



Department of Environmental Quality



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

Dave Freudenthal, Governor

John Corra, Director

May 13, 2008

Mr. Bob Kersey
Mountain Cement Company
5 Sand Creek Road
Laramie, WY 82070

RE: Status of Conditions attached to the 298C Permit

Dear Mr. Kersey:

Bill Hogg and I met with Steve Cooley on February 27, 2008. We discussed the status of conditions that have been attached to the various amendments and revisions approvals. We provided him with draft copies of the status of these conditions. This information has been slightly modified and updated. Attachment No. 1 lists the **Status of All Permit Conditions Attached to Various MCC Revisions and Amendments**, and Attachment No. 2 is a **List of Outstanding Conditions that are Still Applicable and Remain Attached to Permit 298C**.

Upon approval of the next amendment application, it is our intent to bring forward all outstanding conditions and list these conditions of the new Form 1. If you have any questions regarding the status of these conditions, please contact me at 307.777.7052.

Sincerely,

Lowell K. Spackman
District I Supervisor
Land Quality Division

c: **Ramona Christensen**
Bill Hogg, District I
Mitch Edwards Attorney for MCC
Brian Waitkus

Herschler Building • 122 West 25th Street • Cheyenne, Wyoming 82002 • <http://deq.state.wy.us>

ADMIN/OUTREACH
(307) 777-7758
FAX 777-3610

ABANDONED MINES
(307) 777-6145
FAX 777-6462

AIR QUALITY
(307) 777-7391
FAX 777-5616

INDUSTRIAL SITING
(307) 777-7368
FAX 777-6937

LAND QUALITY
(307) 777-7756
FAX 777-5864

SOLID & HAZ. WASTE
(307) 777-7752
FAX 777-5973

WATER QUALITY
(307) 777-7781
FAX 777-5072



*✓ = conditions
taken care of*

pc

Attachment No. 1
**Status of All Permit Conditions Attached to Various
Mountain Cement Company (MCC)
Revisions and Amendments
Permit 298C**

The status of all conditions listed on various Form 1s (for the permit and amendments) and Form 11s (for revisions) are listed below. **Eight conditions on these past Forms are still applicable and remain attached the permit.** Attachment No. 2 lists these outstanding conditions in a succinct list.

May 9, 2008, Form 11 Revision

- 1) As a result of an objection by Mr. Waitkus dated September 6, 2006 to the A5 Amendment, a "Stipulated Resolution to Objections" was agreed upon and signed by Mr. Waitkus and Mountain Cement on October 16, 2006. This resolution was modified in association with the approval of TFN 4 4/296, Revision No. 6, Change No. 26. The Stipulated Resolution to Resolve Objections to TFN 4 4/296 is attached to this Form 11. This Stipulated Resolution included several conditions and modifications to the permit that Mountain Cement had agreed to when the resolution was signed. This resolution is attached to the Form 11 to ensure proper tracking of the conditions and modifications to the permit as outlined in the resolution. Agreement Nos. 2, 5(ii), 9 and 10 of the attached Stipulated Resolution have not been addressed in any permit revision. The remaining agreements have been included in the permit as outlined on the attached resolution.

Newest condition is attached to the permit to ensure that the agreements in the Stipulated Resolution are tracked. This condition is still applicable and remains attached the permit.

December 20, 2007, Form 1 Revision

- ✓ 1) Mountain Cement Company must submit a revision package with the permit changes that were proposed in "Mountain Cement Company's Response" to Mr. Waitkus' objections. This revision must be submitted with index sheets to the LQD with 20 days of receiving the approval letter.

This condition will be approved with the acceptance of the draft condition by MCC for the approval of TFN 5 4/008 submitted on 1/25/08

December 1, 2006, Form 11 Revision

- ✓ 1) The text and map changes contained in the mining sequence revision (TFN 4 4/296) will not be inserted into the approved permit. The "Stipulated Resolution of Objections" that was signed by Philip Nicholas and Brian Waitkus on October 16, 2006 will be attached to this permit and the sequence described in the agreement will govern the mining operation sequence. The previous Stipulated Resolution of Objections dated January 11, 2004 has been superseded and replaced by this new resolution. As a result of this resolution, the mining sequence in the permit must be updated to agree with the sequenced agreed to within the resolution. MCC is required to submit a mine plan sequence revision within ten (10) days of the date of this approval.

