

FILED

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

OCT 29 1985

Terri A. Lorenzon, Adm. Aide
Environmental Quality Council

In the Matter of a Permit)	
Application from Mobil Coal)	
Producing, Inc. P.O. Box)	
17772, Denver, CO 80217)	Petition for Hearing
to Construct a Coal Mining)	of AMAX Coal Company
Operation in Campbell County,)	
Wyoming)	Docket No. 1656-85

I. REQUEST FOR HEARING

Pursuant to Chapter I, Section 3.c. of the Department of Environmental Quality General Rules of Practice and Procedure, AMAX Coal Company ("AMAX"), a Division of AMAX Inc., hereby requests a hearing before the Environmental Quality Council ("Council") to contest a decision, dated August 30, 1985, by the Air Quality Division ("Division") and the Department of Environmental Quality ("Department") to grant a construction permit to Mobil Coal Producing, Inc. ("Mobil") to modify Mobil's Caballo Rojo Mine.

II. PROCEDURAL BACKGROUND

On March 28, 1984, Mobil applied for a permit to modify its Caballo Rojo Mine in Campbell County, Wyoming. Section 21 of the Wyoming Air Quality Regulations sets out the requirements, including a demonstration that the proposed facility will not prevent the attainment or maintenance of any ambient air quality standard, which must be satisfied prior to issuance of a permit. Among other defi-

ciencies, the Mobil application failed to establish that the modification would not prevent the attainment or maintenance of the annual ambient air quality standard for particulates in the year 2010, because it erroneously excluded emissions from the AMAX Belle Ayr Mine, located immediately north of the Mobil Caballo Rojo Mine, in modeling for that year.

During the 30-day comment period on the Mobil application, AMAX commented that the Belle Ayr Mine was authorized to and would be operating in the year 2010. Emissions from the Belle Ayr Mine in that year should have been included in the modeling analysis.

On August 20, 1985, a public hearing was conducted on the Mobil application. At that hearing, AMAX identified the air quality permit and other authority by which it had the right to produce 25 million tons per year in 2010 and beyond. Among other points, AMAX testified that in 1974 it had the grandfathered right to produce 15 million tons per year, because it had commenced construction and developed a surface coal mine prior to the effective date of section 21, which established the air quality permit system. AMAX also testified that the September 13, 1976 Air Quality Permit No. CT-61 authorized the construction of a second coal preparation plant, increased coal production of 10 million tons per year, and a specified area described in a map, designated as File No. BAS-7607-01-1/1, in which mining could occur. AMAX

also cited a February 17, 1978 decision by the Division which confirmed that AMAX had "permits" for 25 million tons per year of production.

Pursuant to the request of the Division at the hearing that AMAX submit responses to specific questions by August 28, 1985, AMAX further clarified its position in a letter to the Division dated August 28, 1985 by Steven R. Youngbauer, State Affairs Counsel of AMAX (attachment to this Petition for Hearing).

In a decision dated August 30, 1985, two days after the submission of the AMAX August 28th letter, the Division concluded that "the Mobil analysis should not be required to include an AMAX Belle Ayr coal production rate of 25 million tons per year in the year 2010." As the basis for this decision, the Division stated that it had:

previously determined that the facility constructed and operational in 1974 as described by the Proposed Plan of Mining and Reclamation Belle Ayr South Mine submitted by AMAX Coal Company to the Land Quality Division by letter dated January 14, 1974 was the facility which was properly grandfathered. The Proposed Plan of Mining and Reclamation which the Division used to determine that the Belle Ayr South Mine was grandfathered included a specific mining and reclamation plan, schedule, and mining sequence limit.

The Division further stated that this 1974 mine plan did not indicate coal production beyond the year 1997. Finally, the August 30th decision asserted that Permit No. CT-61 limited

"AMAX to the original mine and reclamation plan", and that the permit did not include "[a]dditional properties, mine plans, mine sequence, and mine life." By letter dated September 10, 1985, the Division issued Air Quality Permit No. CT-208A3 to Mobil.* The August 30th decision was served on AMAX on September 17, 1985 by hand delivery.

III. FACTS ON WHICH THE REQUEST FOR HEARING IS BASED

A. The August 30th Decision is Inconsistent with Prior Division Determinations.

1. The Division never previously determined that AMAX's permits were limited by the 1974 mine plan.

Contrary to the August 30th decision, the Division never previously determined or advised AMAX that the Belle Ayr Mine's air quality permits were limited by the mining plan, schedule, and sequence in the 1974 land mine plan. In the numerous letters sent by the Division to AMAX regarding the grandfathered rights of the Belle Ayr Mine, the Division requested information only on the maximum annual production rate, not on the life of the mine. In the letter from the Division which confirmed the grandfathered rights of the Belle Ayr Mine (Letter from Randolph Wood to Thomas Ebzery

* The Division has also erroneously allowed two other applications for air quality permits, an application of the Carter Caballo Mine and an application of the Texas Energy Rocky Butte Mine, to exclude consideration of emissions from Belle Ayr Mine in the year 2010.

of AMAX, dated February 17, 1978), the Division premised its finding that AMAX had grandfathered rights for the production of 15 million tons per year on two documents. The first document was a particular page of the January 14, 1974 mine plan which led the Division to conclude "that AMAX did have plans for a production rate of 15 million tons per year." The February 17th letter noticeably failed to refer to any information in the 1974 mine plan regarding the life of the mine. The second document on which the Division relied in establishing the 15 million ton per year grandfathered right was "information on Coal Sales dated 3/26/74," which explicitly set forth coal sales contracts in the year 2013. Therefore, the only information pertaining to the life of the Belle Ayr Mine in the documents on which the Division relied in making the grandfathered determination shows operations through 2013. Prior to the August 30, 1985 decision, the Division has consistently affirmed that the development of Belle Ayr Mine is not limited by the 1974 land mine plan.

