



Jim Ruby <jim.ruby@wyo.gov>

Re: Technically inadequate permit (WDEQ-LQD Mining Permit 267C – WSL04 – TFN #6 1/197)

1 message

Kyle Wendtland <kyle.wendtland@wyo.gov>

Thu, Aug 30, 2018 at 3:44 PM

To: Ronald Ericsson <ericsson@childselect.com>

Cc: "todd.parfitt@wyo.gov" <todd.parfitt@wyo.gov>, "josh.malmberg@wyo.gov" <josh.malmberg@wyo.gov>, "jim.ruby@wyo.gov" <jim.ruby@wyo.gov>, "kari.gray@wyo.gov" <kari.gray@wyo.gov>, "SecofState@wyo.gov" <SecofState@wyo.gov>, "bridget.hill1@wyo.gov" <bridget.hill1@wyo.gov>, "Ogden.Driskill@wyoleg.gov" <Ogden.Driskill@wyoleg.gov>, Lucy Pauley <lucy.pauley@wyo.gov>, "Lyndon.Bucher@mineralstech.com" <Lyndon.Bucher@mineralstech.com>, "don.eisenhour@colloid.com" <don.eisenhour@colloid.com>, "mark.wardell@colloid.com" <mark.wardell@colloid.com>, "sara.vetter@colloid.com" <sara.vetter@colloid.com>, "rodney.raber@colloid.com" <rodney.raber@colloid.com>, "rodney.wheaton@mineralstech.com" <rodney.wheaton@mineralstech.com>, "jason.schneider@mineralstech.com" <jason.schneider@mineralstech.com>, Melody Smith <melody.smith@colloid.com>, Joel Severin <joel.severin@halliburton.com>, Tyler Tetrault <tyler.tetrault@halliburton.com>, "Warren.Scott@halliburton.com" <Warren.Scott@halliburton.com>, Roxie Dacar <roxiedacar@gmail.com>, Jim Dacar <jimdacar@gmail.com>, Levi Dacar <levi.dacar@wyo.gov>, "dacar9625@gmail.com" <dacar9625@gmail.com>, "mvictoria.ericsson@gmail.com" <mvictoria.ericsson@gmail.com>, Spencer Ericsson <ericsson1337@yahoo.com>, "gargawill@gmail.com" <gargawill@gmail.com>, Julie Anderson <bakergirlhomade@aol.com>, Jean Ericsson <gam4@rangeweb.net>, "rolandericsson@cox.net" <rolandericsson@cox.net>, Beverly Keegan <bkeegan@vcn.com>, Kim Hayworth <khayworth@midco.net>, "treasurer@wyo.gov" <treasurer@wyo.gov>, "askthesuperintendent@wyo.gov" <askthesuperintendent@wyo.gov>, "SAOAdmin@wyo.gov" <SAOAdmin@wyo.gov>, Jennifer Hartman <jennifer.hartman@halliburton.com>

Dear Mr. Ericsson:

Please reference my letter of April 24, 2018.

Sincerely, Kyle J. Wendtland

On Thu, Aug 30, 2018 at 3:33 PM, Ronald Ericsson <ericsson@childselect.com> wrote:

Please respond.