Approved as Change #27 on 12/19/06

January 16, 2004, Form 11 Revision

- ✓ 1) Mountain Cement will submit and gain LQD approval of a mine plan revision for the Etchepare 7A pit prior to the start of mining. This mine plan revision will address the conflicting plan that is

now approved for the Etchepare 7A pit. The plan should address the sediment control and drainage issues that have not been previously clarified.

Approved as Change #20 on 1/16/04.

The following Conditions #2 through #5 were developed during the meeting in the Albany County Library in conjunction with the 1st Stipulated Resolution signed on 1/11/04 by MCC and Brian Waitkus

Conditions #2 through #5 have been superseded with 2nd Stipulated Resolution signed on 10/16/06.

- ✓ 2) MCC agrees that it will not mine within the area identified as "Area S-1" on the attached USGS quadrangle map. The foregoing restriction does not prohibit MCC from placing or stockpiling topsoil or overburden within Area S-1.

Area S-1 encompasses the area within the SW1/4SW1/4 of Section 30, T15N, R72W, Albany County, Wyoming, lying between the western section line of Section 30 and a line beginning at the SW corner of Section 30 and then extending northeast on a 45 degree angle to a point of 200 feet from the western section line and the southern section line of Section 30, and then extending north from that point to a point located 200 feet east of the western section line of Section 30 along the northern most boundary line of the SQ/SW1/4.

- ✓ 3) MCC agrees to the following conditions for mining within "Area A" on the attached USGS quadrangle map, also described as the SW1/4SW1/4 of Section 30, T15N, R72W, Albany County, Wyoming, less Area S-1;

- (i) MCC agrees to notify Mr. Waitkus and LQD of its intent to mine within Area A no later than July 1, 2004;
- (ii) In the event that MCC elects to mine within Area A, it agrees to file an amendment to Permit No. 298C-A5, as amended, to allow such mining activity no later than September 1, 2004;
- (iii) Any mining within Area A shall take place prior to commencing mining in the area identified as Etchepare 7B; and
- (iv) Upon MCC's (1) failure to notify of its intent to mine in Area A within the time provided above, (2) failure to apply for a permit amendment for Area A within the time provided above, or (3) commencing mining operations in Etchepare 7B, it agrees that its right to mine within Area A are forfeited and that it will not return at any time to mine Area A.

- ✓ 4) MCC agrees that it will not mine within the area identified as "Area S-2" on the attached USGS quadrangle map. The foregoing restriction does not prohibit MCC from placing or stockpiling topsoil or overburden within Area S-2.

Area S-2 encompasses an area of 200 feet in width along the length of the northern most boundary line of NE1/4NE1/4 of Section 36, T15N, R73W, Albany County, Wyoming.

- ✓ 5) MCC agrees to the following conditions for mining within "Area C" on the attached USGS quadrangle map, also described as the NE1/4NE1/4 of Section 36, T15N, R73W, Albany County, Wyoming, less Area S-2.
- (i) In the event that MCC desires to mine limestone within Area C, it agrees to notify Mr. Waitkus and LQD of its intent to mine within Area C no later than July 1, 2005;
 - (ii) In the event that MCC desires to mine limestone within Area C, it agrees to file an amendment to Permit No. 298c-A5, as amended, to allow such mining activity no later than September 1, 2005'
 - (iii) Any mining within Area C shall take place prior to commencing mining in the area identified as Etchepare 7B; and
 - (iv) Upon MCC's (1) failure to notify of its intent to mine in Area C within the time provided above, (2) failure to apply for a permit amendment for Area C within the time provided above, or (3) commencing mining operations in Etchepare 7B, it agrees that its right to mine within Area C are forfeited and that it will not return at any time to mine Area C.
Conditions #2 through #5 above have been superseded with Stipulated Resolution signed on 10/16/06

