock in the mine areas (area "C" and existing etchepare mines) to determine the potential for polluting the aquifer.

2. Section DVIII6.2.3 Groundwater Quality.

Results of groundwater quality in Table DVIII6-2 are from the 1995/1998 mine plan. They are at a minimum 9 years old data. Why was this data not updated to provide the current status of the groundwater quality? Mountain Cement was supposed to be testing local water wells on a quarterly basis



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and Carl Toboga, had been collecting data for his dissertation on the Casper Aquifer for many years. Carl Toboga had completed work for the mine in the immediate vicinity of the proposed mine amendment area. This information should be included in the Mountain Cement's section on groundwater quality.

In addition Section DVIII6.2.4 stated that *"Impacts to the groundwater should be minimal, because of 1) the relatively shallow depth of mining activity, 2) the relatively near surface limestone extraction, and 3) mining will not occur within any saturation zones."* The statement that the impact to the groundwater should be minimal is not correct. The operator does not know if there will be any impact and to what extent. This conclusion can be supported by the operator statement on page DVIII6-3 that *"Fractures and voids throughout the aquifer may further complicate upward and horizontal movement of water, due to changes in hydraulic conductivity within each feature"*.

### 3. Appendix DVIII4 Climatology

Climatology data needs to be updated. The information provided from 1961-1990 is more than 17 years old. The direction, wind speed etc. has changed since this time. The period from the 1960 to late 1980s was a wetter colder period rather than the current xeric. This drier period is associated in this area with a wind direction predominately out of the southeast during the summer and out of the southwest during the winter. It is also questionable if the wind speed data collected at the Laramie airport 17 years ago represents the wind speed on the middle slopes of the Laramie Range. An accurate wind speed detailing maximum wind gusts in association with the wind direction is vitally important when considering the amount of fugitive dust or NOx that could impact local residences. Up to date and current climatological data are important for the potential dust and blasting issues.

4. It is stated on Page DVIII5-3 that *"Several faults have been identified along the western flank of the Laramie Range in the Etchepare amendment; however, none have been identified in the proposed limestone expansion permit"*. Though no faults are known for the proposed project area, there does not appear to be any discussion on the series of northeast-south and the northwest-southeast trending fractures in this area. These fractures range up to  $\pm 30$  inches wide in the adjacent Etchepare quarry with some fractures surficially filled with sand and others completely open after removal of the rock overburden. Who did the geological survey for this area after discovery of the extensive fracturing of this area became known?

5. Mine Plan. Section MPVIII-3.8. On page MPVIII-4B, the last paragraph states *"MMC will notify Wyoming Department of Environmental Quality, Water Quality division of all spills of refined crude oil products which are in quantities greater than twenty-five gallons."* It is my understanding that this 25 gallon requirement is considered an average amount before requiring it be reported, for all types of mines and in all geologic settings. I believe the size requirement for a reportable spill is much too high given the fact that the area "C" mining will occur within a portion of the Casper aquifer recharge area supplying local residents and the city of Laramie with water. This mining will occur on a highly fractured/jointed limestone and sandstone bedrock. It should be remembered that even one quart of oil can contaminate more than two million of gallons of water

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(<http://www.cjnetworks.com/~ccodistrict/resubwt.htm> October 2007). Do not let the average spill reporting size be the requirement at this location. Please consider a one (1) gallon spill a reportable spill.

6. Mine Plan. Section MPVIII-4.8.1 Surface Water Control Plan.  
The last sentence on Page MPVIII-9 does not have ending.

7. Mine Plan. Section MPVIII-4.9. Public Nuisance and Safety.

NOx can and sometimes does result from blasting at the mine. Currently the prevailing winds appear to occur from the southwest and southeast, therefore NOx can prove to be a significant issue resulting from mining in Area "C". It is a fact that Mountain Cement has been cited for setting off blasts resulting in significant amounts of NOx. I would like to see a weather monitoring station be set up by Mountain Cement in the mine area to record wind speed and direction. Mountain Cement has indicated in the past that wind directions may have changed a short period before a blast sending pollutants toward residential areas. A recording weather station could prove Mountain Cement was correct.

NOx is an unintended and unwanted pollutant produced from incomplete ignition of explosive blasts. This new area "C" will be located to the south, east, and north of existing residential properties. Therefore it is very important that Mountain Cement and its subcontractors be extra vigilant when preparing and setting off their blasts. I am requesting that Mountain Cement be required to supply DEQ with a video tape of each blast they set off in area "C" containing sufficient video footage prior to and after the blast to be able to clearly see whether any NOx occurred, the direction of the blast cloud, and how long it takes for the cloud to dissipate. The tape should also record the wind speed, direction, date and time of the blast event. I have been told that Mountain Cement often tapes their blasts so this should only be a slight additional inconvenience. If a digital video recording device was utilized then good or reasonable quality copies could be made available to DEQ within one week of each blast. MPVIII-4.4.3 indicates Mountain Cement will already record location, date, and time of blast (a), and direction of prevailing wind at the time of blast (m).

On another note concerning blasting Mountain Cements "Permit application" for permit 298C-A7 NE1/4 NE1/4 revised June 1, 2007 page MPVIII-7 #6 states "*Mountain Cement will try to avoid blasting when the wind is toward any residence or residential area within one mile of the permit boundary (currently there are no residences or other structures within one mile of the permit area, which is surrounded by grazing land. If a blast is prepared when the wind is toward a residence or residential area, the blaster may nonetheless detonate the blast.*" The distance to the nearest residence is blatantly incorrect. If the weather forecast and hopefully there own weather station indicates the winds are blowing towards nearby residences they should not be preparing their blast for that period/day. Therefore I am requesting these above statements be removed from the mine permit.

The amount of particulate emissions produced by the mine according to the air quality DEQ are determined by using a previously defined average wind speed of 13.4 mph. As the mine is located on the slopes of the Laramie Range southeast of town with higher average wind speeds truck loading and stockpiling emissions will likely be a nuisance and safety issue. Also with times of higher local wind speeds presumably more pollutants would go into the area at this time. To aid in the reduction of fugitive dust when wind speeds reach a certain point, say over 10 mph, Mountain Cement should be required to have a water truck on site and in operation. The wind speed portion of a weather station, noted above, would indicate when the water trucks would be required to be there continuously. By having a recording weather station these records should complement the log book required by Air Quality DEQ.

If screening of the mined limestone is utilized to reduce the amount of silica associated with the limestone matrix in area "C" the amount of dust produced could be extensive. Water should be required

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to be sprayed on and around the loading and screen equipment while any screening is in operation.

Light pollution can be addressed by stating that any lighting, other than headlights on vehicles, used to illuminate the mining and processing operations will be positioned to face only from the southeast to avoid directing light onto adjacent residential properties.

Noise pollution results at these mines from blasting, crushing, screening, loading, backing up of vehicles, generators, heaters etc.. Noise pollution is an inadvertent consequence of the mining process though Mountain Cement can reduce the problems associated with noise pollution. I would like to see any crushing or screening operations be screened by sediment berms the height or higher than the machinery used extending past the length of the machinery and placed immediately adjacent to the north side of these operations. This will protect the nearest residential properties to the north. This berming would be an aid in the reduction of overall mining noise reaching these properties.

8. Section MPVII 4.8.9 Ground water monitoring well (MCNW#1) baseline information data collected before the initiation of mining in area "C" should be sent to Land Quality DEQ prior to the start of mining not only in the annual report in the spring.

Mountain Cement Company will also be completing the monitoring of local wells during the mining of the Etchepare mines and area "C". The monitoring was to be done on a quarterly basis. From the information in their annual report this testing has not been completed on quarterly basis but appears to have been done sporadically. I would like to see a statement in the mine plan that Mountain Cement will commit to water well testing on a quarterly basis.

9. Section RPVIII-6.0 Reclamation Schedule.

It is stated that "*Reclamation activities will be completed in each RP-3 block within approximately 2 years after mining is completed in limestone Area C mining area.*" What does the RP-3 block mean?

It should be also stated in the permit that the reclamation of the area should start within one year from the completion of mining. This is in addition to their statement that reclamation will be completed approximately within two years of the completion of the mining in area "C".

10. Section MPVII-4.10 Archaeological and Paleontological Resources.

It is stated that "*...paleontological resources have not been observed within area "C" limestone quarry area.*" I would like to see any study or data collected to backup this statement. If any study was completed on state lands this report should be made public. Who completed this study? Paleontological studies are not required to be kept away from the general public as is the case for archaeological studies.

11. Section MPVII-4.11 Wildlife Monitoring and Protection Plan. As stated above the climate has been changing in the Laramie basin and range over the past ± 15 years. This has altered the movement of wildlife. An example of a change of land use in this area is the lark bunting now inhabits the area. Location maps for this bird do not include this area within their range. As a untrained bird watcher who noted this new bird, I am wondering how many more or different species now inhabit this area due to the xeric and warmer conditions.

This section also states "*In the event a raptor does nest within an area affected, the U.S. Fish and Wildlife Service (USFWS) will be contacted... Use of the area by other birds of federal interest will also be reported to the USFWS...*" Does Mountain Cement have a wildlife biologist on staff? Are areas within ½ mile of the existing and proposed mine areas surveyed in late winter through spring for new or

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re-used nest sites? I think Mountain Cement should be required to have biologists monitor wildlife on a quarterly or at minimum a biannual basis.

The mine permit for 298c in 1995 indicated that elk were noted in the vicinity of the mine area. Though Wyoming Game and Fish states this is not a critical habitat area why would elk move into this area for a period of time in the late fall and winter when elk are not normally here year round unless it actually is a critical habitat for them. The last two years elk have been observed on my property during this time period. It is possible that more studies need to be undertaken to determine if critical wildlife areas are changing or expanding.

#### 12. Section MPVIII-A-1 Stormwater Pollution.

Cover page for permit Authorization #WYR320346 indicates it expired on March 31, 2007

13. DVIII6 Hydrology. Map DVIII6-M3 shows three drainages in Area "C": 1. Un-named drainage on the north side of area, 2. E12 drainage running east-west in the center of area "C", 3. E9 drainage along the south side. Map MPVIII-M1 shows two mining areas in area "C". The northern one is located between the un-named drainage and drainage E12. The southern mine area is located between E12 and E9 drainages. DVIII6-1 states that "*Ephemeral drainages (E12) and (E9) bound the mining area on the north and south sides*". This plan has many inconsistencies such as this one and they should be corrected before allowing the mining of this area to precede.

#### 14. DVIII6-3.1 Drainage Basin description.

Why does this section describe drainage E10. This drainage does not occur in area "C".

#### 15. DVIII6.3.3 Surface Water Quality.

The permit states "*MCC has not specifically collected surface water quality suspended sediment data for any of the watersheds affected by the quarry, as in-channel flows have not been observed through the amendment area.*" Mountain Cement has been in this area for a long time. Spring run off for many years resulted in in-channel flows. In addition to this Mountain Cement was sited for allowing sediment from their mine area to flow into these drainages during a rain event. If the company does not look for the in-channel flow then apparently it can not be observed.

#### 16. DVIII6.3.4 Channel Geometry.

It is stated that "*The primary channels associated with quarry (E9 and E12) will not be affected or modified during mining activities.*" Map RPVIII-2 indicates a sediment control pond will be built at the west end of the E12 drainage in area "C". This would suggest this portion of the drainage will be affected. Is the statement or the map correct?