2. Permit No. CT-61 Describes the Area Mining Will Occur In and Contains No Termination Date.

The August 30th decision also inaccurately states that Permit CT-61 limits "AMAX to the original mine and reclamation plan" and that "[a]dditional properties, mine plans, mine sequence and mine life were not permitted under

CT-61." Permit CT-61, in fact, does not incorporate any information from the 1974 land quality mine plan. Instead, it grants approval to construct a coal preparation plant and to develop a surface coal mine as described in the application, subject to certain conditions not relevant to this petition. The application form prepared by the Division, which AMAX was required to use under section 21(b)(i) of the Wyoming regulations, did not request any information on mine sequence or mine life. In connection with the application for Permit CT-61, AMAX did provide a map, designated as File No. BAS-7607-01-1/1, showing the areas to be mined. In approving the application, the Division authorized AMAX to conduct surface coal mining in areas beyond the 1974 mine plan. Since the map provided to the Division covered areas in addition to those set forth in the 1974 mine plan, the Division had information indicating that AMAX planned to operate beyond the year 1997, the last year indicated in the 1974 mine plan. AMAX obtained approval to operate the Belle Ayr Mine indefinitely through Permit No. OP-27, issued by the Division on March 16, 1977. This permit contains no termination date.

- B. The Reliance on the 1974 Mine Plan to Determine the Life of the Belle Ayr Mine is Inappropriate and is a Retroactive Decision Which is Prejudicial to AMAX.

At the time that AMAX was in the process of obtaining entitlements to air resources through Permit CT-61 and

through the Division's February 17, 1978 decision, AMAX had no notice that the Division would attempt to use the 1974 mine plan to establish the life of the mine. Had AMAX known that the Division would try to introduce information in the AMAX mine plan into the statutorily unrelated Air Quality permitting process, it would have approached the Land Quality permitting process differently. Under current law, Land Quality permits must be renewed every five years or sooner. See Wyo. Stat. § 35-11-405(c). AMAX, because of baseline data deficiencies, has planned a phased permitting for Land Quality purposes. It therefore has not included in any maps provided to the Land Quality Division all of the land covered by Permit No. CT-61, which is described in the map designated as File No. BAS-7607-01-1/1.

In any event, reliance on a Land Quality Division permit is obviously inappropriate, when the authority specifically granted to AMAX to emit, Permits CT-61 and OP-27 and the February 1978 decision, established or was premised on information that the AMAX Belle Ayr Mine, as defined in the map provided to the Division in connection with the application on Permit No. CT-61, would operate in 2010 and beyond.

- C. The August 30th Decision Is Contrary to the Wyoming Environmental Quality Act, the Wyoming Administrative Procedure Act, and the Wyoming and United States Constitutions.

The reliance of the Division on the 1974 mine plan to conclude that AMAX would not be operating at a 25 million

ton per year rate in the year 2010 is contrary to the Wyoming Environmental Quality Act ("EQA"), Wyo. Stat. §§ 35-11-101 - 35-11-1104, and the Wyoming Air Quality regulations. Neither the EQA nor the regulations authorize the Division, in effect, to withdraw the entitlement of a source to emit in a particular year premised on information submitted under a different regulatory program. If anything, the EQA and regulations indicate that such withdrawal is improper. The regulations set forth no expiration dates for operating permits. The indefinite term for air quality operating permits sharply contrasts with other permitting schemes under the Wyoming EQA which provide for limited term permits. See e.g. Wyo. Stat. § 35-11-405(c) (five-year term surface coal mining permits). The attempt to terminate the AMAX entitlement to emit in 2010 thus contravenes the intent behind the Wyoming EQA and regulations that air quality operating permits have no expiration date and may not be revoked arbitrarily.

The August 30th decision is also contrary to the Wyoming Administrative Procedure Act, Wyo. Stat. §§ 16-3-101 - 16-3-115 ("Wyoming APA"). Section 16-3-103 of that statute sets forth procedural requirements which must be satisfied prior to the adoption or amendment of all rules, other than interpretive rules or statements of general policy. A rule is defined in the Wyoming APA as "each statement of general

applicability that implements, interprets and prescribes law, policy . . . "Wyo. Stat. § 16-3-101(b)(ix). The Division has, in effect, attempted to establish a rule in the Mobil permitting process that Land Quality Division mine plans control the area to be mined and duration of air quality permits. As such, the Division is circumventing the rulemaking requirements of section 16-3-103 of the Wyoming APA.

The Division also violates section 16-3-113(c) of the Wyoming APA to the extent that the August 30th decision implies that AMAX no longer has a permit to emit after 1997. That provision requires that, prior to suspension or revocation of a license, an agency must provide notice and opportunity for a contested case hearing to show compliance with lawful requirements for the retention of a license. These procedural safeguards were not provided to AMAX. Further, the provision indicates that licenses may be revoked or suspended only for noncompliance with the terms of a permit. AMAX is operating within the terms of both its grandfathered rights and Permit Nos. CT-61 and OP-27. Therefore, even if the Division had provided notice and opportunity for a contested case hearing, it could not have sustained its burden that AMAX was in noncompliance.