May 6, 2003, Form 11 Revision

- ✓ 1) Mountain Cement will be required to provide photographic evidence that the UN-1a nest is caged and the platform has been erected in Section 36 of T14N, R73W. MCC shall also submit photographic evidence showing the condition of the UN-1a cage in each annual report until the cage is removed.
Approved by LQD letter dated 6/16/03
- ✓ 2) Mountain Cement Company will be required to install buffer zone staking and request a LQD inspection and approval prior to further disturbance along Cottonwood drainage.
Approved by 10/8/03 Inspection Report
- 3) Mountain Cement Company will submit and the WDEQ-LQD will approve a revision package for the Etchepare pit haul road design and locations, excluding the Warren Quarry access/haul road to Etchepare Pit #1, prior to the construction of any Etchepare pit access or haul roads.
This condition is still applicable and remains attached the permit.
- 4) Mountain Cement Company will submit and the WDEQ-LQD will approve a revision package for the protection of any plant species listed on the Wyoming Plant Species of Special Concern, prior to the disturbance of any lands in Section 31, T15N, R72W.
This condition is still applicable and remains attached the permit.
- ✓ 5) In accordance with LQD Non-coal Rules and Regulations Chapter 3, Section 2(d)(vi), all reclaimed areas will be quantitatively sampled for cover and production for purposed of bond release for two consecutive years. The reclaimed area will be evaluated for revegetation success using an LQD approved method. Qualitative production sampling can be substituted for

quantitative production sampling, after receiving written permission from the WDEQ-LQD Administrator for rule variance, in accordance with W.S. §35-11-601.

No longer applicable as a result of Rule Change. This conditions can be terminated.

January 5, 1998, Form 1 Revision *Amendment*

- 1) If, during the course of mining operations, previously unidentified, cultural resources are discovered, the applicant shall ensure that the site(s) is not disturbed and shall notify the regulatory authority. The operator shall ensure that the resource(s) is properly evaluated in terms of National Register Eligibility Criteria. Should a resource be found eligible for listing, in consultation with the regulatory authority and the State Historical and Preservation Office, the operator shall confer with and obtain the approval of these agencies concerning development and implementation of mitigation measures.

This condition is still applicable and remains attached the permit.

- 2) Mountain Cement Company (MCC) shall meet with a Land Quality Division (LQD) representative at the Etchepare Quarry on or before May 30, 1998 to select a reference area for purposes of revegetation success monitoring. If grazing is to occur in the area, known as the Etchepare Quarry, prior to May 30 deadline. MCC shall contact the LQD. The selected reference area and the Mountain Mahogany Shrubland and Mixed Shrubland-Grassland vegetation community types will be sampled for cover and total cover using methods agreed upon during the reference area site selection meeting. The vegetation survey/sampling must be completed on or before August 15, 1998. MCC must submit the vegetation survey results prior to September 30, 1998 or before mining is initiated, whichever comes first. The submittal must be formulated for direct insertion into Permit 298C and MCC shall meet with the LQD prior to submittal to discuss the required contents of the submittal.

Approved as Change #31 (TFN 3 4/228) on 5/12/08. In addition, the information approved in Appendix DVIII8 of the Area C Amendment (Change No. 29, TFN 4 2/220) addressed the third round comments of TFN 3 4/228 to completely satisfy this condition. However this change needs to be inserted into the 298 Permit; MCC is to make arrangements with Ramona to do the inserting.

- 3) Two water quality samples and water level elevation measurements will be taken from Wells P72810W, P94793W, P8769P and P95938W, subject to owner consent, before June 30, 1998. The two samples, separated by at least 30 days, will be obtained from each well and the following petroleum hydrocarbons and water level elevation. If the results of the analysis from each sampling round are significantly different, an additional confirmation sample must be collected and tested. The date of the collection of this confirmation sample will be at least 30 days after the collection of the second sample. The results of this sampling will be provided to the LQD with appropriate explanatory text and must be formatted for direct insertion into Appendix DVII-6. The above information must be submitted on or before August 30, 1998 or prior to initiation of mining activity, whichever is sooner.

Approved as Change #14 on 11/13/98

- 4) Mountain Cement Company (MCC) will drill at least three holes at locations which are reviewed and approved by the LQD prior to initiation of drilling. Each drill hole must penetrate the strata underlying the limestone to be mined by a minimum of 20 feet. This activity must be completed prior to mining activity in the Etchepare Amendment Area. MCC will provide the LQD with

driller's logs to demonstrate that hole depth was adequate. If no ground water is encountered in the drill holes, after they remain open for at east 24 hours, MCC will provide permit text discussing drilling operations and absence of ground water within 20 vertical feet of mining operations for LQD approval prior to mining. If ground water is encountered within any of the drill holes, MCC must provide the LQD with a ground water impact mitigation plan and receive LQD approval prior to mining in the amendment area. The above required information must be formatted for direct insertion into Appendix DVII-6 and submitted on or before August 30, 1998 or prior to initiation of mining activity, whichever is sooner.