#### 17. RPVIII-2.0 Post mining Land Use.

It is stated that "*The post mining land use will be livestock grazing, which is consistent with the pre-mining uses.*" The pre-mining land use was stated to be used by both wildlife and livestock. The above statement is not correct and should be corrected in the mine plan.

#### 18. MPVIII-4.4 Blasting.

It is stated that "*There could be homes within one-half mile of the active quarry pit.*" There are homes within one half mile of the proposed quarry pits. This statement should be re-written to correct this statement.

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#### 19. RPVIII-5.0 Permanent Seed Mixtures.

On Pages DVIII8-A-1 to A-2005 table describing the plants occupying the area "C" mine permit area, 19 grasses, 92 forbes, four half shrubs, 12 shrubs, and one tree were recorded. The shrubs do not include three additional shrubs occurring in the proposed mine area (*Artemisia cana* silver sagebrush, *Amelanchier spp* serviceberry, *Mahonia aquifolium* oregon grape, and *Symphoricarpos albus* snowberry) bringing the shrub total to 95. Table RPVIII-2 Permanent seed mixture is suggesting that a minimum of eight grasses, four shrubs, 1 subshrub, and two shrubs will form the seed mix. Compared to the 2005 observed plant species list this indicates that 42% of the grass numbers (8) will be in the seed mix, 0.43% for forbes (4), 25% for subshrubs (1), 16% for shrubs. The previous and post mining use of the land is for wildlife and livestock grazing. I believe the species numbers of forbes and shrubs is much to low to provide a diversity of plants for wildlife. It should be remembered that both the divides between drainages and the drainage bottoms will be affected by mining activities (sediment control pond). If the same percentage of forbes and shrub species were planted as grasses this would be 38 species of forbes and six shrubs (when adding the four additional shrubs). The four shrubs listed in Table RPVIII-2 are visually the dominate shrubs on the drainage divides. Replanting all of these are a good start but other shrubs are likely as important or more important for wildlife. Antelope bitterbrush is a very important winter plant for antelope. I do not see a discussion in the proposed mine permit on which forbes and shrubs are important to which wildlife for food, cover, etc., then basing numbers and species choices on this research. Common juniper (a shrub) is not listed in the re-vegetation of the area. This plant found in the proposed mine areas of area "C" produces both fruit for food and is used as cover. The plant unlike Rocky Mountain juniper is not even considered for replanting, though it should. I would like to see more a large increase in the forb and shrub re-vegetation species list following a data search of their uses by the local fauna.

20. Nothing was noted concerning roads constructed or resulting from actions of Mountain Cement in area "C". Roads created by Mountain Cement construction or by minimal use without actual construction become permanent marks on the landscape. Any permanent road can legally be used by the motoring public. Prior to Mountain Cement actions no constructed or user created roads existed in area "C". Mountain Cement heavy equipment, trucks, etc. are beginning to create two track paths/roads. I would like to see a statement in the mining permit that Mountain Cement will reclaim all roads/two track paths at the conclusion of their mining and reclamation of area "C".

The permit for 298C-A7 has many inconsistencies and inaccurate statements, with only a few of these noted above. I would like to see these inconsistencies corrected and the inaccurate portions altered prior to giving Mountain Cement approval to mine in area "C". Inconsistencies in the past have been problems for both the DEQ and adjacent landowners. Mountain Cement can and has chosen the inconsistency that aids them claiming it is in the approved mine plan even though the other inconsistency may be contrary to their claim. Again the inconsistencies and inaccuracies need to be addressed and fixed.

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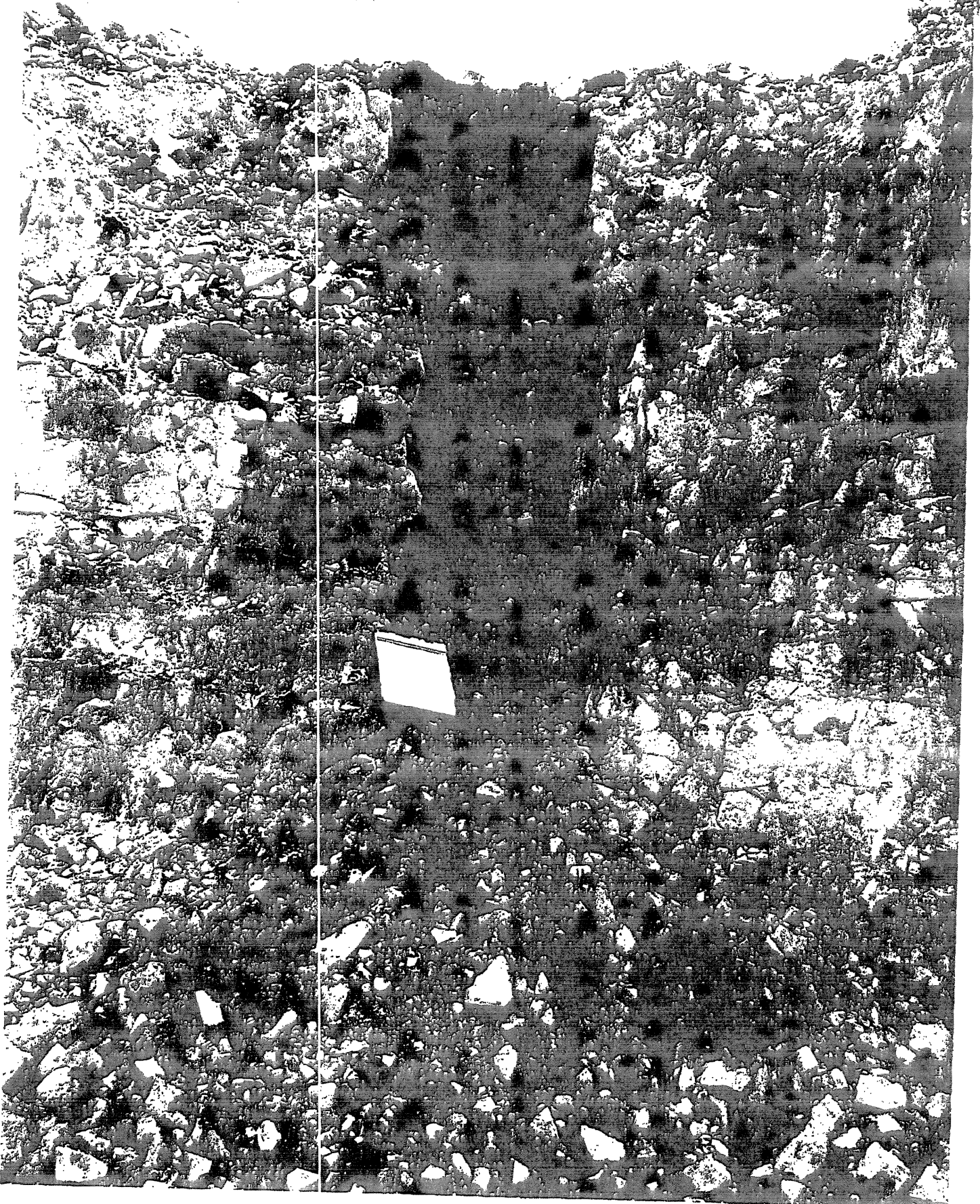
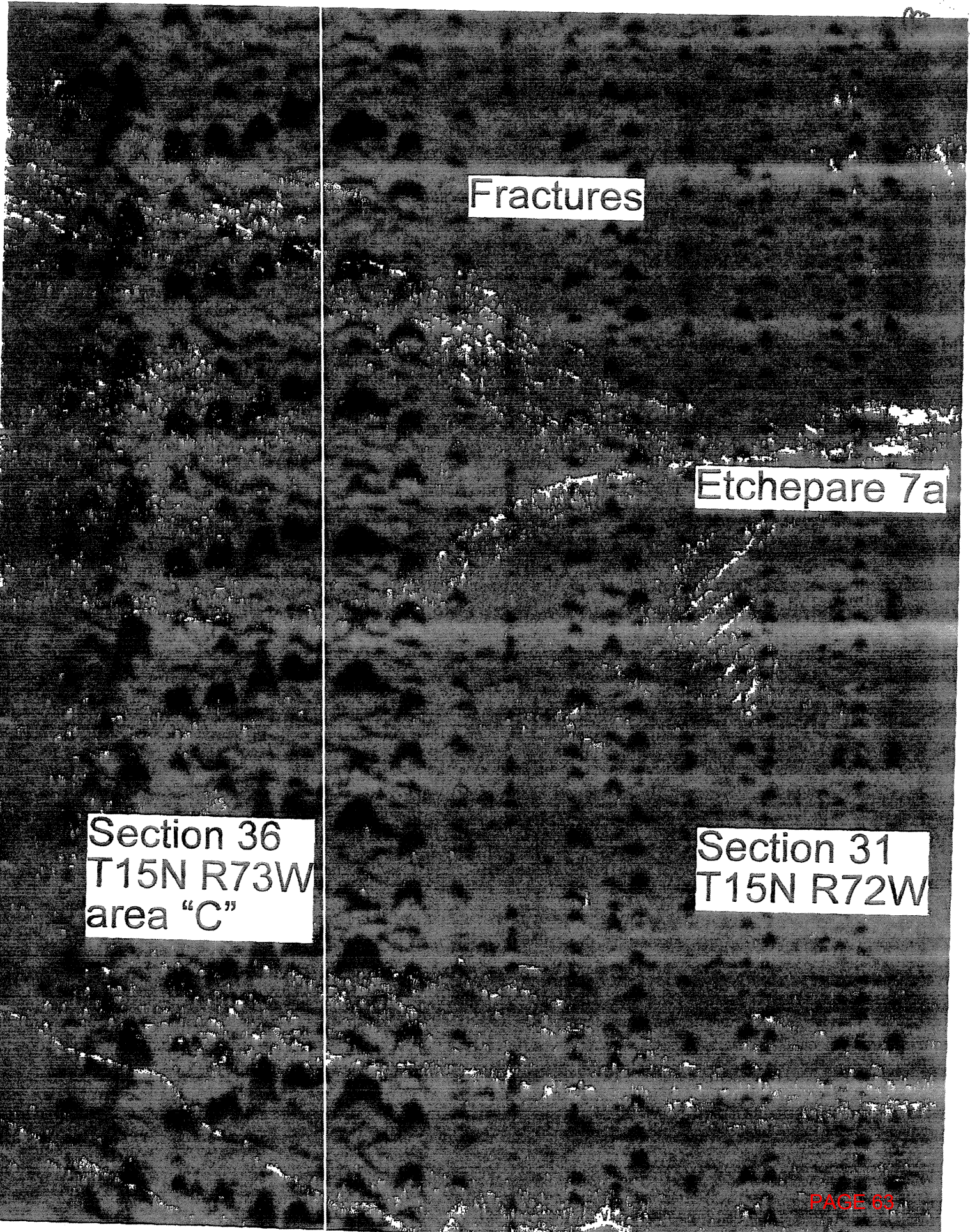


Figure 1. Sand filled fracture exposed at the present surface and now in the wall of Etchepare 7A east of Area "C"



Fractures

Etchepare 7a

Section 36  
T15N R73W  
area "C"

Section 31  
T15N R72W

**ANTHONY, NICHOLAS & TANGEMAN, LLC**  
ATTORNEYS AT LAW

PHILIP A. NICHOLAS\*  
JEFF ANTHONY, CPA\*\*  
JASON M. TANGEMAN\*\*\*  
STACY ROSTAD\*\*\*  
MITCHELL H. EDWARDS

\*ALSO ADMITTED IN COLORADO AND OREGON  
\*\*ALSO ADMITTED IN COLORADO AND NEBRASKA  
\*\*\*ALSO ADMITTED IN COLORADO

170 NORTH FIFTH STREET  
P.O. BOX 928  
LARAMIE, WYOMING 82070-0928  
TELEPHONE (307) 742-7140  
FAX (307) 742-7160

January 24, 2008

Mr. Lowell Spackman  
Ms. Ramona Christensen  
Wyoming Department of Environmental Quality  
Land Quality Division  
Herschler Building  
122 West 25th Street  
Cheyenne, WY 82002

**RE: Section 36 Area C Limestone Quarry; Permit 298C-A7; TFN 4 2/220**

Dear Mr. Spackman & Ms. Christensen:

Pursuant to DEQ's approval letter, approving MCC's permit amendment application, dated December 20, 2007, and pursuant to Form 1, Conditions, please find the enclosed two copies of Form 11, together with index sheets and revision package which was part of *Mountain Cement Company's Response* to Mr. Waitkus's objections and which are to be included in MCC's 298C-A7 permit.

