

51

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL STATE OF WYOMING

FILED

JAN 21 1994

Terri A. Lorenzon, Attorney Environmental Quality Council

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

DEPARTMENT'S RESPONSE TO PROTESTANT'S MOTION TO COMPEL AND SUPPLEMENT TO MOTION TO CONTINUE

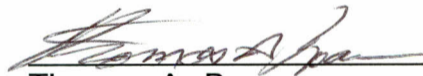
The Department of Environmental Quality, Land Quality Division, by and through the Office of the Attorney General, responds to the Protestant's Motion to Compel and Supplement to Motion to Continue The Contested Case Hearing as follows:

- 1. The Protestant has requested that Roger Shaffer, Pat Baumann and Steve Ingle answer Depositions Upon Written Question. See attachments. The DEQ is willing to respond to the majority of the questions in the Protestant's discovery.
2. The DEQ objects to Deposition Upon Written Question for Roger Shaffer, questions three through seven, on the ground that the questions are unduly burdensome.
3. The DEQ will respond to the remaining questions. The issue is an appropriate deadline for the response to those questions. If the Council grants the Protestant's Motion to Continue, it is unduly burdensome for the DEQ to be required to answer prior to the Designation Hearing. The DEQ has agreed to prepare and submit responses immediately following that hearing.
4. If the Council will not continue the hearing, the DEQ will immediately thereafter respond to the discovery request, except those objectionable questions identified above, unless otherwise ordered by the Council.

5. The DEQ has not answered the discovery to date, because the Protestants are asking the DEQ to describe its decision with respect to the application in question, as well as the reasoning for the decision. Clearly, the very basis for the discovery, as well as this case, is the application. The application now pending before the Council could be changed to address the impending decision of the Council on the Designation Petition. If the DEQ answers the discovery now, it would presumably be forced to answer the discovery a second time, if the application is changed. It is unduly burdensome to require the DEQ to respond twice to the same discovery.
  
6. The DEQ understands the Protestant's need for discovery, and therefore does not object to a continuance, provided the delay is no more than is absolutely necessary.

WHEREFORE, the DEQ requests that the Protestant's Motion to Compel and its request for costs be denied.

DATED January 20, 1994.



---

Thomas A. Roan  
Senior Assistant Attorney General  
123 Capitol Building  
Cheyenne, WY 82002  
(307) 777-7841

**CERTIFICATE OF SERVICE**

I, Thomas A. Roan, do hereby certify that on January 20, 1994, I transmitted a true and correct copy of the foregoing ***Department's Response to Protestant's Motion to Compel and Supplement to Motion to Continue The Contested Case Hearing*** by placing the same in the United States mail, postage prepaid, addressed to the following:

Don Rissler  
Central Wyoming Law Associates., P.C.  
P.O. Box 1783  
Riverton, WY 82501

Christopher H. Hawks, Director  
Lawyers and Advocates for Wyoming  
P.O. Box 548  
Jackson, WY 83001

  
Thomas A. Roan  
Senior Assistant Attorney General