From: Ronald Ericsson on behalf of Ronald Ericsson <ericsson@childselect.com>**Sent:** Friday, **July 20, 2018 3:11 PM****To:** kyle.wendtland@wyo.gov**Cc:** todd.parfitt@wyo.gov; josh.malmberg@wyo.gov; jim.ruby@wyo.gov; kari.gray@wyo.gov; SecofState@wyo.gov; bridget.hill1@wyo.gov; Ogden.Driskill@wyoleg.gov; Lucy Pauley; Lyndon.Bucher@mineralstech.com; don.eisenhour@colloid.com; mark.wardell@colloid.com; sara.vetter@colloid.com; rodney.raber@colloid.com; rodney.wheaton@mineralstech.com; jason.schneider@mineralstech.com; Melody Smith; Joel Severin; Tyler Tetrault; Warren.Scott@halliburton.com; Roxie Dacar; Jim Dacar; Levi Dacar; dacar9625@gmail.com; mvictoria.ericsson@gmail.com; Spencer Ericsson; gargawill@gmail.com; Julie Anderson; Jean Ericsson; rolandericsson@cox.net; Beverly Keegan; Kim Hayworth; treasurer@wyo.gov; askthesuperintendent@wyo.gov; SAOAdmin@wyo.gov; Jennifer Hartman**Subject:** Technically inadequate permit (WDEQ-LQD Mining Permit 267C – WSL04 – TFN #6 1/197)

July 20, 2018

Kyle Wendtland
Administrator
Department of Environmental Quality
200 West 17th Street
Cheyenne, WY 82002

RE: Technically inadequate permit (WDEQ-LQD Mining Permit 267C – Wyoming State Mineral Lease 42804 – TFN #6 1/197)

Dear Mr. Kyle J. Wendtland:

The WDEQ-LQD Mining Permit 267C – Wyoming State Mineral Lease 42804 – TFN #6 1/197) is technically inadequate for the following reasons:

Section 2.11.8.6 Post-mining Tree Restoration states “The permittee will not replant the destroyed trees unless the surface owner specifically requests restoration in writing. If a surface owner wants trees replanted, the permittee will include specific Reclamation Plan text which details the replanting methods and locations.”

We have requested in writing (see attached certified letter to Bentonite Performance Minerals (BPM) 11/13/2007) that all of the 10,936 trees that will be disturbed by mining to be replanted.

Section 2.11.41-6 Revegetation & Seed – The latest version sent by BPM eliminated the statement “However, the landowner, Lonesome County LC, has requested that no trees be replaced in the reclamation”. This was incorrect landownership. The landowners are members of the 2U Ranch, LLC not Lonesome County LC and we want tree reclamation. We would like the permit to be amended to reflect the true landowners and to state that we want tree reclamation.

Section 2.11.41 Wyoming State Lease 42804 (WSL04) Amendment Reclamation Plan does not include specific Reclamation Plan text which details the replanting methods and locations as required by Section 2.11.8.6 Post-mining Tree Restoration of the permit. We would like the permit to be amended to provide the required information on the replanting of trees.

Sincerely,

Ronald J. Ericsson, PhD
Scott A. Ericsson, PhD
Roland S. Ericsson, Attorney at Law

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Kyle J. Wendtland
Administrator

Department of Environmental Quality
Land Quality Division
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Department of Environmental Quality

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



Matthew H. Mead, Governor

Todd Parfitt, Director

Certified Mail Return Receipt Requested: 7016 0340 0000 2534 3385

April 24, 2018

Mr. Roland J. Ericsson
Mr. Scott A. Ericsson
Mr. Roland S. Ericsson, Esquire
426 Lonesome County Road
Alzada MT, 59311

RE: Wyoming State Mineral Lease 42804 and WDEQ-LQD Mining Permit 267C

Dear Mr. Ronald J. Ericsson, Scott A. Ericsson, and Roland S. Ericsson, Esquire:

Thank you for your letter of November 28, 2017. I have reviewed your letter and subsequent emails, and have taken the time necessary to review the status of Permit 267C and your concerns related to State Mineral Contract (SMC) 42804. SMC 42804 is a mineral claim currently held by Bentonite Performance Minerals (BPM). The Department of Environmental Quality, Land Quality Division (LQD) does not have regulatory or administrative authority to address SMC 42804, that authority resides with the Office of State Lands and Investment (OSLI). Therefore, your concerns regarding SMC 42804 have been provided to OSLI.