If you have any questions, please contact me at (307) 742-7140.

Sincerely,



**Mitchell H. Edwards**  
Anthony, Nicholas & Tangeman, LLC  
Attorney's for Mountain Cement Company

Enclosures

cc: Mountain Cement Company



NOTE: DO NOT CUT OR MODIFY THIS FORM. Submit two (2) copies. Page 1 & 2 must be initialed and dated where indicated. *Signature preferred in blue ink.*

**State of Wyoming  
Department of Environmental Quality  
Land Quality Division  
Application for Permit Revision**

An application for a permit revision shall be required whenever the operator proposes to conduct a revised mining or reclamation operation, as defined in Chapter 1, Section 2, of the Coal and Noncoal Land Quality Division (LQD) Rules and Regulations. An application for a permit revision shall be filed with the Administrator before the date on which the operator expects to conduct the revised mining or reclamation operation.

1. Name, mailing address and phone number of applicant: Mountain Cement Company, 5 Sand Creek Road, Laramie Wyoming 82070 Phone: (307)745-4879 Fax: (307) 742-4534

2. Name, mailing address and phone number of the agent of the applicant to whom any notices under the provisions of the Wyoming Environmental Quality Act or the LQD Rules and Regulations adopted thereunder may be sent: Mr. Bob Kersey (address same as above); Mr. Steve Cooley (address same as above)

3. The permit number and date approved: 298C - originally approved on March 26, 1975

4. Brief description of permit revision: Permit Revision pursuant to Condition on Form 1 (12-20-07) to incorporate the changes proposed in "Mountain Cement Company's Response," dated 10-27-07, to Mr. Waikus' objections before EQC.

5.	Permit Acres	Acreage to Affect	Surface Ownership Acreage
Approved	<u>3413.31</u>	<u>680.98</u>	Federal <u>0</u>
Estimated Revision			
Increase or	<u>0</u>	<u>0</u>	State <u>160</u>
Decrease			Private <u>3253.31</u>
Total	<u>3413.31</u>	<u>680.98</u>	<u>3413.31</u>

6. Attach revised permit elements and an index indicating what parts of the approved permit are affected by this revision. The revised elements and index shall be sufficient to fulfill the requirement of Chapter 13, Section 1(d) for coal permittees or Chapter VII, Section 1(d) for noncoal permittees.

7. If the applicant is a Partnership, Association, Corporation (circle one) and the revision is for changes to the name and addresses of all managers, partners and executives directly responsible for operations in this State, complete the following:

Form 11  
Rev. 5/06  
Page 1 of 4

Initial WJC

Date 1/23/08

Effective Date: \_\_\_\_\_  
Permit No. \_\_\_\_\_

Name: Mr. David Gallocomb  
Title: President

Address: Same as above in Paragraph 1

Date of Appointment: January 15, 2008

Phone No.: \_\_\_\_\_

Name: Mr. Paul Anderson  
Title: Executive Vice President

Address: Same as above in Paragraph 1

Date of Appointment: December 15, 2007

Phone No.: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Address: \_\_\_\_\_

Date of Appointment: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Address: \_\_\_\_\_

Date of Appointment: \_\_\_\_\_

Phone No.: \_\_\_\_\_

8. The provisions of this permit revision are severable, and if any provision of the permit revision or the application of any provision of this permit revision to any circumstance is held invalid, the application of such provision to other circumstances, and the remainder of this permit revision shall not be affected thereby.
9. **For surface coal mining operations**, right of entry to or inspection of any operation, premises, records, or equipment shall not require advance notice.

Final Sworn Statement

State of Wyoming )
County of Albany )ss

I DAVID CHALLACOMB being duly sworn on my oath that I am the applicant (President or Vice President if the applicant is a corporation) for the foregoing permit revision; that I have read the said application and fully know the contents thereof; that all statements contained in the permit revision application are true, correct, and complete to the best of knowledge and belief, by execution of this statement I certify that Mountain Cement Company, applicant, or entities controlled by or under common control with the applicant has the right and power by legal estate owned to mine from the land for which this permit revision is desired; that applicant or entities controlled by or under common control with the applicant has not forfeited, or is not involved in forfeiture proceedings for, a bond posted for reclamation purposes; and if a surface coal mining operation, that applicant or entities controlled by or under common control with the applicant has paid the reclamation fees for this and all coal mining operations under the jurisdiction of PL. 95-87 as required by Title IV of that law; and that applicant or entities controlled by or under common control with the applicant has not had any Federal or State coal mining permits suspended or revoked in the five (5) years preceding the date of this application; and by completion and submission of this application, hereby give consent to allow the Director, the Administrator and/or his authorized representatives, at reasonable times and upon presentation of appropriate credentials, to enter upon and have access to any and all lands covered by this permit and amendments thereto and to inspect and copy any records or documents, obtain or monitor any samples or sampling, for any activities associated with the operation and permit.

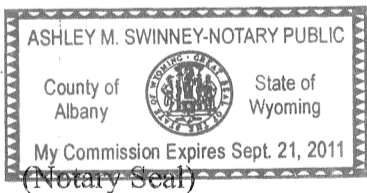
Dated this 23rd day of JANUARY, 2008.



Signature: David Challacomb
Name (Printed or typed): DAVID CHALLACOMB
Title: President Mountain Cement

The foregoing instrument was acknowledged to me by David Challacomb this 23 day of January, 2008.

Witness my hand and official seal.



Ashley M Swinney (Notary Public or Secretary if a Corporation)
Ashley m Swinney (Name printed or typed)

My Commission Expires: 09/21/2011

The State of Wyoming )  
 )ss  
Department of Environmental Quality )

This is to certify that I have examined the foregoing application and do hereby grant the same subject to the following limitations and conditions.

This permit revision grants only the right to affect the land described in Appendix "C" of the original permit and amendments. Any condition/special condition attached to approval of this revision shall supersede and/or replace any conflicts with the original permit, amendment, coal renewals or any other revision.

Approved: \_\_\_\_\_  
Administrator  
Land Quality Division  
Department of Environmental Quality

Approved: \_\_\_\_\_  
Director  
Department of Environmental Quality

**INDEX SHEET FOR MINE PERMIT AMENDMENTS OR REVISIONS**

Page 1 of 2  
 January 23, 2008  
 TFN

PAGE 69

MINE COMPANY NAME: Mountain Cement Company MINE NAME: Sec 36 Area C Limestone Quarry PERMIT NO. 298C-A7

Statement: I, Steve Cooley, an authorized representative for Mountain Cement Company declare that only the items listed on this and all consecutively numbered Index Sheets are intended as revisions to the current permit document. In the event that other changes inadvertently occurred due to this revision, those unintentional alterations will not be considered approved. Please initial and date. SCC 1-23-08

- NOTES: 1) Include all revision or change elements and a brief description of or reason for each revision element.  
 2) List all revision or change elements in sequence by volume number; number index sheets sequentially as needed.

Description: **Mine and Reclamation Plan; Area C Limestone Quarry; Changes in Response to DEQ approval letter and Form 1 condition**

VOLUME NUMBER	PAGE, MAP OR OTHER PERMIT ENTRY TO BE REMOVED	MAP OR OTHER PERMIT ENTRY TO BE ADDED	DESCRIPTION OF CHANGE
Application for Permit to Mine	DVIII6-1	DVIII6-1	Remove DVIII6-1 and replace with new DVIII6-1
Application for Permit to Mine	DVIII6-6	DVIII6-6	Remove DVIII6-6 and replace with new DVIII6-6
Application for Permit to Mine	MPVIII-6 thru MPVIII-8	MPVIII-6 thru MPVIII-8	Remove MPVIII-6 thru MPVIII-8 and replace with new MPVIII-6 thru MPVIII-8
Application for Permit to Mine	MPVIII-14	MPVIII-14	Remove MPVIII-14 and replace with new MPVIII-14

**INDEX SHEET FOR MINE PERMIT AMENDMENTS OR REVISIONS**

Page 2 of 2  
 January 23, 2008  
 TFN

PAGE 70

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Description: **Mine and Reclamation Plan; Area C Limestone Quarry; Changes in Response to DEQ approval letter and Form 1 condition**

VOLUME NUMBER	PAGE, MAP OR OTHER		DESCRIPTION OF CHANGE
	PERMIT ENTRY TO BE REMOVED	PERMIT ENTRY TO BE ADDED	
Application for Permit to Mine	RPVIII-11	RPVIII-11	Remove RPVIII-11 and replace with new RPVIII-11
Application for Permit to Mine	MPVIII A-1	MPVIII A-1	Remove MPVIII A-1 and replace with new MPVIII A-1

Appendix DVIII6HydrologyDVIII6.1 Introduction

The Section 36 Area C Limestone Quarry is located in Albany County of Wyoming approximately 7 miles southeast of Laramie. Access to the site is by way of Howe Lane Road to the Etchepare mining pits, and then from there, west to the Area C Limestone Quarry. The permit area is found in the NE $\frac{1}{4}$ NE $\frac{1}{4}$  of section 36, T15N, R73W, of the 6<sup>th</sup> P.M. The proposed expansion amendment occupies approximately 40 acres but the affected/disturbance will be only about 33.9 acres or less.

Jim Orpet of Intermountain Resources compiled land use information for the Etchepare Amendment/Permit application (A5 amendment, Appendix DVIII6) during October 1995 (revised 11/25/96). This information was approved in 1998 and is found in the Etchepare Amendment/Permit application. Because the Area C Limestone Quarry (amendment A7) is located adjacent to the Etchepare Quarry (amendment A5), the Appendix DVIII6 was used as a source and reference.

The limestone bed to be mined dips gently to the west. Portions of the bed are covered with overburden (sandstone) while the remaining areas are exposed cap rock. Ephemeral drainages (E9 and E12) bound the southern mining area on the north and south sides, and ephemeral drainage E12 bounds the northern mining area on the south side. Topographical relief across the entire amendment area ranges from 7600 feet in the west to 7740 feet in the east boundary.