The Division's arbitrary and retroactive application which, in effect, fails to recognize the right of AMAX

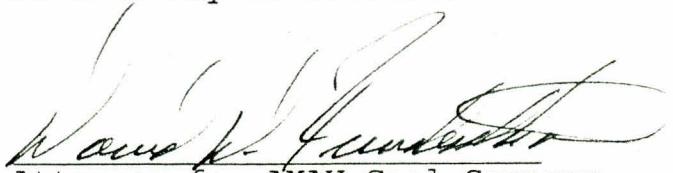
to emit in the year 2010, further contravenes the Wyoming Constitution, Article 1, §§ 6, (guaranteeing due process), 7 (prohibiting absolute arbitrary power), 33 (guaranteeing compensation for property taken), 35 (prohibiting ex post facto laws and the impairment of the obligation of contracts), as well as the United States Constitution, Article 1, § 10 (prohibiting state laws which impair the obligation of contracts), and the 14th amendment (guaranteeing due process).

Prayer for Relief

Therefore, AMAX respectfully requests:

1. the Council to reverse the Administrator's decision to issue the air quality permit to Mobil and order the Division to deny said permit;
2. a contested case hearing before the Council regarding this matter; and
3. the Council to grant such other and further relief as it deems proper.

Respectfully submitted this 29th day of October,
1985.


Attorney for AMAX Coal Company,
a Division of AMAX Inc.
David Freudenthal
Freudenthal, Salzburg and Bonds
314 E. 21st St.
Cheyenne, WY 82001

CERTIFICATE OF SERVICE

I, DAVID D. FREUDENTHAL, do hereby certify that a true and correct copy of the foregoing Petition for Hearing of Amax Coal Company was served by hand delivery to Randolph Wood, Director of Environmental Quality Department and by depositing same in the United States mail, certified mail, postage prepaid, this 28th day of October, 1985, addressed as follows:

Harold L. Bergman
Chairman
Environmental Quality Council
Emerson Building
Cheyenne, WY 82002

Steve Shanahan
Attorney General's Office
Room 123 Capitol Building
Cheyenne, WY 82002

Brent Kunz
Hathaway, Speight & Kunz
2424 Pioneer Avenue
Cheyenne, WY 82001

Mobil Coal Producing Co.
C. T. Corporations System
1720 Carey Avenue
Cheyenne, WY 82001

Carter Mining Company
C. T. Corporations System
1720 Carey Avenue
Cheyenne, WY 82001


DAVID D. FREUDENTHAL

AMAX COAL COMPANY

A DIVISION OF AMAX INC.

WESTERN REGION OFFICE
ENERGY TECHNICAL CENTER
P.O. BOX 3005
(307) 682-8857

1901 ENERGY COURT

GILLETTE, WY 82716

August 28, 1985



Mr. Randolph Wood, Administrator
Air Quality Division
Department of Environmental Quality
122 W. 25th Street
Cheyenne, WY 82002

Re: Proposed Decision to Grant a Permit to Construct to Mobil
Coal Producing Incorporated.

Dear Mr. Wood:

At the August 20, 1985, public hearing you requested additional information and responses to specific questions by August 28, 1985. This letter is AMAX's response.

Before AMAX answers the five questions presented, some clarification of the facts and issues is necessary. Review of the public hearing record suggests there is considerable confusion about AMAX'S position. In particular, there is an undue focus on the "grandfather" issue, when grandfathering is not necessary or very significant to AMAX's position.

AMAX's position is that AMAX should retain all the rights acquired under duly issued air quality permits. AMAX is entitled to the same equal treatment any permittee is. These permit rights cannot be taken away or reduced under the Wyoming and United States constitutions without due process and the payment of just compensation. A review of the factual sequence in this matter is needed.

AMAX Belle Ayr Mine holds Air Quality Permit No. CT-61 issued on September 13, 1976. AMAX submitted an application for this permit on February 12, 1976. The application was to construct a coal preparation plant and develop a surface coal mine. The Air Quality Division reviewed the application and determined it to be in compliance with Section 21 of the Wyoming Air Quality Standards and Regulations. After public comment, the permit was issued. The permit states "Approval to construct a coal preparation plant and develop a surface coal mine as described in the application is hereby granted." Like any other permit, Permit CT-61 granted AMAX the rights outlined in the approved application (See Attachment A). A map in the application and reproduced in Attachment A shows the area to be mined.

Mr. Randolph Wood
August 28, 1985
Page 2

After Permit No. CT-61 was issued, AMAX applied for a permit in 1977 to construct a coal storage facility at Belle Ayr Mine. During the permit review the Air Quality Division asked AMAX's assistance in determining a maximum annual production rate. The Air Quality Division wanted to establish a maximum annual production level because of the intensive development of new mines in the Belle Ayr area. On February 18, 1978, the Air Quality Division determined that AMAX had permits for a total annual production of 25 million tons (See Attachment B).

Air Quality Permit CT-61 and the February 18, 1978, maximum annual production determination are the authority for AMAX's operations. AMAX's "grandfathered" rights were replaced by Permit CT-61. Permit CT-61 and the February 18, 1978, determination clearly established a production rate and an area to be mined and no specific date for terminating mining was established and no termination date can be applied retroactively. A specific mine sequence was not required of AMAX.

