

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF THE OBJECTIONS)
TO THE PERMIT APPLICATION OF)
FORT UNION MINE PARTNERS,)
TFN 1 6/215)

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

Pursuant to notice duly given to all parties in interest, this matter came on for hearing on January 3, 1985, at 1:10 p.m., in the Campbell County Public Library, Gillette, Wyoming, Mr. Richard Gray, a member of the Environmental Quality Council, presided as hearing officer. Ms. Terri Lorenzon, Administrative Aide, was also present to assist the hearing officer.

The applicant appeared and was represented by Mr. David D. Freudenthal. The protestant, Kenneth W. Johnson, appeared pro se. The Department of Environmental Quality, Land Quality Division, was represented by Mr. Weldon S. Caldbeck, Assistant Attorney General.

With all parties participating in the hearing, the Environmental Quality Council having taken this matter under advisement and having been fully advised and having considered all the testimony and evidence submitted by the parties, now makes its Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Fort Union Mine Partners has filed an application, TFN 1 6/215, for a permit to mine coal from an area of land within Campbell County, Wyoming.

2. This matter was initiated by the filing of objections to the mine application, TFN 1 6/215 by Kenneth W. and N. Maureen Johnson, John Kluver, Jim Kluver, Luff Exploration Company, and Belle Fourche Pipeline Company.

3. All parties with the exception of Kenneth W. and N. Maureen Johnson withdrew their objections prior to the hearing held on January 3, 1985.

4. Kenneth W. and N. Maureen Johnson's objections to the permit were based on the grounds that the mine operation would come too close to their home.

5. Fort Union Mine Partners mine permit application indicates the mine boundary is 750 feet from the Johnson residence. Mine operations will come as close as 1,350 feet from the Johnson residence (Mine Plan map, Applicant's Exhibit #2).

6. No evidence was presented to substantiate Mr. Johnson's concerns that the proximity of the Fort Union Mine Partners mine to the Johnson residence would:

- a) affect the air quality around the Ken Johnson residence;
- b) pose a public nuisance because of noise, dust or vehicular traffic;
- c) damage surface or groundwater systems relied upon by the Johnson residence;
- d) decrease the value of the Johnson residence; or
- e) affect the health or safety of the residents in the area.

CONCLUSIONS OF LAW

1. The Environmental Quality Council has jurisdiction over both the subject matter and parties to this proceeding.

2. Due and proper notice of the hearing in this matter has been given in all respects as required by law and, specifically, by Section 35-11-406(k), Wyoming Statutes, 1977, as amended.

3. The proposed operation, reclamation program and the proposed future use is not contrary to the law or policy of this State or of the United States.

ORDER

WHEREFORE, PURSUANT TO W.S. 35-11-112(c)(ii) AND W.S. 35-11-406(p), IT IS HEREBY ORDERED THAT:

1. The Director of the Department of Environmental Quality and the Administrator of its Land Quality Division shall issue the permit, TFN 1 6/215, to Fort Union Mine Partners to conduct surface coal mining operations in accordance with the approved mining and reclamation plan, the Wyoming Environmental Quality Act, and the rules and regulations promulgated thereunder and any specific terms or conditions attached to the permit.

IT IS FURTHER ORDERED that nothing in this order shall in any way limit any existing civil or criminal remedy for any wrongful action arising out of the violation of the Environmental Quality Act or rules and regulations promulgated thereunder.

DATED this 8th day of March, 1985.

ENVIRONMENTAL QUALITY COUNCIL


Richard Gray, Hearing Examiner