#### DVIII6.2.4 Groundwater Summary

Mining will occur in the Casper Formation, extracting exposed limestone outcrops from the relatively near-surface. Mining will take place 180-200 feet above the piezometric surface of the groundwater. Due to the hydraulic conductivity of this formation, water will readily travel down dip, until it reaches a point where the voids in the formation are saturated with water. The Area C Limestone Quarry is identified to be located in the recharge zone of the Casper Aquifer.

The water from these wells is hard, with a fairly neutral pH, and low concentrations of total dissolved solids. Nitrate and sulfate concentrations are low. Alkalinity is at or near the limit for what is considered good drinking water. The overall water quality is good for human consumption, as is generally the case with water from the Casper Formation.

Impacts to the groundwater should be minimal, because of 1) the relatively shallow depth of mining activity, 2) the relatively near surface limestone extraction, and 3) mining will not occur within any saturation zones (180-200 feet above the piezometric surface). Please refer to section DVIII6.6 for discussion of any possible impacts to groundwater.

#### DVIII6.3 Surface Water

##### DVIII6.3.1 Drainage Basin Description

The Area C Limestone Quarry is primarily located in the central area of two identified watershed/drainage basins, formed from the identified E9 and E12 channels (identified from the Etchepare amendment). Please refer to Map DVIII6-2 for channel locations. Only about 9.0 acres of the area will primarily be affected. The general slope of the area is about 8-10%. The aspect of the watershed is predominately west.

All channels (E9 & E12) flow ephemeral to the west. Because of the ephemeral nature of these streams, they are considered as class 4 streams by the WDEQ (Wyoming Department of Environmental Quality 1990). In general, these channels demonstrate little lateral development, but many channels have formed deep gullies and canyons, with ledges forming natural drops, and pools.

Ultimately, the water from each watershed discharges into the Larmie River. The E9 and E12 channels make it to the Laramie River via Gilmore Gulch.

Permit 298C-A7 NE $\frac{1}{4}$ NE $\frac{1}{4}$   
Section 36 Area C LS Quarry  
Revised: October 29, 2007

TFN 4 2/220  
Approved: \_\_\_\_\_  
Change No. \_\_\_\_\_

DVIII6-6



#### MPVIII-4.4 Blasting

Mountain Cement Company must use blasting methods to economically mine limestone. There are homes within one-half mile of the Area C quarry site. When blasting, Mountain Cement Company agrees to comply with the following conditions, as applicable.

A. General Requirements for all Blasting.

The following procedures will be followed for all blasting within the entire permit area:

1. Mountain Cement Company agrees to use blasting methods and techniques as described in Rock Blasting & Explosives Engineering handbook, Per-Anders Persson, Roger Holmberg, and Jaimin Lee, 1994.
2. The coal surface mine blasting limitations for peak particle velocity and PSI over pressure contained in Chapter 6 of the Rules and Regulations enforced by the Department of Environmental Quality, Land Quality Division, will be applicable to this quarry operation. Blasting contractors will be advised by MCC of the location of nearby structures and they will adjust their detonation design appropriately. (See MPVIII 4.5 and MPVIII 4.6).
3. Mountain Cement Company will maintain records of its blasting operations which will be made available to the Administrator or the Land Quality Division upon request. The records will be available for three years following any blast.

The records shall include the following information:

- a. Name of permittee, operator, or other person conducting the blast;
- b. Location, date and time of blast;
- c. Name, signature, and certification number of blaster conducting blast;
- d. Identification, direction and distance, in feet from the nearest blast hole to the nearest dwelling, outside the amendment area;
- e. Type of material blasted;
- f. Diameter and depth of holes;
- g. Types and amounts of explosives used;
- h. Number of holes loaded and detonated;
- i. Number of delays and number of holes per delay detonated;
- j. Maximum weight of explosion detonated within any 8 millisecond period;
- k. Initiation systems;
- l. Type and length of stemming;
- m. Direction of prevailing wind and weather conditions at time of blast.
- n. Burden and spacing distances with hole diameter and depth;
- o. Total weight of explosives per hole; and
- p. A shot diagram will be attached to the report.

4. Mountain Cement Company will follow the requirements of Wyoming Statutes § 30-2-501 to 503, Article 5. Shot-Firers, which require that blasting be done under the supervision of a State certified shot-firer.

5. Mountain Cement Company will attempt to limit blasting to once per week. This will be increased if there is a limestone shortage, quality control problems or overburden to be blasted.

6. Mountain Cement will make every effort to avoid blasting when the wind is toward any residence or residential area. If a blast is prepared when the wind is not toward a residence or residential area, the blaster may nonetheless detonate the blast.

7. No blasting will take place prior to sunrise or after sunset.

B. Additional Requirements when Blasting in the Proximity of Homes.

When Mountain Cement Company blasts within 500 feet of its permit boundary in the proximity of homes, the following additional procedures will be followed:

- a. The shot pattern will be decreased to an 8 X 8 pattern;
- b. The diameter of the holes will be decreased to no more than 3 ½ inches;
- c. Mountain Cement Company will use adequate stemming to reduce flyrock; and
- d. All other procedures will be followed as previously described.

C. Additional Requirements when Blasting Downwind from Homes.

When blasting occurs in the permit area the following additional procedures will be followed:

- a. Mountain Cement will use its best efforts to prevent blasting between the hours of 12:00 AM to 1:00 PM, and after 3:00 PM;
- b. Mountain Cement will use its best efforts to avoid blasting when there is low cloud cover or a temperature inversion;
- c. Mountain Cement will use its best efforts to avoid blasting when the wind is blowing in the direction of nearby residences; and
- d. In the event that Mountain Cement is required to set off a blast when the wind is in the direction of nearby homes, or when there is a temperature inversion, the Company will call (i) any nearby neighbors expected to be affected by the blast, and (ii) DEQ-LQD prior to setting off any such blast.

Because there may be times when the foregoing conditions may come into conflict, it shall be understood that the foregoing conditions are listed in order of priority, with the first being the most important, and the last being the least important. Once holes are loaded with blasting material it is understood that the blast will take place during that same day for the safety of all persons.

MPVIII-4.5 Air Blast Limitations

Airblast at any dwelling, public building, school, church and community or institutional building located outside of the permit area shall not exceed the values specified below unless the building is owned by the operator and is not leased to another, or, if leased to another, the lessee has signed a waiver relieving the operator from meeting the airblast values. If necessary to prevent damage the Administrator shall specify lower maximum

Permit 298C-A7 NE¼NE¼  
Section 36 Area C LS Quarry  
Submitted: October 29, 2007

TFN 4 2/220  
Approved: \_\_\_\_\_  
Change No. \_\_\_\_\_

MPVIII-7

allowable airblast levels.

Lower frequency limit of measuring system, Hz (+/- 3dB)	Maximum level in dB
0.1 Hz or lower-flat response*	134 peak
2 Hz or lower-flat response	133 peak
6 Hz or lower-flat response	129 peak
C-weighted, slow response*	105 peak dBC

\*Only if approved by the Administrator.

At the request of the Administrator, the operator shall conduct periodic monitoring to ensure compliance with the airblast standards. The Administrator may request copies of complaints when blasting in sensitive areas, and in areas where there is reason to believe airblast limits may be exceeded. The measuring systems shall have a upper-end flat frequency response of at least 200 Hz.

**MPVIII-4.6 Peak Particle Velocity Limitations**

Maximum peak particle velocity applicable when seismograph records are provided for each blast:

Distance (D) from the Blasting Site in Feet	<sup>1</sup> Maximum allowable peak particle velocity (vmax) for ground vibration in inches/seconds <sup>1</sup>	<sup>2</sup> Scaled distance factor to be applied without seismic monitoring
0 to 300	1.25	50
301 to 5,000	1.00	55
5,001 and beyond	0.75	65

<sup>1</sup>Ground vibration shall be measured as the particle velocity. Particle velocity shall be recorded in three mutually perpendicular directions. The maximum allowable peak particle velocity shall apply to each of the three measurements.

<sup>2</sup>Applicable to the scaled-distance equation of the following paragraph.

An operator may use the scaled-distance equation,  $W=(D/Ds)^2$ , to determine the allowable charge weight of explosives that can be detonated in any 8 millisecond period without seismic monitoring (where W = the maximum weight of explosives, in pounds; D = the distance, in feet, from the blasting site to the nearest protected structure; and Ds = the scaled-distance factor, which may initially be approved by the Administrator using the values for scaled distance factor listed in the above paragraph).

trees planted will be replaced. Planting locations will be selected to best ensure survival and will be near the existing trees and drainage.

**RPVIII-5.4 Protection of Seeded Areas**

All seeded areas may be fenced if deemed necessary based upon land uses at the time of reclamation. If necessary, noxious weeds will be sprayed and eliminated as much as feasible. The decision to allow grazing when vegetation has been established will be made by the LQD, Mountain Cement and the landowner. The fence will be constructed according to WDEQ/LQD Guideline No. 10, Type III. Fences will be maintained two years or longer depending on vegetation stand establishment.

**RPVIII-5.5 Access Road Reclamation**

The access roads will be reclaimed unless otherwise agreed to by the property owner (State of Wyoming). This includes re-contouring, topsoil replacement, scarifying, seeding, and mulching.

**RPVIII-6.0 Reclamation Schedule**

Reclamation activities will be completed within approximately 2 years after mining is completed in limestone Area C mining area.

**RPVIII-7.0 Reclamation Costs**

Mountain Cement estimates that no more than 9.0 acres will be disturbed at any one time. Reclamation areas will require overburden replacement, re-contouring, topsoil replacement, final grading, and seeding. Table RPVIII-4 includes the cost estimates for reclaiming 9.0 acres of quarry disturbance.

Permit 298C-A7 NE<sup>1</sup>/<sub>4</sub>NE<sup>1</sup>/<sub>4</sub>  
Section 36 Area C LS Quarry  
Revised: October 29, 2007

TFN 4 2/220  
Approved: \_\_\_\_\_  
Change No. \_\_\_\_\_

RPVIII-11

MPVII-4.8.9 Surface Water and Ground Water Monitoring During Mining

Ground water samples will be taken from the Proposed Monitoring Well (PMW) #1, adjacent to the active mine area (Map MPVIII-1). The monitoring well will be monitored quarterly, and monitoring results will be submitted in the annual report. A baseline sample will be obtained for the new well prior to mining. Also, baseline analysis of the physical and chemical characteristics of the local ground water has been completed from Soldier Springs No. 2 (P45893W) (see Appendix DVIII6-Hydrology). The analysis includes testing for hardness, alkalinity, nitrate, petroleum hydrocarbons, conductivity and recording ground water levels.

MPVIII-4.9 Public Nuisance and Safety

This operation should not adversely impact human or other environmental resources. Trucks will generally be operated on a continuous time schedule, and hauling will take place seven days a week because the main processing plant operates on a 24-hour per day, 7 day per week schedule. Current production estimates require a minimum of 60 truckloads per day, but this could change if process modifications require more limestone. Private vehicle traffic should be minimal.

When excavated, the pit will be approximately 8 to 15 feet below the current ground surface (minimum). The pit area will negate the affects of daytime blasting.

The effects of dust created by crushing and hauling activities on nearby residences will be minimized to the maximum extent practicable by the use of dust suppressants (e.g. water, magnesium chloride). The effects of dust caused by blasting will be minimized by coordinated all blasts with climatic conditions to mitigate the migration of dust to residences (to the extent practicable).

