

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

**FILED**

**OCT 15 1991**

Terri A. Lorenson, Clerk  
Environmental Quality Council

IN THE MATTER OF AN APPEAL TO )  
RISSLER & McMURRY COMPANY ) DOCKET NO. 2193-90  
AIR QUALITY PERMIT NO. CT-902 )

**ORDER**

On August 16, 1991, at a public meeting in Jackson, Wyoming, the Environmental Quality Council considered the request of Ms. Cathy Killean to waive a 60-day appeal period established in Chapter I, Section 16.a. of the Department of Environmental Quality Rules and Regulations. This appeal period applies to air quality permits issued by the Department of Environmental Quality. Ms. Killean asked to have the appeal period waived so that she could protest the issuance of Permit No. CT-902, an air quality permit issued to Rissler & McMurry Company of Casper, Wyoming on December 4, 1990. Ms. Killean's request for a hearing and objection to the permit was filed with the Environmental Quality Council on June 11, 1991.

After considering the argument of Ms. Killean, the Department of Environmental Quality, and Rissler & McMurry Company, the Environmental Quality Council finds and concludes as follows:

1. Objections to permits issued by the Air Quality Division of the Department of Environmental Quality are governed by Chapter I, Section 16.a. of the Department of Environmental Quality Rules of Practice and Procedure.

2. Section 16.a. states: "Unless otherwise provided by these Rules or the Environmental Quality Act, all appeals to [the] Council from final actions of the Administrators or Director shall be made within sixty (60) days of such action."

3. Ms. Killean's objection to the Rissler & McMurry Company Permit

No. CT-902, was filed over 6 months after the permit was issued.

4. Ms. Killean argued that the Department of Environmental Quality was obligated to inform her individually of her legal right to appeal the issuance of permits to the Environmental Quality Council, because the Department knew of her interest in Permit CT-902.

5. Ms. Killean did not argue that the Department of Environmental Quality failed to comply with all statutory and regulatory requirements for public notice, or that it otherwise deviated from required legal procedures when processing and issuing Rissler & McMurry's air quality permit.

6. The Rules of Practice and Procedure do not provide for exceptions to the time period established in Section 16.a.

7. Although Chapter I, Section 10.b. of the Rules of Practice and Procedure provides that extensions and continuances of time may be granted or denied in the discretion of the Council, Ms. Killean was not seeking an extension or a continuance, as the time for appeal had expired in February of 1991. Section 10.b. does not apply to Ms. Killean's request.


8. Air Quality permits are valid when issued, and permittees may begin construction and operation under those permits subject to any appeal that may be filed within 60 days of issuance.

9. Once the appeal period has run, all permittees are entitled to rely on their permits and to conduct operations without the risk of countering belated challenges to the permit.

10. The Environmental Quality Council does not have the legal authority to waive the 60-day appeal period established in Chapter I, Section 16.a.

THEREFORE, it is ordered that the request to waive the appeal period for Air Quality Permit No. CT-902, filed by Cathy Killean, is denied.

DATED this 7<sup>th</sup> day of October, 1991.

  
VINCENT R. LEE, Chairman

CERTIFICATE OF SERVICE

I, Terri A. Lorenzon, certify that at Cheyenne, Wyoming, on the 15<sup>th</sup> day of October, 1991, 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:

Cathy Killean  
5138 Alcova Route, Box 3  
Casper, WY 82604

Ernest M. Skretteberg  
Safety Director  
Rissler & McMurry Company  
P. O. Box 2499  
Casper, WY 82602

and by interoffice mail of the same date to:

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

Mike Barrash  
Assistant Attorney General  
Attorney General's Office  
State Capitol Building  
Cheyenne, WY 82002

  
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