

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

**FILED**

SEP 14 1993

Terri A. Lorenzon, Attorney  
Environmental Quality Council

IN THE MATTER OF A MINING )  
PERMIT APPLICATION OF ) DOCKET NO. 2373-92  
RISSLER & MCMURRY, INC., )  
TFN 2 6/247 )

*411  
Orders*

**O R D E R S**

This matter came before the Environmental Quality Council (Council) for hearing on August 25, 1993 at the Oil & Gas Commission Building (Basko Building), 777 W. 1st Street, Casper, Wyoming. Kim D. Cannon, a member of the Environmental Quality Council served as Hearing Examiner. Also present was Fred H. Carr, a member of the Environmental Quality Council, and Terri A. Lorenzon, attorney for the Environmental Quality Council. Christopher H. Hawks and Gary L. Shockey of Lawyers and Advocates for Wyoming appeared on behalf of Bessemer Mountain; Tom Roan and Jane Caton, Assistant Attorneys Generals appeared on behalf of the Department of Environmental Quality, Land Quality Division (DEQ); and Donald J. Rissler and John R. Hursh of Central Wyoming Law Associates appeared on behalf of Rissler & McMurry Company, Inc. (Applicant). Richard Lincoln, previously a party to this case, failed to appear.

Motions were filed by the parties appearing before the Council, and this Order will set forth the ruling on several motions. In addition, this Order will set forth the Hearing Examiner's revised schedule for discovery, and submission of final list of exhibits and witnesses.

**MOTION TO STRIKE:**

Rissler & McMurry Company, Inc. (the Applicant) filed a motion for an order striking a portion of the caption used by the Friends of Bessemer Mountain (Protestants) wherein it states "Rissler & McMurry, Inc., Applicant, versus Friends of Bessemer Mountain, Protestant." Having heard the arguments and read the briefs of the parties, the Hearing Examiner finds that all parties shall use a caption in this case which sets forth the mine permit application that is at issue, the mine permit applicant's name, the temporary filing number of the permit application, and the docket number. The parties may add supplemental material to this information at their discretion.

**MOTION TO CONTINUE:**

Friends of Bessemer Mountain (Protestant) filed a Motion to Continue the

contested case hearing on ground that when the DEQ certified that the application was complete on July 8, 1993, the application was incomplete. The Protestant claimed that the application did not contain the necessary information on the depth to groundwater, did not contain a soils map, did not contain a time table for reclamation, did not contain a map showing all mining activities, did not contain landowner consent, did not contain surface owner consent, did not contain a plan for handling toxic and hazardous materials, did not contain information soil suitability for wildlife and livestock habitat, and contained no wildlife studies or raptor habitat information. Having heard the arguments and read the briefs of the parties, the Hearing Examiner found that the Motion to Continue should be denied at this time as the question of whether the application is complete will be a matter to be determined by the Council after the presentation of evidence.

### **SCHEDULING ORDER:**

All parties agreed to revise the scheduling order that was issued by the Council on August 18, 1993. Discussing the schedule with the parties, the Hearing Examiner found that the scheduling order of August 18th should be rescinded and a new scheduling order should be issued.

## **ORDER**

IT IS HEREBY ORDERED THAT:

1. The Applicant's Motion to Strike Caption is denied.
2. The Protestant's Motion to Continue is denied at this time.
3. The Scheduling Order set forth in the Order set forth by the Council on its August 18, 1993 Order is rescinded, and the following schedule is established:
  - A. All exhibits referenced in the parties Prehearing Memorandums submitted through August 25, 1993 shall be exchanged by the end of the business day on September 10, 1993. Each exhibit shall be accompanied by a new index which shall list the exhibits according to the numbering system established at the August 25, 1993 hearing. That is, the State shall use Exhibit Nos. 1 through 99, with Exhibit 1 being the mine permit application. Rissler & McMurry Company, Inc. shall begin numbering of its exhibits with No. 100, and continue through the end of its exhibits. Friends of Bessemer Mountain shall identify their exhibits through the use of letters, beginning with the letter A. A copy of the new exhibit indexes should be provided to the Council by the end of the business day on September 10, 1993.
  - B. The parties shall file all objections to the exhibits that will be exchanged on September 10th, by the end of the business day on September 17, 1993.



C. The parties may add exhibits to their lists up to ten (10) days prior to the hearing dates that will be established for the evidentiary portion of the hearing. Written objections must be filed no later than three (3) days prior to the evidentiary portion of the hearing.

D. The lists of witnesses that have been submitted through August 25, 1993 are final, and where the phone numbers have not been provided for the witnesses, the phone numbers will be provided by the end of the business day on September 3, 1993.

E. The parties may only add witnesses to their list through motions filed with the Council.

IT IS SO ORDERED THIS 14<sup>th</sup> day of September, 1993.

  
KIM D. CANNON, Hearing Examiner 

CERTIFICATE OF SERVICE

I, Terri A. Lorenzon, certify that at Cheyenne, Wyoming, on the 14<sup>th</sup> day of September, 1993, I served a copy of the foregoing ORDERS by depositing copies of the same in the United States mail, postage prepaid, duly enveloped and addressed to:

Donald J. Rissler  
Central Wyoming Law Assoc., P.C.  
105 South 6th East  
P. O. Box 1783  
Riverton, WY 82501

Christopher H. Hawks  
Gary L. Shockey  
Lawyers & Advocates for Wyoming  
P. O. Box 548  
Jackson, WY 83001

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

Roger Shaffer, Administrator  
Department of Environmental Quality  
Land Quality Division  
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