During nighttime operations MCC will avoid shining stationary light plants on homes to the north and northwest.

MPVIII-4.10 Archaeological and Paleontological Resources

Archaeological or paleontological resources have not been observed within the Area C Limestone Quarry area. Any unanticipated archaeological or paleontological resources encountered will be immediately reported to the appropriate state and federal agencies.

***STORMWATER POLLUTION  
PREVENTION PLAN (SWPPP)***

**For**

***THE PIPER LIMESTONE QUARRY  
[THE PIPER, WARREN, AND ETCHEPARE  
QUARRIES ARE CONSOLIDATED INTO ONE  
PERMIT (NO. 298C)]  
MOUNTAIN CEMENT COMPANY  
LARAMIE, WYOMING***

Updated on November 14, 2006

Permit Authorization Number WYR320346

Submitted to:

Wyoming Department of Environmental Quality  
Water Quality Division  
Herschler Building  
122 West 25<sup>th</sup> Street  
Cheyenne, Wyoming 82002

Submitted by:

Mountain Cement Company  
5 Sand Creek Road  
Laramie, Wyoming 82070

Permit 298C-A7 NE¼NE¼  
Section 36 Area C LS Quarry  
Revised: October 29, 2007

TFN 4 2/220  
Approved: \_\_\_\_\_  
Change No. \_\_\_\_\_

MPVIII A-1



Exhibit A

# Office of the Attorney General

**Governor**  
Dave Freudenthal

Water and Natural Resources Division  
123 State Capitol  
Cheyenne, Wyoming 82002  
(307) 777-6946 Telephone  
(307) 777-3542 Fax

**Chief Deputy Attorney General**  
Elizabeth C. Gagen

**Attorney General**  
Patrick J. Crank

**Deputy Attorney General**  
Jay A. Jerde

December 15, 2005

Mr. Philip A. Nicolas  
Anthony, Nicolas, Tangeman & Yates, LLC  
P.O. Box 928  
Laramie, WY 82073-0928

**RE: Mountain Cement Company, Permit 298C - Notice of Violation, Docket  
No. 3488-033514-03**

Dear Mr. Nicolas:

Enclosed please find a fully executed copy of the Settlement Agreement for your client's files in the above referenced matter.

Should you have any questions, please do not hesitate to contact me or John Burbridge at (307) 777-6946.

Sincerely,

A handwritten signature in cursive script that reads "Shirley Ely".

Shirley Ely  
Paralegal to John Burbridge  
Wyoming Attorney General's Office

Enclosure

## SETTLEMENT AGREEMENT

The Wyoming Department of Environmental Quality, Land Quality Division ("DEQ/LQD"), Herschler Building, 122 West 25<sup>th</sup> Street, Cheyenne, WY 82002, and Mountain Cement Company ("Mountain Cement"), 5 Sand Creek Road, Laramie, Wyoming 82070 enter into this Settlement Agreement ("Agreement") to fully and finally resolve without litigation the violation cited in DEQ Notice of Violation Docket No. 3488-03 ("NOV"). The NOV alleges that Mountain Cement failed to keep land disturbances within the buffer zone of Cottonwood Creek, failed to keep maintained an alternative sediment control structure north of the channel of Cottonwood Creek, failed to minimize erosion, using a groundwater well for water monitoring that was not in compliance with its permit and constructing a diversion ditch without securing prior design approval from the DEQ/LQD, all in violation of the Wyoming Environmental Quality Act ("Act"), applicable Wyoming Land Quality Non-Coal Rules and Regulations ("NCRR") and permit 298C.

WYO. STAT. ANN. § 35-11-901(a)(ii) authorizes stipulated settlement, including payment of a penalty, in lieu of litigation. To that end, Mountain Cement and the DEQ/LQD hereby stipulate and agree as follows:

1. The DEQ/LQD is responsible for enforcing the Act, the NCRR, and permit 298C.

2. WYO. STAT. ANN. § 35-11-801 states in part, "In granting permits, the director may impose such conditions as may be necessary to accomplish the purpose of this act which are not inconsistent with the existing rules, regulations and standards."

3. On or about March 26, 1975, DEQ/LQD issued permit 298C to Mountain Cement.

4. Failing to comply with permit conditions is a violation of WYO. STAT. ANN. § 35-11-415(a) which states, "Every operator to whom any permit or license is issued shall comply with all requirements of this act, the rules and regulations promulgated hereunder, and reclamation plans and other terms and conditions of any permit or license."

5. On April 30, 2003, DEQ/LQD inspectors Clay Kimmi, Christine Mielnicki, Bill Hogg, Steve Ingle, and Rick Vincent inspected the mining operation authorized under permit 298C and discovered several violations.

6. Mountain Cement failed to comply with permit 298C, condition Map MP-1 which shows the present and future mining area as not encroaching into the Cottonwood Creek Drainage. Map MP-1 shows the buffer zone as being 100 feet from the edge of the



drainage where the banks of the drainage can be defined and 200 feet from the flow line where the banks can not be defined. The buffer zone is defined physically by visible steel posts at the mining site. Mining within the buffer zone is a condition of permit 298C.

7. Mountain Cement failed to properly maintain a hay bale check dam located north of the channel of Cottonwood Creek resulting in the release of a significant amount of sediment into the stream in violation of permit condition MP 3.4 of permit 298C which states: "Ditches, berms, and ASCMs will be used to prevent sediment from leaving the disturbed area."

8. Mountain Cement used a ground water well known as the "Heggie Well" for groundwater monitoring in violation of permit condition MP VII 4.5.9 which states: "groundwater samples will be obtained from the closest down gradient well from each active mine area provided permission is obtained from the owners of the wells." The "Heggie Well" is not the closest well to the active mining area in the Warren Pit and Mountain Cement is therefor not in compliance with permit 298C.

9. Mountain Cement failed to control runoff and to minimize erosion, sedimentation, and flooding through regular maintenance on Section 24 Piper Quarry Haul Road in violation of NCRR, Chapter 3, Section 2(i)(iii) and (i)(vi).

10. Mountain Cement constructed a temporary diversion ditch north of Cottonwood Creek without prior approval of the ditch design by LQD staff in violation of NCRR, Chapter 3, Section 2(e)(ii).

11. DEQ/LQD and Mountain Cement agree that Mountain Cement will pay the DEQ/LQD seven thousand five hundred dollars and no cents (\$7,500.00) as a stipulated cash settlement to resolve these alleged violations in lieu of litigation under WYO. STAT. ANN. § 35-11-901(a)(ii). Mountain Cement shall make full payment by check, made payable to the Wyoming Department of Environmental Quality, Land Quality Division, within thirty days after Mountain Cement has been notified by DEQ/LQD that the final signature has been affixed to this Agreement. Mountain Cement shall mail the payment to John S. Burbridge, Senior Assistant Attorney General, 123 Capitol Building, Cheyenne, WY 82002.

12. Full compliance with this signed Agreement shall constitute full satisfaction for all claims by the DEQ/LQD against Mountain Cement based on NOV Docket No. 3488-03, and solely in reliance on this Agreement, the DEQ/LQD will refrain from taking further enforcement action against Mountain Cement for these particular violations.

13. Mountain Cement waives any statute of limitations which may apply to an enforcement action by the DEQ/LQD involving the specific matters described in NOV

Docket No. 3488-03 in the event that Mountain Cement fails to fulfill its obligations under this Agreement.

14. This Agreement shall be admissible by either Mountain Cement or DEQ/LQD (hereinafter Mountain Cement and DEQ/LQD may be referred to individually as "Party" and collectively as "Parties") without objection by the other Party in any action between these Parties relating to the violations alleged herein; provided, however, that nothing herein constitutes an admission by Mountain Cement of liability or fault.

15. Neither Party hereto shall have any claim against the other for attorneys' fees or other costs incurred with the allegations resolved hereby, including costs incurred in the preparation of this Agreement. Each Party shall bear its own attorney fees and costs, if any, incurred through the date this Agreement is signed by both Parties. Each party assumes the risk of any liability arising from its own conduct. Neither party agrees to insure, defend or indemnify the other.

16. Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by the Parties shall be incorporated by written instrument, executed and signed by all Parties to this Agreement.

17. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the Parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.

18. This Agreement, consisting of four (4) pages represents the entire and integrated agreement between the Parties and supersedes all prior negotiations, representations, and agreements, whether written or oral.

19. The State of Wyoming and the DEQ/LQD do not waive sovereign immunity by entering into this Agreement and specifically retain immunity and all defenses available to them as sovereigns pursuant to WYO. STAT. ANN. § 1-39-104(a) and all other state law.

20. The Parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the Parties to this Agreement, and shall inure solely to the benefit of the Parties to this Agreement. The Parties to this Agreement intend and expressly agree that only Parties signatory to this Agreement shall have any legal or equitable right to seek to enforce this Agreement, to seek any remedy arising out of a Party's performance or failure to perform any term or condition of this Agreement, or to bring an action for the

breach of this Agreement.

21. Each Party represents that they are authorized to enter into this Agreement and agree to be bound hereby. This Agreement shall become binding upon the Parties once executed by all Parties.

IN WITNESS THEREOF, the Parties, by their duly authorized representatives, have executed this Agreement on the days and dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this Agreement:

MOUNTAIN CEMENT COMPANY:

By: Stuart Tomlinson  
~~William Sansing~~

9/9/05  
Date

STUART TOMLINSON  
APPROVAL AS TO FORM:

Philip A. Nicholas  
Philip A. Nicholas  
Attorney for Mountain Cement

9-10-05  
Date

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY

By: Richard Chancellor  
Richard Chancellor, LQD Administrator

03 Oct 05  
Date

By: John Corra  
John Corra, DEQ Director

10/28/05  
Date

APPROVAL AS TO FORM:

John S. Burbridge  
John S. Burbridge  
Senior Assistant Attorney General  
Attorney for DEQ/LQD

10.13.05  
Date



Exhibit B

# Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

November 22, 2006

Mr. Brian Waitkus  
Box 1411  
Laramie, WY 82073

**RE: Citizens Complaint Letter, Mountain Cement Company for fueling within the Etchepare 7 Quarry, Permit 298C and TFN 4 6/319**

Dear Mr. Waitkus:

The Land Quality Division (LQD) received your letter on November 14, 2006 concerning the fueling of equipment within the Etchepare 7 pit area by Mountain Cement Company (MCC) within Permit 298C. After discussing this activity with representatives of the company and conducting a field investigation on November 15, 2006, MCC has been required to submit a permit revision. This permit revision will address inconsistencies within the permit and will further address protection of the aquifer. We will contact the City of Laramie to discuss these changes with them. Attached is a report of our investigation.

Thank you for letter. If you have any other concerns or question concerning this issue, please contact Bill Hogg at 307-777-7057 or me at 307-777-7052.

