

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

FFR 0 8 1989

Terri A. Lorenzon, Admin
Environmental Quality Council

IN THE MATTER OF PROPOSED)	
REGULATION CHANGES TO ALLOW)	STATEMENT OF PRINCIPAL
ESTABLISHMENT OF BLUFFS)	REASONS FOR OVERRULLING
AS FINAL MINED LAND RECLAMATION)	THE COMMENTS OF LEROY GRAMS
AT COAL MINES IN WYOMING)	

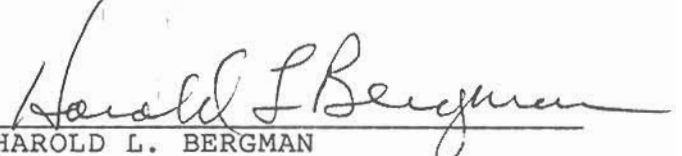
Rulemaking was initiated pursuant to the Wyoming Administrative Procedure Act, Section 16-3-106, W.S. 1977, As Amended to consider a petition for rulemaking filed with the Environmental Quality Council by the Wyoming Mining Association, the Wyoming Game and Fish Department, the Wyoming Wildlife Federation, the Powder River Coal Company, the NERCO Coal Corporation, the Thunder Basin Coal Company, and the Cordero Mining Company. This petition sought changes in the Land Quality Division Rules and Regulations, specifically, changes to Chapters I, II, and IV were proposed. A public hearing was held on October 7, 1988 in Casper, Wyoming. The Council adopted the petition with only minor changes to the proposed rules. These rules were filed in the Secretary of State's office on December 5, 1988.


Prior to and at the public hearing, comments were received from the public on the changes in the regulations proposed by the petition. Leroy Grams submitted a written objection to the proposed revisions. Mr. Grams' objection did not contain any information of a technical nature which would have indicated the revisions were not in the best interests of the State of Wyoming. Mr. Grams argued that the changes, which will allow bluffs to be used as part of final mined land reclamation, were a subterfuge for the coal mines in that the mines will have "the opportunity to call their mine strippings or overburden 'bluffs' and not have to backfill their mine 'pits' leaving the land in similar conditions (sic) as the coal operations in the East." Mr. Grams further argued that the open pits would be used for waste disposal and he incorporated by reference documents that were only identified as the "Spence Rawhide Pleadings." Mr. Grams did not provide these pleadings and the pleadings were not submitted by other persons commenting upon these regulations.

The Council did receive technical information which supported the revisions to the Land Quality Division Rules and Regulations. The information submitted demonstrated the benefits that can be derived by use of bluffs for wildlife and livestock. Others who commented on the proposal supported the changes as they provide the Department of Environmental Quality and the mine operators in Wyoming the flexibility to use bluffs as a means of creating topographic diversity in final reclamation. These regulatory revisions were supported by Wyoming environmental organizations, wildlife organizations, livestock organizations, the University of Wyoming's Range Management Department, soil conservationists, and the Department of Environmental Quality. Mr. Grams offered no refutation of the arguments or data submitted in support of the revisions. The Council was convinced this regulatory change will be of benefit to the State and is consistent with its statutory responsibilities under the Environmental Quality Act, §35-11-101 through §35-11-1304, W.S. 1977, As Amended.


For the above reasons, Mr. Grams' objection to the changes to Chapter I, Chapter II, Section 3(b)(i)(B)(VIII), and Chapter IV, Sections 2(b)(ii)(A), 3(a)(v), and 3(a)(x), which changes allow bluffs to be used as part of final mined land reclamation, was overruled.

DATED this 25th day of January, 1989.


HAROLD L. BERGMAN
Hearing Examiner


John V. Crow

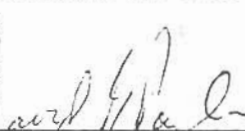
Jan. 25, 1989
Date


John C. Darrington

Date


Vincent R. Lee

25 January '89
Date


David B. Park

1/25/89
Date