Permit 267C and proposed amendment TFN #6 1/197 was received on February 25, 2016. The amendment (TFN #6 1/197) was declared complete on June 28, 2016. I have concluded that the permit and amendment complies with the regulatory requirements except for the submission of a signed Form 8 document (Surface Landowner Consent). LQD acknowledges your personal concerns and assessment of the ecology of the proposed mining area, and your letter will be placed in the permit file. It is also important to clarify that your letter makes reference to Guidance documents two and six. Guidance documents are provided to operators to help navigate the various regulatory requirements, but they should not be construed as statute or rule.

My review of the file determined that the amendment as applied for covers 600 acres of state land of which 177 acres will be affected (disturbed) by mining. One water source "stock pond" will be removed by mining, and that water source is required and scheduled for replacement in the final reclamation plan. The Wyoming Game and Fish Department (WGFD) and LQD reviewed the mine and reclamation plan and found no areas to be unique, or to be designated as rare or uncommon in the proposed mining area. Section 2.11.41-6 of the amendment mine and reclamation plan Revegetation and Seed on page 2.11.41-3 states WGFD has "recommended that reclamation efforts target restoration of the pre-disturbance shrub component". Further, the reclamation plan specifies that the reclamation seed mix is composed of native seeds and offers a variety of grasses, forbs, and shrubs. It should also be noted that the reclamation plan conforms to the request that "the lessee, Lonesome Country, LC has requested that no trees be replaced in the reclamation." I note that this statement contrasts with your views as expressed in your November 28, 2017 letter.

Permit 267C has not received a notice of violation, nor does BPM have a history of violation or noncompliance within the state of Wyoming. In addition, the LQD reclamation bond for this permit is current and in good standing. The surface owner protection bond you reference is not required as part of

Roland J. Ericsson
Scott A. Ericsson
Roland S. Ericsson, Esquire
Permit No. 267C
April 24, 2018

the LQD reclamation bond. The loss of surface production (grazing) for the permit area would be covered under a surface owner agreement. LQD is not a party to this agreement, and has no authority to dictate the terms of this agreement.

As you point out, the rules and regulations do contain a number of requirements to ensure cultural resources are protected prior to mining. The permit amendment application met those requirements. The review of the baseline and cultural information does not define any of the area proposed for mining to be rare, uncommon, or have particular historical, archeological, wildlife, surface geology, botanical or scenic value.

I have also reviewed your statement that the proposed mining and associated activities pose a public nuisance. The area where the proposed operations are located has had recent mining activity (Jolley 12, 13, 14, and 15). First, the LQD only has regulatory authority over the haulage traffic within the permit boundary once it leaves the permit boundary the County has regulatory authority. Second, my review found no supporting evidence that the proposed mining is different from recent and historic mining operations adjacent to or near permit 267C. Mining has occurred in this area for some time at the Jolley #12, 13, 14, and 15 locations adjacent to the proposed amendment. Nevertheless, the Jolley permit amendment areas have been recently reclaimed and are not contributing to the open or exposed permit area at this time. Finally, the nearest occupied dwellings are 2.4 miles to the south, 3.5 miles to the southwest, and 2.0 miles to the northwest of the proposed mining operations.

Permit amendment TFN #6 1/197 application to 267C was determined to be complete by LQD on June 28, 2016. The permit application meets the applicable statutory and regulatory requirements with the exception of a signed Form 8. The permit Amendment application process cannot continue until the Form 8 is signed and received by the LQD. However, based on my evaluation of the information available in this matter, permit 267C amendment application otherwise complies with the applicable LQD statutes and rules.

Please contact me at 307-777-7046 if you have further questions relating to this matter.

Sincerely,



Kyle J. Wendtland,
Administrator

cc: Matt Mead, Governor
Todd Parfitt, Director WDEQ
Ogen Driskill, Wyoming State Senator, District 1
Bridget Hill, Director Office of State Lands and Investments
Lucy Pauley, Mediation Coordinator, Wyoming Department of Agriculture
James Kaste, Deputy Attorney General