Sincerely,

Lowell K. Spackman  
District I Supervisor  
Land Quality

c: Monte Buchanan  
Phil Nicholas  
Bill Hogg

Herschler Building • 122 West 25th Street • Cheyenne, Wyoming 82002 • <http://deg.state.wy.us>

ADMIN/OUTREACH  
(307) 777-7758  
FAX 777-3610

ABANDONED MINES  
(307) 777-6145  
FAX 777-6462

AIR QUALITY  
(307) 777-7391  
FAX 777-5616

INDUSTRIAL SITING  
(307) 777-7368  
FAX 777-6937

LAND QUALITY  
(307) 777-7756  
FAX 777-5864

SOLID & HAZ. WASTE  
(307) 777-7752  
FAX 777-5973

WATER QUALITY  
(307) 777-7781  
FAX 777-5973



## Complaint Inspection Report

**PERMIT:** 298C, Mountain Cement Company (MCC),  
Etchepare Pit (resulting in TFN 4 6/319)

**INSPECTORS:** Steve Ingle and Lowell Spackman, Land Quality  
Division (LQD)

**COMPANY REPRESENTATIVES:** Stuart Tomlinson, Tom Del Vecchio, Phil Nicholas,  
Steve Cooley, Michele Buckler

**DATE OF INSPECTION:** November 15, 2006

**DATE OF REPORT:** November 20, 2006

Steve Ingle and Lowell Spackman investigated Mr. Waitkus' complaint on November 15, 2006 that Mountain Cement Company (MCC) had been fueling in the Etchepare 7 Quarry. In his complaint letter of November 6, 2006, he states that this fueling is against the agreement to not fuel in the quarry area. It wasn't clear if "the agreement" that he referred to was in reference to his agreement with MCC. The original agreement, dated January 11, 2004, was rescinded with the "Stipulated Resolution to Objections" that was signed on October 16, 2006 by Mr. Waitkus and Mr. Phil Nicholas. This resolution states nothing related to fueling.

The currently approved permit states that "All fueling will occur in the designated area (shown on Map MPVII-3) to reduce potential impacts to the Casper Aquifer"; page MPVII-5A; the parenthetical phrase was added. However, earlier in the same paragraph it states that the designated fueling area is for parking and fueling of mobile equipment. Crushers, screens, and track equipment such as the drill-rig are generally not considered to be mobile equipment. It is not clearly stated in the approved permit that fueling of "non-mobile" equipment will be done only within the designated area. These inconsistencies in the permit make it difficult to enforce where fueling is allowed.

Although MCC was fueling the drilling-rig and screen outside of the approved designated area, they used Best Management Practices to limit the potential for spills. Therefore, potential impacts to the Casper Aquifer were minimized.

As a result of our investigation, MCC has been required to submit a revision to the Etchepare permit area. The revision was submitted the afternoon of the field investigation. The proposal is currently under review and will change as a result of this review. This initial revision proposes to locate designated refueling areas as the quarry advances as specified below:

1. The fueling areas will be constructed to accommodate the largest mobile equipment;
2. These areas will be placed in appropriate locations and covered with 6-mil plastic;
3. A layer (of specified thickness) of shale will be placed upon the plastic;

4. Berms will be used around each area to prevent contamination outside the refueling area; and
5. A spill kit will be located in each refueling area.

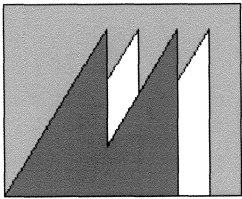
The Land Quality Division (LQD) should also require the fuel tanks to be double walled. Addition alterations to the proposal will be necessary before approval. The measures that will be approved will meet or exceed the Best Management Practices for fueling and fuel storage.

MCC has stopped fueling operations of equipment, other than the screen, outside the designated areas until the revision is approved. The fuel tank for the screen has been placed within a berm and protected with underlying plastic (**Photo No.1**).

MCC has been required to modify their permit as a result of this investigation as stated above. This revision will not require public notice because the currently approved permit had already addressed aquifer protection. This proposal changes some of the procedures and specifics for protecting the aquifer, however, the Administrator felt that Public Notice was previously provided showing that MCC is mining in this area. Nevertheless, LQD and MCC will contact the City of Laramie to discuss the changes in MCC's mine plan.



**Photo 1:** Fuel tank used for the screen that is located in a bermed area with a plastic liner. MCC has been asked to increase the size of the berm on the right provide added protection.



**MOUNTAIN**  
CEMENT COMPANY

Exhibit C

# MOUNTAIN CEMENT COMPANY

---

February 8, 2007

Mr. William Hogg  
Department of Environmental Quality  
Land Quality Division  
Herschler Building  
122 West 25th Street  
Cheyenne, WY 82002

**RE: Permit 298c;  
Portable Crusher/Screeners & Equipment Fueling Operations Permit Revision**

Dear Mr. Hogg:

Submitted for your review is a modified/revised mine plan text to address MCC's Mine Plan. The modification clarifies the crushing issue and equipment fuel operation. Please note that the SWPPP section (Appendix MPVIID) was updated and revised.

If you have any questions, please contact me at Mountain Cement by email ([scooley@mountaincement.com](mailto:scooley@mountaincement.com)), or by phone at **(307)745-4879 ext. 121**.

Sincerely,

Steve Cooley  
Environmental Manager

**INDEX SHEET FOR MINE PERMIT AMENDMENTS OR REVISIONS**

Page 1 of 1  
 February 8, 2007  
 TFN \_\_\_\_\_

MINE COMPANY NAME: Mountain Cement Company MINE NAME: Etchepare Limestone Quarry PERMIT NO. 298C-A5

Statement: I, Steve Cooley, an authorized representative of Mountain Cement Company declare that only the items listed on this and all consecutively numbered Index Sheets are intended as revisions to the current permit document. In the event that other changes inadvertently occurred due to this revision, those unintentional alterations will not be considered approved. Please initial and date. SC 2-8-07

- NOTES: 1) Include all revision or change elements and a brief description of or reason for each revision element.  
 2) List all revision or change elements in sequence by volume number; number index sheets sequentially as needed.

Description: **Portable Crusher/Screeners & Equipment Fueling Operations Revision**

VOLUME NUMBER	PAGE, MAP OR OTHER PERMIT ENTRY TO BE REMOVED	PAGE, MAP OR OTHER PERMIT ENTRY TO BE ADDED	DESCRIPTION OF CHANGE
Application for Permit to Mine	MPVII-i, MPVII-ii	MPVII-i, MPVII-ii	Replace TOC with revised Table of Contents (TOC).
Application for Permit to Mine	MPVII-3, MPVII-5, MPVII-5A, MPVII-5B, MPVII-12, MPVII-14	MPVII-3, MPVII-5, MPVII-5A, MPVII-5B, MPVII-12, MPVII-14	Replace MPVII pages in the mine plan with revised pages in the mine plan.
Application for Permit to Mine	MPVII-59 thru MPVII-71	MPVII-59 thru MPVII thru MPVII-71	Replace Title Page and entire contents of Appendix MPVIID (SWPP).



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Permit 298C-A5  
 Etchepare Limestone Quarry  
 Revised: February 8, 2007

TFN \_\_\_\_\_  
 Approved: \_\_\_\_\_  
 Change No. \_\_\_\_\_

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MPVII2.4 Nature of Ore Reserve

The mine sites and limestone resources are generally considered to be within the Casper Formation. The limestone consists of relatively thin seams between 0 and 18 feet thick.

Overburden thickness, overlying the limestone, generally ranges from 0 to 5 feet thick. However, the overburden thickness may reach 20 feet in isolated areas. These quarry sections generally have less than 2 feet, on average, of overburden and the limestone beds rest on sandstone. Limestone will be extracted as described in section MPVII4.0. During this extraction, a wall approximately 5 to 25 feet high will exist at the mining front as mining progresses. This wall will continually move as material is mined and may be benched if wall instability becomes a factor. The total amount of ore resource anticipated for mining is approximately 9.03 million tons within the affected area boundaries.

MPVII2.5 Other Minerals or Claims

There are no identified deposits of other minerals within the amendment area, and no other mineral claims exist within the amendment area.

MPVII3.0 Description of Operation

MPVII3.1 Facilities

Facilities will not be required on site as they are already existing at Mountain Cement Company's plant south of Laramie. A portable crusher/screening plant and associated power generation will be periodically located and operated at the site to process the limestone. This equipment may be relocated several times within each individual disturbed section as the mining progresses.

Permit 298C-A5  
Etchepare Limestone Quarry  
Revised: February 8, 2007

TFN \_\_\_\_\_  
Approved: \_\_\_\_\_  
Change No. \_\_\_\_\_

MPVII3.4 Solid Waste Management

Solid waste will not be produced at the site so disposal facilities will not be required. Any waste material from equipment or other sources will be removed from the site and managed properly.

A rented portable toilet will be maintained at the site at all times. This will be serviced by the supply vender.

MPVII3.5 Railroads or Other Facilities

There will be no permanent facilities at the site. Limestone materials may be processed by a portable crusher and/or screening plant, with associated power generation. At least one utility/tool trailer will be on site during operations.

The blasting contractor will occasionally maintain a powder magazine at the site.

MPVII3.6 Mineral Storage and Stockpile Sites

The limestone will generally be stockpiled in the lower end of each affected area section, but away from any sediment control devices such as sediment ponds. Topsoil and overburden will be stockpiled for later replacement during reclamation activities. The projected locations of these stockpiles are shown on Map MPVII-1. Actual existing and projected overburden and topsoil stockpile locations will be shown in more detail in the annual mine reports. Overburden stockpiles will be placed between the quarry and the nearest residences if feasible. If overburden is placed outside of the pit, topsoil will be stripped prior to placement.

MPVII3.7 Access Control Features

The site will not present a hazard to the public or animals. Lockable gates will be installed at all access points. Line of site permit markers will be erected to delineate the amendment areas. Existing livestock fencing will remain except in areas where mining will occur. The relatively low population density and the fencing will also assist in limiting public access.

Signs will be posted at all entrances with warnings describing site activity and restricting access to authorized personnel only. All new fencing will be placed as needed to protect livestock, wildlife, and humans from hazardous operations per LQD Guideline 10, "Fencing", Type 3.

Section MPVII3.8 Equipment Parking and Fueling Area

The Etchepare limestone quarry is within an area identified by the City of Laramie and Albany County as the Casper Aquifer recharge area (see Map DVII6-1a and Map MPVII-3). MCC will employ Best Management Practices (BMP) to prevent adverse impacts to the Casper Aquifer. Areas will be designated away from the mine pits and blasting areas (see MAP VII-3) for the blasting magazines, rented portable toilet, and storage shed containing equipment, tools, oil drums and anti-freeze drums. A portable fuel tank may be located at the designated area(s) for fueling equipment shown on the list below. Impermeable liners and berms will be used around any such fuel tank to prevent contamination of groundwater.

Mobile and track equipment used in the limestone mining process (including, but not limited to trucks, backhoes, loaders, bull-dozers, drill-rig(s), scrapers, etc.) are refueled via tanker trucks in designated fueling areas. These designated areas will move as necessitated by quarry operations. (MCC will provide a map showing the location of these designated refueling areas with its annual report). While fueling, a catch-pan/bucket will be utilized to catch any drips or spills. A spill kit will be located adjacent to all refueling areas to mitigate small spills. Each designated fueling area will be constructed as follows:

1. The refueling area will be large enough to accommodate a fuel tanker truck and the single largest mobile equipment to be used in the quarry;
2. The refueling area will be on an unfractured limestone bench near the mining face and will be covered with a minimum of 6-mil plastic and shale or fine sand;

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3. A layer of shale of sufficient thickness to prevent damage to the 6-mil plastic liner will be placed on the plastic;
4. A spill kit will be located in the refueling area;
5. A berm built of fine grained material that will prevent punctures of the liner will be constructed in a U-shaped configuration on the down-gradient side of the refueling area, and will consist of fine-grained quarry overburden or other appropriate material as determined by MCC. The berm will be sized in such a way as to contain the maximum possible spill;
6. Appropriate signage will be placed in the refueling area; and
7. Each designated refueling area will be certified by a qualified individual as to suitability.