Mobil, and all other air quality permit applicants, must model all previously issued permits. It is not AMAX's responsibility to review all applications to insure compliance with Section 21. This is the responsibility of the Air Quality Division.

AMAX's previous and current Land Quality Division permits cannot be used to construe AMAX's Air Quality permit. These permits were submitted to fulfill entirely different legal requirements. Under current law Land Quality permits must be renewed every five years or sooner. AMAX has had and currently has firm plans to mine the area mapped in Permit CT-61. AMAX, because of baseline data deficiencies, has planned a phase permitting for Land Quality purposes. The Air Quality Division cannot adversely affect AMAX's rights in the context of another company's permit application.

The Air Quality Division permit, not the Land Quality Division permit, governs air quality matters. This fact was recently emphasized in a letter from Air Quality Division to AMAX on October 18, 1984. The Administrator of the Air Quality Division advised that the application for an air quality permit and the analysis of that application limit the activities approved by the permit. AMAX agrees that Permit CT-61 controls its operations.

Mr. Randolph Wood
August 28, 1985
Page 3

AMAX recognizes there is legitimate confusion in the minds of other permit applicants about how to model Belle Ayr Mine. In 1976, when AMAX permitted Belle Ayr Mine, AMAX met all the requirements. No specific year by year mine sequence was required. Now, nine years later, permit applicants for new properties must provide this information for their operations. To eliminate confusion, AMAX is willing, pending confirmation of AMAX's existing rights to produce 25 million tons per year, to, as feasible, better define its mine plan for the benefit of the Air Quality Division and Mobil.

Based on the foregoing it is clear that some of the questions are misfocused on the grandfather issue. With these caveats in mind AMAX offers the following responses to your specific questions:

QUESTION 1. Are the mine plans, coal production schedules, and other information available to the Division at the time the determination of "grandfather" status is made binding upon that grandfather status determination?

ANSWER There is an undue focus on the "grandfather" issue. The grandfather issue is not the determinative issue. The determinative issue is what are AMAX's rights under Permit CT-61. The Air Quality Division file is the record for determining the rights granted under Permit CT-61. Previously referenced Attachment A and particularly the map in that attachment are the relevant information. The Air Quality Division considered a broad spectrum of information in determining on February 18, 1978, that AMAX's air quality production ceiling was 25 million tons per year. The information considered was only for the limited purposes of determining the ceiling. Considering this information did not incorporate AMAX's past and present Land Quality Division permits into Permit CT-61. Considering this information did not alter the rights granted under Permit CT-61. The information submitted in Permit CT-61 determined AMAX's rights.

QUESTION 2. Will the addition of coal properties to that grandfathered operation require a permit?

ANSWER The only Belle Ayr Mine operations that were grandfathered were the first 15 million tons of annual production, which required no permit for approximately a two year

Mr. Randolph Wood
August 28, 1985
Page 4

period. However when AMAX expanded its mining operations in 1976, it submitted an application for an air quality permit. That application became Permit CT-61. Permit CT-61 includes lands outside AMAX's current Land Quality Division permit area and permits operations beyond the year 2010. If AMAX modified the operations permitted by Permit CT-61 a permit would be required.

QUESTION 3. Under the permit regulations, do changes in the original grandfather status mine plan require a permit to modify?

ANSWER Yes, changes beyond the scope of what was originally intended to be part of a grandfathered source do require a permit to modify. In 1976 AMAX changed the original "grandfather status mine" by submitting a permit application for the entire Belle Ayr operation. No changes have been made since that application was approved and none are anticipated. AMAX plans to be mining in 2010 and beyond pursuant to Permit CT-61.

QUESTION 4. Does the Air Quality Division have to make a decision on AMAX's grandfather status in order to issue Mobil's Air Quality Permit?

ANSWER The pivotal issue is not a decision on AMAX's grandfather status. The only issue is the meaning of Permit CT-61. Does AMAX have the right to produce 25 million tons of coal in 2010? Air Quality Division's letter of February 18, 1978 and Permit CT-61 made clear that the only possible answer is yes. Mobil must revise its model in light of AMAX's planned and permitted production. AMAX is willing, in so far as feasible, to clarify its mine plan to facilitate such modelling.

QUESTION 5. If the Air Quality Division makes a decision to issue the permit to Mobil, is it binding on AMAX?


ANSWER A decision by the air Quality Division cannot legally reduce or take away what AMAX already has under Permit CT-61. However, a mistaken decision by the Air Quality Division to issue a permit to Mobil in disregard of AMAX's pre-existing rights could lead to ambient standard or increment violation in 2010 or subsequently. AMAX might accept this state of affairs if Mobil's permit made clear through a permit condition that,

Mr. Randolph Wood
August 28, 1985
Page 5

if and when such a violation occurred, AMAX had a clear priority over Mobil in regard to any required responses (e.g., added pollution controls, production cutbacks) needed to correct the violation. If the Air Quality Division is unwilling to give such assurances through a permit condition on the Mobil permit, then AMAX will be faced with a difficult choice, litigating the nature of its rights and entitlements under the Permit CT-61 now or when the actual violation is measured or predicted some time in the future. While AMAX prefers to cooperate with the Air Quality Division at all times, AMAX would litigate a decision which adversely affects its rights.