Approved as Change #12 on 2/24/98

- 5) If Mountain Cement Company (MCC) encounters ground water during mining of any pit within the Etchepare Amendment Area, operations in that pit must cease. Within 48 hours, MCC will contact the LQD to provide a reasonable schedule to develop a plan to mitigate the impacts to ground water and modify the mining and reclamation plans, as necessary.

This condition is still applicable and remains attached the permit.

June 16, 1987, Form 1 Revision

- 1) Submitted as part of the application to the Division of Land Quality, and annexed here to as Exhibit A, is the blasting plan prepared by Jim Honn of the Department of Environmental Quality, dated December 5, 1985. Mountain Cement Company agrees to follow the blasting plan. The Division of Land Quality shall monitor blasting to insure compliance with the Honn blasting plan as it may be amended from time to time with DEQ's prior consent after public notice.

Approved for removal by Lisa Geesey on 7/24/87

Conditions #2 through #6 below pertain to a blasting plan revision that has been modified on 6/22/06, 2/11/04, and 9/24/01. Therefore, the conditions are satisfied.

- 2) The coal surface mining blasting limitations for peak particle velocity and PSI over pressure contained in the 1986 Rules and Regulations enforced by the Department of Environmental Quality, Land Quality Division, will be applicable to this quarry operation.

- 3) Mountain Cement Company will continue to maintain records of its blasting operations which will be made available to the Administrator or the Land Quality Division upon request. The records will be available for at least three years following any blast.

The records will contain the following information:

- a. Name of permittee, operator, or other person conducting the blast
- b. Location, date and time of blast;
- c. Name, signature, and certification number of blaster conducting blast;
- d. Identification, direction and distance, in feet, from the nearest blast hole to the nearest dwelling, outside the permit area;
- e. Type of material blasted;
- f. Diameter and depth of holes;
- g. Types of explosives used;
- h. Number of holes loaded and detonated;
- i. Number of delays and number of holes per delay detonated;
- j. Total weight of explosives used per hole;

- k. Maximum weight of explosion detonated within any 8 millisecond period;
- l. Initiation systems;
- m. Type and length of stemming; and
- n. Direction of prevailing wind at time of blast.

- ✓ 4) Mountain Cement Company will use only certified blasters as defined by Wyoming law.
- ✓ 5) Mountain Cement Company will use its best efforts to avoid blasting when the wind is from due South. If a blast is prepared when the wind is not from the South, and the wind shifts from the South, the blaster may nonetheless detonate the blast.
- ✓ 6) Mountain Cement Company will not detonate more than 750 pounds of ANFO per delay.
Conditions #2 through #6 above pertain to a blasting plan revision that has been modified on 6/22/06, 2/11/04 and 9/24/01. These are satisfied, approved and can be terminated.

Comments #7 through #15 deal with the Piper Quarry

- ✓ 7) The following reports will be filed with the Department of Environmental Quality, Land Quality Division:
 - a. A blasting report prepared by Vibra-Tech Engineers Inc. including test data collected May 7 and 8; and
 - b. Hydrology report prepared by Western Water Consultants, Inc.
Approved for removal by Lisa Geesey on 7/24/87
- 8) The permit shall not include the land northwest of the diagonal line as drawn on Exhibit B annexed hereto.
This condition is still applicable and remains attached the permit.
- ✓ 9) Mountain Cement Company Will pile topsoil and overburden between its mining area and the homes to the north, more or less as shown in Exhibit B, attached hereto.
This condition is approved for removal as mining has been completed as determined by inspections and annual reports.
- 10) Mountain Cement Company will minimize its night time operations. When night time mining must occur, Mountain Cement Company will avoid shining stationary lights plants on residential homes to the north and to the west. It will use its best effort to avoid shining the lights of mobile equipment on residential homes.
This condition is still applicable and remains attached the permit.
- 11) All new stockpile will be restricted to a maximum of 35 feet.
This condition is still applicable and remains attached the permit.
- ✓ 12) To the extent possible, Mountain Cement Company will locate limestone stockpiles South of the overburden and topsoil stockpiles, and in the lowest practical areas.
This condition is approved for removal as mining has been completed as determined by inspections and annual reports.