Portable crusher/screening plants are powered by diesel or gasoline fired generators. These generators generally have an in-line primary fuel tank which will be located on a plastic liner. MCC will construct secondary containment consisting of a plastic-lined berm designed to contain the full contents of any such in-line fuel tank or other fuel storage units. The generator will be refueled by tanker truck as necessary. While fueling, a catch-pan/bucket will be utilized to catch any drips or spills.

General equipment maintenance will be done at the plant. However, if minor or emergency repairs are necessary at this area, a drop cloth will be used to catch potential contaminants.

Spill kits are located adjacent to all refueling areas, and contain a shovel, absorbents and disposal bags. Spills will be mitigated immediately utilizing mobile equipment (i.e. backhoes, loaders, haul trucks, etc.). Small spills will be mitigated using the spill kits. All contaminated material will be transported off-site and disposed of in accordance with applicable state, federal, and local laws.

All seams in plastic liners will be installed in such a manner that they will not be contaminant pathways. When a designated fueling area is decommissioned any underlying material and plastic liners will be properly disposed of or be decontaminated prior to reuse.

Aquifer below the affected areas ranges from 50 to over 300 feet. The water quality from drainages will not be detectably affected by mining operations. Affected water will be either detained to allow the sediment to settle or impounded in stormwater ponding areas. Leaks and spills occurring during mine activities will be addressed immediately. MCC has an approved Spill Prevention, Control & Countermeasure (SPCC) plan generalized for all of MCC's operations (e.g. mining); a Stormwater Pollution Prevention Plan (SWPPP) for this quarry, and employs BMP's to prevent impacts. MCC will utilize equipment to respond and control spills and leaks in the immediate area and dispose of any affected material. The spill will be contained in the immediate area to prevent further spreading (i.e. berms). Absorbents (i.e. dust, dirt, commercial absorbents) will be utilized to absorb excessive fluids. Any material affected by the spill or leak will be transferred to the plant. When fueling occurs in the fuel/parking area for mobile equipment, refer to the previous section MPVII3.8, "Equipment, Material Storage, and Fueling Operations", for further details of prevention and mitigation of spills. Appendix MPVIID, "Stormwater Pollution Prevention Plan (SWPPP)," also contains practices that MCC will use to reduce impacts to water resources in the Etchepare Quarry.

Surface water runoff will be minimally affected by mining operations due to sediment control measures associated with the ponding areas and rock check dams. The maximum reduction in watershed area due to all mining sections is limited to less than 0.04% of the entire Laramie River watershed upstream from the Little Laramie River and less than 8.3% of any individual watershed within the amendment area with a second order stream or greater. Ground water infiltration to the underlying aquifer will have an incremental but undetectable increase in recharge due to the temporary sediment control ponds.

Both the physical (sediment) and chemical (water quality) surface water baseline characteristics have been evaluated and are listed in Table DVII6-1.

MPVII4.6 Public Nuisance and Safety

This operation will not adversely impact human or other environmental resources. Trucks will be operated on a continuous time schedule, and hauling will take place seven days a week because the main processing plant operates on a 24-hour per day, 7 day per week schedule. See section 3.8 on access control features. Current production estimates require a minimum of 60 truckloads per day, but this could change if process modifications require more limestone. Private vehicle traffic will be minimal.

Mountain Cement Company will attempt to minimize nighttime crushing, screening, and power generation operations. Nighttime activities will not occur until a pit is constructed to contain and shield mining equipment. Mountain Cement Company shall not use any light plants during night operations until it has first mined limestone and relocated its crusher and lights in the pit created from mining. During nighttime operation MCC will avoid shining stationary light plants on homes to the west and northwest. MCC operators will also use their best effort to avoid shining the lights of mobile equipment on homes.

When excavated, the pit will be approximately 8 to 15 feet below the current ground surface, and the topsoil and overburden stockpiles will be placed in such a way as to minimize or negate the affects of nighttime operations and will also assist in minimizing the affects of daytime blasting.

The effects of dust created by crushing, screening, and hauling activities on nearby residences will be minimized to the maximum extent possible by the use of dust suppressants (magnesium chloride). The effects of dust caused by blasting will be minimized by coordinating all blasts with optimum climatic conditions to mitigate the migration of dust to residences.

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**APPENDIX MPVIID**

STORMWATER POLLUTION PREVENTION PLAN  
(SWPPP)

Permit 298C-A5  
Etchepare Limestone Quarry  
Revised: February 8, 2007

TFN \_\_\_\_\_  
Approved: \_\_\_\_\_  
Change No. \_\_\_\_\_

***STORMWATER POLLUTION  
PREVENTION PLAN (SWPPP)***

For

***THE PIPER LIMESTONE QUARRY  
[THE PIPER, WARREN, AND ETCHEPARE QUARRIES  
ARE CONSOLIDATED INTO ONE PERMIT (No. 298c)]  
MOUNTAIN CEMENT COMPANY  
LARAMIE, WYOMING***

Updated on November 14, 2006

Permit Authorization Number WYR320346

Expires March 31, 2007

Submitted to:

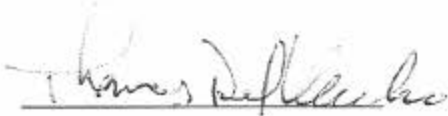
Wyoming Department of Environmental Quality  
Water Quality Division  
Herschler Building  
122 West 25<sup>th</sup> Street  
Cheyenne, Wyoming 82002

Submitted by:

Mountain Cement Company  
5 Sand Creek Road  
Laramie, Wyoming 82070

**CERTIFICATION**

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.



Tom Del Vecchio  
Plant Manager  
Mountain Cement Company

## SECTION I

### INTRODUCTION

The Piper Limestone Quarry is located approximately three miles southeast of Laramie, Wyoming. The Piper Quarry, the Warren Quarry and the Etchepare Quarry have been consolidated into one permit per the request of the Wyoming Department of Environmental Quality, Land Quality Division. These quarries lie adjacent to each other and will hereafter be referred to as the Piper Quarry. Mountain Cement Company will extract approximately 500,000 tons of limestone from these quarry pits each year. Limestone is a raw material used in the manufacturing of cement. The amount of material removed annually and; thereby, the life of the quarry will be dependent on economic conditions and the cement market.

The Stormwater Pollution Prevention Plan (SWPPP) describes practices and procedures for preventing stormwater and snowmelt runoff from being contaminated. The plan fulfills the requirements of Appendix B of the National Pollutant Discharge Elimination System (NPDES). Potential contaminants from these quarries include suspended sediment, limestone, and vehicular fluids.

## SECTION II

### POLLUTION PREVENTION TEAM

The employee responsible for environmental compliance at the MCC plant and quarries is:

Environmental Manager  
Mountain Cement Company  
5 Sand Creek Road  
Laramie, Wyoming 82070  
(307) 745-4879

The Environmental Manager at the MCC facility is the SWPPP Team Leader for the quarry and is the contact person for the Wyoming Department of Environmental Quality (WDEQ). The Team Leader will implement the SWPPP developed in this document. The Environmental Manager must have a thorough knowledge of the Piper Limestone Quarry including site layout and operation. The Environmental Manager's current responsibilities include an understanding of the environmental requirements of the MCC plant and affiliated operations.

The Environmental Manager, or his designee, will perform quarterly inspections of all the pollution control structures and activities associated with the quarry's SWPPP, and will also be responsible for revising the SWPPP to accommodate growth of operational changes at the quarry. The Environmental Manager will keep all records, submit all

reports, and coordinate employee training. The records documenting all applicable testing and monitoring results and a copy of the SWPPP will be available for inspection by WDEQ personnel at the plant. Certification of this report will be done by the MCC Plant Manager.

Mountain Cement Company is committed to providing the Environmental Manager and other appropriate personnel with continuing classroom and field training recommended or required by the WDEQ. If the Environmental Manager cannot fulfill all obligations under this SWPPP due to organizational changes within the company or for any other reasons, MCC will designate a new SWPPP Team Leader within six (6) months.

### **SECTION III**

#### **DESCRIPTION OF POTENTIAL POLLUTION SOURCES**

Limestone is mined at the Piper Quarry for the manufacture of Portland cement. The limestone is mined, crushed, and screened to an appropriate size and stockpiled until ready to be hauled to the cement plant. The crushed rock is transported to the plant as needed for the production of cement. The Piper Quarry is currently one of two quarries actively being mined for its limestone reserves.

The potential pollution sources for the Piper Quarry are suspended sediment from the disturbed area and fuel, oil, hydraulic fluids, or antifreeze spills from equipment used in the quarry.

The primary method to control and minimize sediment runoff from the mine site will involve diverting water into stormwater ponding areas where sediment will be allowed to settle. These ponds will be capable of retaining design stormwater quantities as required by the Land Quality Division's Guideline No. 13. Natural low areas and highwalls will be utilized to impound all surface water. Drainage ditches will also be used to funnel water away from the active pit if deemed necessary. Check dams or hay bales will be placed strategically in the ditches to reduce the amount of sediment in the discharged water.

Topsoil will be stockpiled to form a barrier at the boundary of the disturbed area and along the access road. This will reduce the possibility of suspended sediment migrating from the disturbed site. All topsoil stockpiles will be surrounded by toe-ditches and revegetated to reduce the possibility of suspended sediment from the stockpiles contaminating the stormwater.

Overburden stockpiles will also be used as a berm at the boundary of the disturbed area when needed and feasible. This will further reduce migration of suspended sediment from leaving the disturbance area of the quarry.

There is limited storage of diesel fuel at the quarry. Secondary containment is provided for any storage of the diesel fuel, including utilizing a double-walled tank and lined containment area. Mobile equipment is refueled via truck. During mining activities, the necessary equipment is brought to the mine and used until the mining activities cease.

The equipment used in mining will then be removed. The equipment necessary for reclaiming the site will be removed immediately following reclamation activities.

An earthen berm of overburden will surround the disturbed area when needed to prevent contaminants from leaving the disturbed area with the stormwater runoff. Ditches will be constructed on either side of the access road. Sediment control such as check dams or hay bales will be placed inside ditches when necessary to reduce sediment loss from the disturbance site.

### **BEST MANAGEMENT PRACTICES (BMP)**

1. The stormwater ponding areas will be inspected quarterly to ensure the integrity of the impoundments.
2. The berm(s) around the disturbed area will be inspected quarterly for breaks or undercuts.
3. The ditches around topsoil stockpiles will be inspected quarterly for breaks or sediment buildup.
4. The ditches along the access road will be inspected quarterly for breaks or sediment buildup. The ditches will be revegetated to minimize erosion.
5. During reclamation operations, berms will be constructed around the equipment parking area.
6. Any fluids temporarily stored at the site will be situated inside secondary containment and will not be located near disturbance boundaries.
7. Mobile equipment refueling activities are conducted only under direct supervision.
8. Diesel fuel storage is only allowed in double-walled tanks placed in a lined containment area.