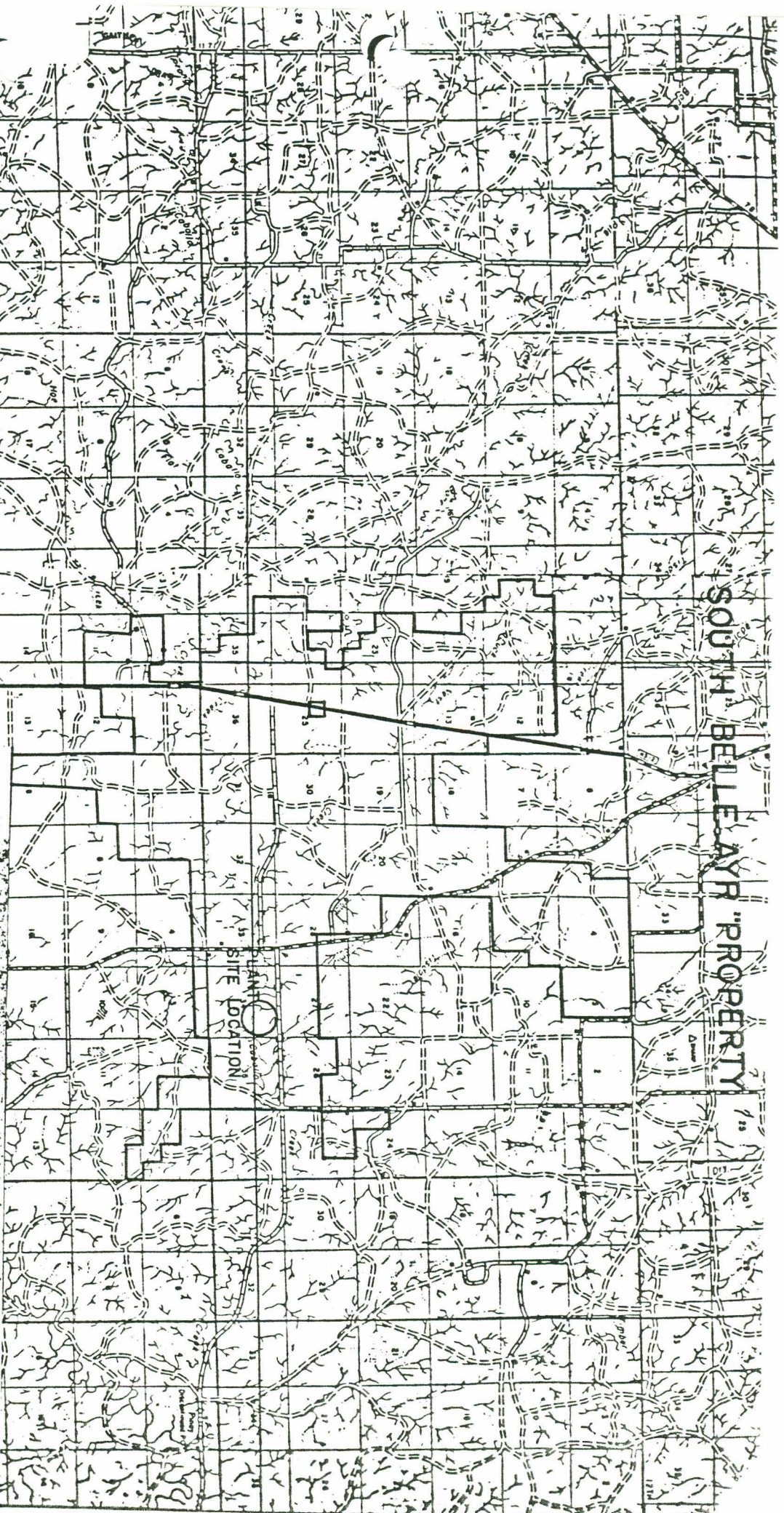
AMAX is willing to provide additional comments. AMAX is willing to meet with the Air Quality Division or Mobil to facilitate a timely resolution of this matter. Thank you for this opportunity to provide written comments.

Sincerely,


Steven R. Youngbauer
State Affairs Counsel

SRY/lg

"SOUTH BELLE Ayr" PROPERTY



IMPORTANT!
 POINT OF SALE, ADDRESS, SURVEY, AND
 RECORDS AND PLANS FOR THIS
 PROPERTY MUST BE KEPT IN THE
 OFFICE OF THE ENGINEER, STATE OF
 WYOMING.
 THE STATE ENGINEER HAS THE
 AUTHORITY TO REQUIRE THE
 RECORDS AND PLANS TO BE KEPT
 IN HIS OFFICE AT ALL TIMES.
 THE STATE ENGINEER HAS THE
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 IN HIS OFFICE AT ALL TIMES.

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REVISED	DATE	BY	
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105 SOUTH MERIDIAN STREET, INDIANAPOLIS, INDIANA 46225	0 2		

AMWA COAL COMPANY
 A DIVISION OF AMWA INC.