- 13) Requirements of the Division of Air Quality, Department of Environmental Quality concerning watering and crusher will continue to be adhered to.

This condition is still applicable and remains attached the permit.

- ✓ 14) Mountain Cement Company will move its operations to the furthest northern part of the permit area, where it has a right to mine, and will mine south-ward. The operations will be moved north immediately upon receipt of the permit and purchase limestone from Rocky Mountain Energy (RME), provided the permit is issued after June 1, 1987, the operations will move to the furthest mineable northern area as soon as the crusher is required to be moved during the course of ordinary crushing operations. If RME limestone is not purchased the operation will be moved to furthest northern point where applicant has a right to mine.

This condition is approved for removal as mining has been completed as determined by inspections and annual reports.

- ✓ 15) If any mining occurs in the W1/2SW1/4 of Section 13, T15N, R73W, Mountain Cement will pile topsoil and overburden to the west of any mining to create a buffer between the mining and the homes to the West.

This condition is approved for removal as mining has been completed as determined by inspections and annual reports.

Attachment No. 2
List of Outstanding Conditions that are Still Applicable
And Remain Attached to Permit 298C
Mountain Cement Company (MCC)

May 9, 2008, Form 11 Revision

- 1) As a result of an objection by Mr. Waitkus dated September 6, 2006 to the A5 Amendment, a "Stipulated Resolution to Objections" was agreed upon and signed by Mr. Waitkus and Mountain Cement on October 16, 2006. This resolution was modified in association with the approval of TFN 4 4/296, Revision No. 6, Change No. 26. The Stipulated Resolution to Resolve Objections to TFN 4 4/296 is attached to this Form 11. This Stipulated Resolution included several conditions and modifications to the permit that Mountain Cement had agreed to when the resolution was signed. This resolution is attached to the Form 11 to ensure proper tracking of the conditions and modifications to the permit as outlined in the resolution. Agreement Nos. 2, 5(ii), 9 and 10 of the attached Stipulated Resolution have not been addressed in any permit revision. The remaining agreements have been included in the permit as outlined on the attached resolution.

May 6, 2003, Form 11 Revision

- 3) Mountain Cement Company will submit and the WDEQ-LQD will approve a revision package for the Etchepare pit haul road design and locations, excluding the Warren Quarry access/haul road to Etchepare Pit #1, prior to the construction of any Etchepare pit access or haul roads.
- 4) Mountain Cement Company will submit and the WDEQ-LQD will approve a revision package for the protection of any plant species listed on the Wyoming Plant Species of Special Concern, prior to the disturbance of any lands in Section 31, T15N, R72W.

January 5, 1998, Form 1 Revision

- 1) If, during the course of mining operations, previously unidentified, cultural resources are discovered, the applicant shall ensure that the site(s) is not disturbed and shall notify the regulatory authority. The operator shall ensure that the resource(s) is properly evaluated in terms of National Register Eligibility Criteria. Should a resource be found eligible for listing, in consultation with the regulatory authority and the State Historical and Preservation Office, the operator shall confer with and obtain the approval of these agencies concerning development and implementation of mitigation measures.
- 5) If Mountain Cement Company (MCC) encounters ground water during mining of any pit within the Etchepare Amendment Area, operations in that pit must cease. Within 48 hours, MCC will contact the LQD to provide a reasonable schedule to develop a plan to mitigate the impacts to ground water and modify the mining and reclamation plans, as necessary.

June 16, 1987, Form 1 Revision

- 8) The permit shall not include the land northwest of the diagonal line as drawn on Exhibit B annexed hereto.
- 10) Mountain Cement Company will minimize its night time operations. When night time mining must occur, Mountain Cement Company will avoid shining stationary lights plants on residential homes to the north and to the west. It will use its best effort to avoid shining the lights of mobile equipment on residential homes.
- 11) All new stockpile will be restricted to a maximum of 35 feet.
- 13) Requirements of the Division of Air Quality, Department of Environmental Quality concerning watering and crusher will continue to be adhered to.