## **SECTION IV**

### **SITE MAP**

The site map of the Piper Limestone Quarry shows the future location of the stormwater ponds, the containment berms around the disturbed area, the toe-ditches around the topsoil stockpiles and the ditches along the access road. All stormwater runoff from the disturbed area is retained within the quarry area. Due to the nature of the screening operations, the diesel fuel storage tank will relocate as necessary to facilitate mining activities.

## **SECTION V**

### **DRAINAGE**

Stormwater is limited to the disturbed area by a stormwater pond and a containment berm. Toe-ditches surround the topsoil stockpiles preventing sediment from the stockpiles from contaminating runoff. Runoff from the disturbed areas will be retained in the quarry pit. Once mining activities cease in the quarry, the area will be reclaimed and erosion will be reduced to pre-disturbance levels.

## **SECTION VI**

### **INVENTORY OF EXPOSED MATERIALS**

Topsoil, overburden and limestone will be stockpiled within the disturbance areas. To minimize stormwater contamination, topsoil stockpiles are surrounded by toe-ditches. Topsoil is revegetated within one year of being stockpiled. The sediment from the limestone stockpiles and the disturbed area is retained within the quarry pit by berms and sediment control devices.

## **SECTION VII**

### **SPILLS AND LEAKS**

There have been no significant spills or leaks of toxic or hazardous pollutants at the Piper Limestone Quarry. All spills and leaks will be immediately contained and cleaned up and reported to the Environmental Manager. Appropriate agencies will be notified in the case of reportable spills or leaks and all incidents will be recorded and kept on file in the Environmental Manager's office.

## SECTION VIII

### SAMPLING DATA

The NPDES Permit for the Piper Quarry does not require stormwater sampling. MCC has not conducted any stormwater sampling at this site.

## SECTION IX

### RISK IDENTIFICATION AND SUMMARY OF POTENTIAL POLLUTION SOURCES

All activities related to the Piper Limestone Quarry are confined to within the disturbance area or the containment ditches. Toe-ditches and berms are constructed to control water runoff. Equipment used at the quarry will be fueled, parked, and maintained using best management practices. Therefore, the risk of pollution due to stormwater runoff is highly unlikely.

## SECTION X

### MEASURES AND CONTROLS

#### **1. Good housekeeping**

The Piper Limestone Quarry has a controlled stormwater discharge point. Good housekeeping procedures include keeping all operations within the boundaries of the disturbed area. Stockpiles and stormwater ponds will be removed or incorporated into the reclamation plan. Post-mining surface water impoundments are not projected for the area.

During mining operations and future reclamation activities:

- ∞ Equipment maintenance, parking, and refueling will be kept within the boundaries of the disturbed area
- ∞ Contaminated soil in the equipment parking areas will be removed and disposed of in a permitted landfill or incinerator.
- ∞ Equipment will be brought to the quarry as needed for operations and reclamation tasks. This equipment will be removed immediately following the completion of these activities.



## **2. Preventive Maintenance**

Quarry preventive maintenance practices involve quarterly inspection of the reclamation area containment berms for breaks, undercutting, and debris or sediment buildup. The sediment control ditches will also be inspected for sediment buildup, obstructions, and debris.

During mining operations and future reclamation activities:

- ∞ All equipment will be routinely maintained to ensure proper operation.

## **3. Spill Prevention and Response Procedures**

Diesel fuel is stored for generator refueling activities at the Piper Limestone Quarry. Operation and reclamation activities may potentially create small spills of fuel, oil, hydraulic fluids, or antifreeze onto the ground. Contaminated soil will be disposed of in a permitted landfill or incinerator. Quarry employees have been trained to quickly respond to any and all spills so the possibility of discharging any equipment fluids is highly unlikely.

## **4. Inspections**

The SWPPP Team Leader will inspect the Piper Limestone Quarry a minimum of quarterly for compliance with the SWPPP. The inspection will also track the progress of the SWPPP. The results of the inspection and the progress of the SWPPP will be recorded and retained at the MCC Plant site with the SWPPP for a minimum of three years.

After reclamation is complete, the Piper Quarry will be inspected yearly to ensure that soil erosion has stabilized and that sediment control structures and revegetation measures are effectively protecting stormwater runoff from the quarry.

A Notice of Termination (Appendix 1) will be filed with the Wyoming Department of Environmental Quality, Water Quality Division after three yearly inspections with no evidence of sediment leaving the quarry disturbed area.

## **5. Employee Training**

Employee training will occur once a year for all MCC employees working in MCC's quarries. The training sessions will include an overview of the Piper Limestone Quarry operation and the MCC Plant site. The NPDES permits for the plant and the Piper Quarry will also be discussed. The training session will also include:

- ∞ The identity of the SWPPP Team Leader.
- ∞ A list of potential stormwater pollution sources and their location at the Piper

Limestone Quarry.

- ∞ Good housekeeping procedures discussed in Section X, Part 1 of the SWPPP will be presented. The responsibilities of the employees regarding the SWPPP will be emphasized.
- ∞ Preventive Maintenance Procedures discussed in Section X, Part 2 of the SWPPP will be discussed. The responsibilities of the employees regarding the SWPPP will be emphasized.
- ∞ Inspections, monitoring and sampling plans for the Piper Limestone Quarry will be discussed.
- ∞ The Best Management Practices described in the SWPPP for the quarry will be discussed.
- ∞ Mountain Cement Company's SWPPP implementation schedule and enforcement policy for the Piper Limestone Quarry will be discussed.

## **6. Record Keeping and Internal Reporting Procedures**

The SWPPP Team Leader will make quarterly inspections of the Piper Limestone Quarry to ensure proper operation of the SWPPP. Records will be kept at the MCC Plant with the SWPPP for the Piper Limestone Quarry.

Activities recorded include:

- ∞ Records of spills or leaks including the time, date, and weather conditions when the incident occurred.
- ∞ Records of training sessions
- ∞ Maintenance, repair, or construction of stormwater management structures.
- ∞ Inspection findings and corrective actions required

## **7. Non-Storm Discharges**

The drainage system at the Piper Limestone Quarry is above ground. There are currently no non-storm discharge points at the quarry.

## **8. Sediment and Erosion Control**

The Piper Limestone Quarry will be surrounded by earthen berms to contain soil erosion and storm water runoff. Sediment will be inhibited from migrating outside the quarry site by the stormwater ponds and rock check dams and/or hay bales in the drainage ditches. Toe-ditches will surround the topsoil stockpiles to prevent stormwater erosion. Topsoil stockpiles will also be vegetated to inhibit erosion. Quarry reclamation will also include revegetating the disturbed area. The vegetation and reclamation plan will limit erosion from the Piper Limestone Quarry.

## **9. Management of Runoff**

All stormwater runoff from the Piper Limestone Quarry will be retained within the disturbed area boundary using ponds, berms, ditches, and the natural site drainage.

# **SECTION XI**

## **COMPREHENSIVE SITE COMPLIANCE EVALUATION**

During the quarterly inspections of the Piper Limestone Quarry, the SWPPP Team Leader will evaluate the operation and effectiveness of the SWPPP. The evaluation will determine if measures to contain stormwater runoff sediment within the disturbed area are adequate or if other stormwater runoff control is needed. The inspection will also evaluate the condition of the SWPPP control measures. The inspection will ensure that no sediment is escaping the control devices. After reclamation, the inspections will determine if the erosion control structures and revegetation measures are adequate to prevent further erosion from the reclaimed area. After the reclaimed area has stabilized, a Notice of Termination will be filed.

A report summarizing any observations made by the inspector(s) will be signed by the inspector(s) and retained on file for at least three years. The author of the report and the date and time of the inspection will also be recorded. Any deficiencies or potential deficiencies will be corrected as soon as possible.

# **SECTION XII**

## **CONSISTENCY WITH OTHER PLANS**

This plan includes several Good Housekeeping Procedures and follows many of EPA's Best Management Practices outlined in Stormwater Management for Industrial Activities. The SWPPP will include sediment control measures and slope stabilization techniques associated with the quarry reclamation plan.

*APPENDIX 1*

**NOTICE OF TERMINATION**

## NOTICE OF TERMINATION REQUIREMENTS

The Notice of Termination shall include:

1. The mailing address of the industrial site for which the notification is submitted. Where a mailing address is not available, the location of the approximate center of the site must be described in terms of the latitude and longitude to the nearest 15 seconds, or the nearest section, township and range to the nearest quarter;
2. The name, address and telephone number of the operator addressed by the Notice of Termination;
3. The NPDES Permit number for the storm water discharge identified by the Notice of Termination;
4. The indication of whether the stormwater discharges associated with the industrial activity have been eliminated or the operator of the discharges has changed;
5. The following certification signed in accordance with the signatory requirements of this permit:

*“I certify under penalty of law that all storm water discharges associated with industrial activity from the identified facility that are authorized by an NPDES general permit have been eliminated or that I am no longer the operator of the industrial activity. I understand that by submitting this notice of termination that I am no longer authorized to discharge stormwater associated with industrial activity under this general permit and that discharging pollutants in storm water associated with industrial activity to waters of the United States is unlawful under the Clean Water Act where the discharge is not authorized by an NPDES permit. I also understand that the submittal of the notice of termination does not release an operator from liability for any violations of this permit or the Clean Water Act.”*

For the purposes of certification, elimination of storm water discharges associated with industrial activity means that all disturbed soils at the identified facility have been finally stabilized and temporary erosion and sediment control measures have been removed at an appropriate time, or that all storm water discharges associated with construction activities from the identified site that are authorized by a NPDES general permit have otherwise been eliminated.

CERTIFICATE OF SERVICE

I, TERRI A. LORENZON, certify that at Cheyenne, Wyoming, on the 24<sup>th</sup> day of September, 1997, I served a copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER by depositing copies of the same in the United States mail, postage prepaid, duly enveloped and addressed to:

James Weger and  
Aleida Matthies  
916 Canby Street  
Laramie, WY 82070

Bill Brantz and  
Holly Brantz  
1565 N. 22nd  
Laramie, WY 82070

Edward J. Delaney and  
Mary R. Delaney  
5200 Howe Lane  
Laramie, WY 82070

Brian R. Waitkus  
Box 1411  
Laramie, WY 82070

Stuart B. Wohl  
1255 Fairfax Court  
Fort Lauderdale, FL 33326

Millard Johnson and  
Deanna Johnson, and  
Summit Estates Landowners Assoc.  
566 North 9th Street  
Laramie, WY 82070

Linda Blair & Family  
4948 Howe Lane  
Laramie, WY 82070

Richard Uren  
67 Eagle Nest Lane  
Laramie, WY 82070

Philip Nicholas (and also by fax)  
P. O. Box 928  
Laramie, WY 82070


Dr. Bradley Walgren  
1413 Kearney  
Laramie, WY 82070

and also to the following persons via interoffice mail:

Dennis Hemmer, Director  
Department of Environmental Quality  
122 W. 25th Street, Herschler Building  
Cheyenne, WY 82002

Thomas A. Roan  
Senior Assistant Attorney General  
Attorney General's Office  
123 Capitol Building  
Cheyenne, WY 82002

Rick Chancellor, Administrator  
Land Quality Division  
Department of Environmental Quality  
122 W. 25th Street, Herschler Bldg.  
Cheyenne, WY 82002

  
TERRI A. LORENZON  
Director/Attorney  
Environmental Quality Council