SOUTH BELLE Ayr MINE WYO
PREPARATION PLANT LOCATION PLANN

CAMPBELL COUNTY
 GILLETTE, WYOMING

BEHRE



Department of Environmental Quality

AIR QUALITY DIVISION

HATHAWAY BUILDING

CHEYENNE, WYOMING 82002

TELEPHONE 777-7391

September 13, 1976

RECEIVED
SEP 16 1976

Mr. C. W. Porterfield
Vice-President, Engineering
AMAX Coal Company
105 South Meridian Street
Indianapolis, Indiana 46225

Permit No. CT-61

Dear Mr. Porterfield:

The Division of Air Quality of the Wyoming Department of Environmental Quality has completed final review of AMAX Coal Company's application to construct a coal preparation plant and develop a surface coal mine at AMAX's Belle Ayr South Mine located approximately twelve (12) miles southeast of Gillette, Wyoming. Following this agency's tentative approval of the request as published August 11, 1976, and in accordance with Section 21 (k)(1) of the Wyoming Air Quality Standards and Regulations, the public was afforded a 30-day period in which to submit comments concerning the proposed new source. No comments have been received. Therefore, on the basis of the information provided to us, approval to construct a coal preparation plant and develop a surface coal mine as described in the application is hereby granted with the following conditions:

- 1) That authorized representatives of the Division of Air Quality be given permission to enter and inspect any property, premise or place on or at which an air pollution source is located or is being constructed or installed for purpose of investigating actual or potential sources of air pollution, and for determining compliance or non-compliance with any rules, regulations, standards, permits or orders.
- 2) That emissions of fugitive dust during the operation of the coal surface mine and coal hauling activities be controlled in accordance with provisions of Section 14 (f) of the Wyoming Air Quality Standards and Regulations, 1975.
- 3) An ambient air quality monitoring network consisting of hi-volume air samplers and a meteorological station be established immediately. The location of this network, a schedule of data submission, and format of data reduction is subject to approval by the Division of Air Quality.

Mr. C. W. Porterfield
September 13, 1976
Page 2

It must be noted that this approval does not relieve you of your obligation to comply with all applicable local, county, state and federal standards, regulations or ordinances. Special attention must be given to Section 21 of the Wyoming Air Quality Standards and Regulations. Section 21(a) requires that a permit to operate be obtained after a 120-day start-up period, Section 21(h) requires notification of initial start-up, and Section 21(i) requires that performance tests be conducted within 90 days after initial start-up.

If we may be of further assistance to you, please feel free to contact this office.

Sincerely,

Charles A. Collins

for Randolph Wood
Administrator
Air Quality Division

Robert E. Sundin

Robert E. Sundin
Director
Dept. of Environmental Quality

RW:RES/dw

cc: M. Douglas Scott

THE STATE



OF WYOMING

ED HERSCHLER
GOVERNOR

Department of Environmental Quality

AIR QUALITY DIVISION

HATHAWAY BUILDING

CHEYENNE, WYOMING 82002

TELEPHONE 777-7391

August 6, 1976

RECEIVED

AUG 09 1976

Mr. Charles W. Porterfield
Vice-President, Engineering
AMAX Coal Company Division
105 South Meridian Street
Indianapolis, Indiana 46225

Dear Mr. Porterfield:

The Division of Air Quality has completed its initial evaluation of your permit application to construct a coal preparation plant and develop a surface coal mine at the Belle Ayr South Mine site located approximately twelve miles southeast of Gillette, Wyoming.

A copy of the public notice and of our evaluation is enclosed for your convenience. The public notice will appear in the August 11, 1976 issue of the Gillette News Record.

A copy of our evaluation and of your permit application will be kept on file for a thirty (30) day public inspection and comment period. At the end of this time, we will consider all comments made concerning your application and a final decision will be made on your application.

If you should have any questions concerning this matter, please feel free to contact me.

Very truly yours,

Charles A. Collins

Charles A. Collins
Air Quality Supervisor

CAC:dw

Enclosures

STATE OF WYOMING

Department of Environmental Quality/Division of Air Quality

PUBLIC NOTICE

Section 21 (k)(1) of the Wyoming Air Quality Standards and Regulations provides that prior to final determination on an application to construct a new source, opportunity be given for public comment on the information submitted by the owner or operator and on the analysis underlying the proposed approval or disapproval. The regulation further requires that such information be made available in at least one location in the affected air quality control region; and that the public be allowed a period of thirty (30) days in which to submit comments.

Notice is hereby given that the State of Wyoming, Department of Environmental Quality, Division of Air Quality, proposes to approve a request by the following applicant to construct a new source in Campbell County, Wyoming.

AMAX Coal Company, A Division of AMAX, Inc.
205 South Ross
Gillette, Wyoming 82716

The applicant has requested permission to construct a coal preparation plant and develop a surface coal mine at the Belle Ayr South Mine located approximately twelve miles southeast of Gillette. The agency's analysis of the aforesaid application is available for public inspection at the Campbell County Clerk's Office, Gillette, Wyoming.

Public comments are invited anytime prior to September 10, 1976. Comments may be directed to Randolph Wood, Administrator, Division of Air Quality, Department of Environmental Quality, Hathaway Building, Cheyenne, Wyoming 82002. All comments received prior to September 10, 1976 will be considered in arriving at a final determination on this application.

DIVISION OF AIR QUALITY
Permit Application Analysis

Name of Firm: AMAX Coal Company, A Division of AMAX, Inc.

Plant Location: Belle Ayr South Mine, Gillette, Wyoming

Responsible Official: M. Douglas Scott, Manager - Western Division

Environmental Studies

Phone Number: (307) 682-8857

Type of Operation: Surface coal mining and coal preparation plant

Type of Control Equipment: Truck Dump Hopper - One (1) AAF size 9 AMERclone, dry, centrifugal collector with 10% secondary air circuit. Secondary Crusher - One (1) AAF size 24 AMERclone, dry, centrifugal collector with 10% secondary air. Silos - One (1) AAF size 18 AMERclone, dry, centrifugal collector with 10% secondary air.

