

FILED

JUL 18 1994

*Terri A. Lorenzon, Attorney
Environmental Quality Council*

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF OBJECTIONS TO THE MINING)
PERMIT APPLICATION OF AMAX COAL WEST,) DOCKET NO. 2573-94
INC., EAGLE BUTTE MINE, PERMIT NO. 428-T2)

NOTICE OF HEARING AND ORDER

NOTICE IS HEREBY GIVEN THAT:

1. The Environmental Quality Council will conduct a hearing at the City Hall Council Chambers Room, 201 East 5th, Gillette, Wyoming on Tuesday, July 26, 1994, commencing at 10:00 a.m. This hearing will be conducted as a contested case hearing under the provisions of the Wyoming Administrative Procedure Act. Dr. Harold L. Bergman will serve at the Hearing Examiner.

2. This hearing is held pursuant to §35-11-101 through 35-11-1428 W.S. 1977 As Amended, regulations promulgated thereunder, and the Department of Environmental Quality Rules of Practice and Procedure.

3. Roger D. Pfeil, Linda Jo Pfeil, Herbert D. Miller, Danene R. Miller, Joseph M. Gilsdorf, and Karla J. Oksanen filed objections to a mine permit revision for Eagle Butte Mine 428-T2, of Amax Coal West, Inc. These Protestants have alleged that Amax's proposed changes in its mine plan sequence will:

- 1. Bring blasting and mine pit activity so close to the protestants homes as to damage those homes;
- 2. Will cause an extensive and damaging release of methane gas on protestants properties;
- 3. Will have an adverse impact on the availability and quality of groundwater in the area;
- 4. Will deprive the nearby properties of sufficient lateral support; and
- 5. Will destroy the value and use of protestants property.

4. In support of the allegations, Protestants have cited §35-11-406 (b), (n), and (m). Protestants have not cited any of the Land Quality Rules and Regulations in support of their allegations.

5. The Department of Environmental, Land Quality Division and Amax Coal West, Inc. state that the permit revision meets the state's statutes and regulations, and the permit revision should be issued.

NOTICE IS FURTHER GIVEN THAT:

1. A prehearing conference in this matter will be conducted prior to the opening of the hearing on July 26, 1994. This prehearing conference will be held at 9:00 a.m. at the same location as the hearing.
2. The purpose of the prehearing conference is:
 - A. Identification of witnesses, their addresses, phone numbers, and the of their proposed testimony;
 - B. Clarification of the legal issues, both substantive and procedural, of all the parties;
 - C. Stipulation of uncontested facts;
 - D. Examination and marking of proposed exhibits and entering into a stipulation as to the foundation and admissibility with respect to the exhibits; and
 - E. Estimation of the time required for the hearing and setting of an order of procedure.
3. To facilitate the prehearing process, all parties shall submit a list of witnesses, their addresses, phone numbers, the substance of their proposed testimony, a list of exhibits, and a summation of the facts and legal issues, on the Environmental Quality Council, and on all parties to this proceeding by the end of the business day on Friday, July 22, 1994.

O R D E R

IT IS HEREBY ORDERED THAT:

1. All parties shall appear on July 26, 1994 at 9:00 a.m. at the above-stated location, to participate in the prehearing conference;
2. All parties shall appear on July 26, 1994 at the above-stated location to present evidence;
3. All parties shall serve their prehearing documents in accordance with the stated schedule, and all documents shall be served on the Environmental Quality Council at the following address:

Environmental Quality Council
2301 Central avenue, Room 407
Cheyenne, WY 82002
4. All parties shall prepare and file with the Environmental Quality Council proposed findings of fact and conclusions of law at a time to be specified at the conclusion of the hearing; and
5. No continuances shall be granted unless a motion showing good cause for the continuance is filed with the Council no later than the end of the business day on July 21, 1994, and the

Hearing Examiner finds that all parties have agreed to the continuance, and good cause has been shown.

DATED THIS 18th day of July, 1994.

Harold L. Bergman

HAROLD L. BERGMAN, Hearing Examiner

CERTIFICATE OF SERVICE

I, Terri A. Lorenzon, certify that at Cheyenne, Wyoming, on the 18th day of July, 1994, I served a copy of the foregoing ORDER by depositing copies of the same in the United States mail, postage prepaid, duly enveloped and addressed to:

Mr. & Mrs. Roger O. Pfeil
209 Battle Cry
Gillette, WY 82716

Neil Hutten
Amax Coal West, Inc.
P. O. Box 3040
Gillette, WY 82717

Mr. & Mrs. Herbert D. Miller
198 Crazy Horse Lane
Gillette, WY 82716

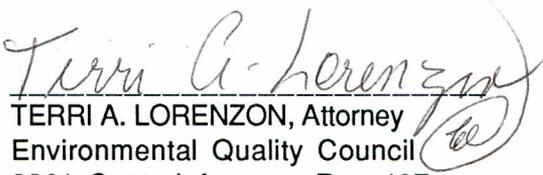
Joseph M. Gilsford & Karla J. Oksanen
205 Battle Cry Lane HCR 84
Gillette, WY 82716

and also to the following persons via interoffice mail:

Dennis Hemmer, Director
Department of Environmental Quality
122 W. 25th Street, Herschler Bldg.
Cheyenne, WY 82002

Richard Chancellor, Acting Administrator
Land Quality Division
Department of Environmental Quality
122 W. 25th Street, Herschler Bldg.
Cheyenne, WY 82002

Thomas A. Roan
Assistant Attorney General
Attorney General's Office
123 Capitol Building
Cheyenne, WY 82002


TERRI A. LORENZON, Attorney
Environmental Quality Council
2301 Central Avenue, Rm. 407
Cheyenne, WY 82002
Tel: (307) 777-7170