

FILED

MAR 27 1987

Terri A. Lorenzon, Adm. Aide  
Environmental Quality Council

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

IN THE MATTER OF PERMIT NO. MD-64 )  
ISSUED BY THE WYOMING DEPARTMENT OF )  
ENVIRONMENTAL QUALITY AND THE AIR )  
QUALITY DIVISION TO AMAX COAL COMPANY )  
TO MODIFY OPERATIONS AT THE BELLE )  
AYR MINE )

ENVIRONMENTAL QUALITY  
COUNCIL

Docket No. 1905-87

PETITION TO THE ENVIRONMENTAL QUALITY COUNCIL  
TO PROTEST AND APPEAL A PERMIT ISSUED TO  
AMAX COAL COMPANY FOR THE BELLE AYR MINE

Pursuant to W.S. 35-11-112(a)(iv) and (c)(ii) and Chapter I, Section 3 and Section 16 of the Department of Environmental Quality Rules of Practice and Procedure (DEQRPP), The Carter Mining Company hereby protests and objects to Permit No. MD-64 issued to Amax Coal Company for the Belle Ayr Mine and requests a hearing before the Environmental Quality Council.

As required by Chapter I, Section 3.c of DEQRPP, The Carter Mining Company submits the following information:

1. The name and address of the party protesting the permit and requesting a hearing is The Carter Mining Company, a division of Exxon Coal USA, Inc., Post Office Box 3007, Gillette, Wyoming 82716. The name and address of the attorneys representing The Carter Mining Company are: Brent R. Kunz of HATHAWAY, SPEIGHT, KUNZ, TRAUTWEIN & BARRETT, P.O. Box 1208, Cheyenne, Wyoming 83003-1208, and Paul Plummer, Exxon Coal and Minerals Company, P.O. Box 1314, Houston, Texas 77251-1314.

2. The permit upon which the objection and request for a hearing is made is Permit No. MD-64 issued by the Department of Environmental Quality and the Air Quality Division on January 27, 1987, to Amax Coal Company for the Belle Ayr Mine.

3. The Carter Mining Company objects to the permit for the following reasons:

a. The Air Quality Division approved the Belle Ayr permit on a basis which was denied to The Carter Mining Company in a previous permit application for the Caballo Mine, which is located just north of the Belle Ayr Mine. Permit No. MD-64 will allow Belle Ayr to have more total permitted production capacity over the life of the mine than the available coal reserves. The coal progression map in the Belle Ayr permit application is based on a coal production schedule different from the schedule approved in the permit. The result is that this permit will afford the Belle Ayr Mine significantly greater operating flexibility than DEQ and AQD allowed The Carter Mining Company's Caballo Mine. This is contrary to past agency practices. The decision violates the Wyoming Environmental Quality Act and the rules and regulations of the Department of Environmental Quality. Furthermore, it is a denial of equal protection of the law.

b. The air modeling analysis supporting the Belle Ayr permit is inadequate and fails to comply with the requirements of Wyoming Air Quality Standards and Regulations, Section 21. Among other things, unlike other recent permit applications in the same region, AQD did not perform its own air modeling for years prior to 2001.

4. The Carter Mining Company respectfully requests a hearing before the Environmental Quality Council.

WHEREFORE, The Carter Mining Company requests a hearing in this matter before the Environmental Quality Council and requests the Council to order that Permit No. MD-64 be revoked in accordance with W.S. 35-11-112(c)(ii).

FURTHER, in light of the current efforts under the settlement agreement entered into by the parties in EQC Docket No. 1656-85, The Carter Mining Company requests that all hearings and proceedings in this matter be stayed during the continuation of the work under the settlement agreement.

DATED this 27 day of March, 1987.

HATHAWAY, SPEIGHT, KUNZ, TRAUTWEIN  
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