Reported Process Weight Rate: 4,000 ton/hour maximum

Calculated Emissions: Truck Dump - 2 lb/hr (Based upon 0.7 gr/ACF inlet loading and 95% efficiency); Secondary Crusher - 35 lb/hr (2.4 gr/ACF and 93%); Silos - 33 lb/hr (2.0 gr/ACF and 90%)

Allowable Emissions: Truck Dump, Secondary Crusher & Silos - 64 lb/hr each

Comments: Analysis of the data submitted indicates that operation of the proposed Belle Ayr South Mine will not cause any applicable Wyoming ambient air standards to be exceeded. AMAX Coal Company will be required to establish and operate an ambient air sampling network approved by this Division.

Performance tests will be conducted in accordance with Section 21(i) of the Wyoming Air Quality Standards and Regulations, 1975.

Department of Environmental Quality

Division of Air Quality

Permit Application
(Please type or print)

1. Name of firm or institution AMAX Coal Company, a division of AMAX Inc.

2. Mailing address:

205 South Ross Avenue	Gillette	Wyoming
Number Street	City	State
Campbell	82716	682-8857
County	Zip	Telephone

3. Plant location:

Belle Ayr South, P. O. Box 1880, Gillette	Wyoming
Number Street	City State
Campbell	82716 682-7295
County	Zip Telephone

4. Name of owner or company official to contact regarding air pollution matters:

M. Douglas Scott, Manager, Western Division Environmental Studies, 682-885	
Name	Title Telephone

205 South Ross Avenue	Gillette	Wyoming	82716
Number Street	City	State	Zip

5. General nature of business: Coal mining

6. Permit application is made for: New construction Modification

Relocation Operation

7. Type of equipment to be constructed, modified, or relocated. (List each major piece of equipment separately.)

Coal Preparation Plant

8. If application is being made for operation of an existing source in a new location, list previous location and new location:

Previous location N/A

New location N/A

9. If application is being made for a crushing unit, is there: (mark all appropriate boxes)

- (1) Primary crushing Type control equipment Dry centrifug Dust collect
- (2) Secondary crushing Type control equipment Dry centrifug Dust collect
- Tertiary crushing Type control equipment _____
- Recrushing & screening Type control equipment _____
- Conveying Type control equipment _____
- Drying Type control equipment _____
- (3) Other (Storage silos) Type control equipment Dry centrifug Dust collect

Proposed dates of operation (month/year) September, 1976

10. Materials used in unit or process (include solid fuels):

Material	Process Weight Average (lb/hr)	Maximum (lb/hr)	Quantity/Year
<u>Coal</u>	<u>7,000,000</u>	<u>8,000,000</u>	<u>10,000,000</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(1) Truck dump hopper and primary crusher - 3 collection points.

One (1) American Air Filter size 9 AMERclone complete with 10% Secondary Air circuit, Secondary Air Exhauster, size 19K Primary Air Exhauster and support stand. Includes dual 12" rotary locks.

MOTORS: 25 HP for Primary Exhauster; 3 HP for Secondary Exhauster; and 3/4 HP for Rotary Locks.

(over)

(2) Crusher House (Secondary Crusher) - Seven collection points

One (1) American Air Filter size 24 AMERclone complete with size 34K exhauster and dual 12" rotary locks as noted above.

MOTORS: 75 HP for Primary Exhauster, 7-1/2 HP for Secondary Exhauster; and 3/4 HP for Rotary Locks.

(3) New Silo Top - Five Collection Points

One (1) American Air Filter size 18 AMERclone with size 30K Primary Exhauster and dual 12" Rotary Locks as noted above.

MOTORS: 60 HP for Primary Exhauster; 5 HP for Secondary Exhauster; and 3/4 HP for Rotary Locks.

Note: Attached to the application is American Air Filter's Dust Control Bulletin 291B and Drawings 97P-16188 and 94A-9554 which describe the operation of the AMERclone system.

11. Air contaminants emitted:

	Emission Point	Pollutant	lb/hr	ton/yr	Basis of Data
(1)	<u>Truck Hopper</u>	<u>Coal Dust</u>	<u>17.1</u>	<u>75.1</u>	<u>American Air Filter Test Data</u>
(2)	<u>Crusher House</u>	<u>Coal Dust</u>	<u>51.5</u> 52.5	<u>225.4</u> 230.0	<u>American Air Filter Test Data</u>
(3)	<u>Silo Top</u>	<u>Coal Dust</u>	<u>33.4</u>	<u>146.3</u>	<u>American Air Filter Test Data</u>

12. Air contaminant control equipment:

	Emission Point	Type	Pollutant Removed	Efficiency
(1)	<u>Truck Hopper</u>	<u>AmerClone</u>	<u>Coal Dust</u>	<u>95%</u>
(2)	<u>Crusher House</u>	<u>AmerClone</u>	<u>Coal Dust</u>	<u>95% 93%</u>
(3)	<u>Silo Top</u>	<u>AmerClone</u>	<u>Coal Dust</u>	<u>90%</u>

13. Type of combustion unit: N/A

A. Coal

- Pulverized
- General
- Dry Bottom
- Wet Bottom
- With Flyash Reinjection
- Without Flyash Reinjection

- Spreader Stoker
- With Flyash Reinjection
- Without Flyash Reinjection
- Cyclone
- Hand-Fired
- Other (specify) _____

B. Fuel Oil

- Horizontally Fired
- Trangentially Fired

C. Natural Gas

Hourly fuel consumption (estimate for new equipment) _____ /hr

Size of combustion unit _____ BTU heat input/hour.

- (1) 8000 acfm - 5 grains/acfm - 95% collector efficiency w/10% secondary air
3.5 9.3 1/2
- (2) 24,500 acfm - 5 grains/acfm - 95% collector efficiency w/10% secondary
- (3) 19,500 acfm - 2 grains/acfm - 90% collector efficiency w/10% secondary

14. Normal operating schedule:

Hours/Day 24 Days/Week 7 Weeks/Year 52

Peak production season (if any): _____

15. Fuel analysis: N/A

	A. Coal	B. Fuel Oil	C. Natural Gas
% sulfur	_____	_____	_____
% ash	_____	_____	_____
BTU value	_____	_____	_____

16. Products of process or unit:

Products	Quantity/Year
<u>2-inch crushed coal</u>	<u>10,000,000</u>
_____	_____
_____	_____
_____	_____

17. Emissions to the atmosphere (each point of emission should be listed separately and numbered so that it can be located on the flow sheet):

Emission Point	Stack Height (ft)	Stack Diameter (ft) (in.)	Gas Discharged SCFM	Exit Temp (°F)	Gas V ()
(1) <u>Truck Hopper</u>	<u>16'</u>	<u>19-1/4x14-3/4"</u>	<u>8000</u>	<u>Ambient</u>	_____
(2) <u>Crusher House</u>	<u>83'</u>	<u>34-1/2x26-1/2"</u>	<u>24,500</u>	<u>Ambient</u>	_____
(3) <u>Silo Top</u>	<u>248'</u>	<u>30-1/2x26-1/2"</u>	<u>19,500</u>	<u>Ambient</u>	_____
_____	_____	_____	_____	_____	_____

18. Does the input material or product from this process or unit contain finely divided materials which could become airborne?

Yes No

Is this material stored in piles or in some other way as to make possible the creation of dust problems?

Yes No

List storage piles (if any):

Type of Material	Particle Size (Diameter or Screen Size)	Pile Size (Average Tons on Pile)	Pile Wetted (Yes or No)	Pile Covered (Yes or No)
Coal	2-inch	12,000	No	Yes (kept in silos)

19. Using a flow diagram: (1) Illustrate input of raw materials.

- Figure 1 - EC-4699-A
 - Figure 2 - E-4699-B
 - Figure 3 - E-4699-C
 - Figure 4 - E-4699-D
 - Figure 5 - E-4699-E
- (2) Label production processes, process fuel combustion, process equipment, and air pollution control equipment.
- (3) Illustrate locations of air contaminant release so that emission points under items 11, 12 and 17 can be identified. For refineries show normal pressure relief and venting systems. Attach extra pages as needed.

20. A site map should be included indicating the layout of facility at the site. All buildings, pieces of equipment, roads, pits, rivers and other such items should be shown on the layout. See site map - Figure 6-1/BAS-7606-03.

21. A location drawing should be included indicating location of the facility with respect to prominent highways, cities, towns, or other facilities (include UTM coordinates). See location map - Figure 7 - BAS-7607-03-1/1

"I certify to the accuracy of the plans, specifications, and supplementary data submitted with this application. It is my opinion that any new equipment installed in accordance with these submitted plans and operated in accordance with the manufacturer's recommendations will meet emission limitations specified in the Wyoming Air Quality Standards and Regulations."

Signature Charles W. Portfield Typed Name Charles W. Portfield

Title Vice President - Engineering Company AMAX Coal Company

105 South Meridian Street
Mailing Address Indianapolis, Indiana 46225 Telephone 317-266-2626

P. E. Registration (if applicable) _____

State where registered: _____

FILED

OCT 29 1985

**Terri A. Lorenzon, Adm. Aide
Environmental Quality Council**

ATTACHMENT

B



THE STATE OF WYOMING

1. Belle Four
2. Air Quality

ED HERSCHEI
GOVERNOR

Department of Environmental Quality

AIR QUALITY DIVISION

HATHAWAY BUILDING

CHEYENNE, WYOMING 82002

TELEPHONE 777-739

February 17, 1978

Mr. Thomas E. Ebzery, Manager
Government Relations West
Amax Coal Company
1500 Poly Drive-Suite 165
Billings, Montana 59102

Dear Mr. Ebzery:

I have reviewed the Proposed Plan of Mining and Reclamation, Belle Ayr South Mine submitted by Amax Coal Company to Mr. Homer Derrer of our Land Quality Division by letter dated January 14, 1974, and find on page 5 under III Mining Proposal that Amax did have plans for a production rate of 15 million tons per year. This information, along with the information on Coal Sales dated 3/26/74 supplied by your Mr. Hutter at our February 13, 1978, meeting convinces me that prior to May 29, 1974, Amax included plans for the production of 15 million tons per year into its design and construction of the Amax Belle Ayr South Mine and process plant.

Therefore, it is my determination that as of this date, Amax has permits for a total production of 25 million tons per year in accordance with the approved permit application and plans submitted prior to May 29, 1974.

Should you have any questions, please feel free to contact me.

Sincerely,

Randolph Wood
Randolph Wood
Administrator
Air Quality Division

RW:ma