

John Green
P.O. Box 33010
Austin, TX 78764

July 7, 2010

Environmental Quality Council
122 West 25th Street
Herchler Building, Room 1714
Cheyenne, WY 82002

Transmitted via email

FILED

JUL 07 2010

Jim Ruby, Executive Secretary
Environmental Quality Council

Re: Sand Creek petition, Docket No. 09-1103

Dear Mr. Ruby,

In light of Mr. Molvar's recent factually erroneous if not misleading email, I wanted to document my concerns about Mr. Molvar practicing law without a license and the damage he is causing. Clearly, he is not a lawyer, nor is he licensed to practice law in Wyoming. Previously, the Bar issued a Cease and Desist letter to him dated September 21, 2009 (see attached Exhibit A). However, a subcommittee later determined that he did not engage in the authorized practice of law, as he could appear in a representative capacity as long as he was a "corporate officer or a full-time employee of said corporation." (see attached Exhibit B). A check of the public records for Biodiversity Conservation Alliance (hereafter BCA) does not list him as a corporate officer. (See attached Exhibit C). All of these matters concerned the petition filed by Mr. Molvar on behalf of BCA but there is more.

The previous Sand Creek petition, Docket No. 07-1102, was submitted by Marcia F. Dunsmore with the Friends of Sand Creek (see Exhibit D) but it was actually drafted by Erik Molvar. Ms. Dunsmore identified Erik Molvar as the individual who had prepared the petition and she testified to the Council on June 24, 2008 that he was also the person who gave her the legals on who was to get notice:

Dunsmore: "The person who had drafted the petition gave me the legal on it. He was . . . it is not there."

Board Member: "What's not on it, what not there"

Dunsmore: "... The person who actually drafted the petition. As I started adding up 4000 acres of minerals, it seems like he took out 4,000 but I'm not for certain."

So once again, EQC is faced with another legally defective Sand Creek petition prepared once again by the non-lawyer, Erik Molvar. Clearly, it appears that when he drafted the previous

Sand Creek petition which Ms. Dunsmore filed, he was practicing law. And worse, it appears that he knew what he was doing was wrong, and was therefore attempting to conceal his action from the EQC. The actions of Mr. Molvar are blatant and reprehensible.

His egregious actions are causing needless time, effort and expense. More damning is the fact that the basis for filing these repeated petitions is bogus. If you will review my previous motion to dismiss filed 06/23/2008 in his prior Sand Creek petition (Docket No. 07-1102), you will find that I went through the U.S. Department of Agriculture's database of plants and looked up each plant that was named in the petition and attached a copy of their data for each plant to the petition. None are rare or uncommon or unique to Sand Creek. More recently, the U.S. Forest Service has conducted their own Environmental Impact Study and arrived at the same conclusion. See *Final Environmental Impact Statement*, March 2010. The one fish named is not native to the area. True, Sand Creek is a beautiful area and has mule deer as do many parts of Wyoming but this is not enough.

A lawyer would not submit or sponsor a bogus petition as there would be consequences for his actions. However, since Erik Molvar is not a lawyer, but merely practicing as one, he is free to continually file redundant bogus petitions.

I would urge the Council to delve in to the facts of his past actions and if appropriate, impose sanctions and/or request that the Wyoming Bar revisit whether his past conduct constitutes practicing law without a license. There should be consequences to his actions.

Respectfully,



John Green

Phillip T. Willoughby
Attorney at Law

4100 Sweetbrier, Suite 109
Casper, WY 82604
FAX 307-472-1973
307-266-4549

September 21, 2009

Eric Molver
P.O. Box 1512
Laramie, WY 82073

RE: Compliant to Unauthorized Practice of Law Committee
By John Green
CEASE AND DESIST LETTER

Dear Mr. Molver:

A compliant was brought to the Unauthorized Practice of Law Committee alleging you have engaged in the unauthorized practice of law in the state of Wyoming without the benefit of being licensed in this state.

The committee considered information provided which was taken off the website of the Biodiversity Conservation Alliance. In that website it indicates you prepare appeals and legal briefs. Additionally the committee considered a letter dated May 27th, 2009 wherein you filed an addendum to petition to designate Sand Creek as a very rare or uncommon area. The letter indicates you have prepared an amended pleading and filed the same with the Environmental Quality Council, a decision making tribunal in the state of Wyoming.

After consideration the committee directed that I issue a cease and desist letter. In the State of Wyoming an individual who is not licensed to practice law would engage in the practice of law if they prepared "legal briefs" and took appeals to a higher court. Additionally, the preparation and filing of documents with any tribunal in the state of Wyoming constitutes the practice of law. I would call your attention to the Wyoming Supreme Court Rules concerning the bar association organization and government Rule 11.1 the Unauthorized Practice of Law. I would also call your attention to an article that appeared in Wyoming Lawyer in the June 2005 issue and an article appearing in the Wyoming Lawyer in the October 2005 issue, both authored by Professor John Burman. These articles help to define the practice of law and conversely the unauthorized practice of law.

The committee voted to issue the cease and desist letter with one dissent and has found you have engaged in the practice of law in the State of Wyoming.

The Committee anticipates you will abide by this cease and desist letter and no further actions, allowed by law in the State of Wyoming, including civil and criminal contempt proceedings, will be necessary.

EXHIBIT A
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Mr. Molver
September 21, 2009
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Please note this cease and desist letter has been issued only as to your representation on the website. A committee has been appointed to investigate the Environmental Quality Council rules regarding appearance before the council and the status of the council as a tribunal. The subcommittee will report back to the committee with its findings which will determine whether the Environmental Quality Council constitutes a tribunal.

Sincerely,

THE LAW OFFICE OF PHILLIP T. WILLOUGHBY


Phillip T. Willoughby

PTW:dcw
c: Sleeter Dover, Executive Director of the Wyoming State Bar
U.P.L. Committee
✓ John Green

EXHIBIT A
Pg 2 of 2

Phillip T. Willoughby
Attorney at Law

4100 Sweetbrier, Suite 109
Casper, WY 82604
FAX 307-472-1973
307-266-4549

November 6, 2009

Eric Molver
P.O. Box 1512
Laramie, WY 82073

RE: Compliant to Unauthorized Practice of Law Committee

Dear Mr. Molver:

I believe that you know a complaint was filed with the Unauthorized Practice of Law Committee by John Green, general partner of Mineral Hill. As the chairman of the committee I appointed a subcommittee to investigate this matter. I have included a copy of Mr. Green's compliant, initially submitted to the Board of Professional Responsibility. That board does not have jurisdiction over non-attorneys. The matter was referred to my committee.

I enclose the report from the subcommittee.

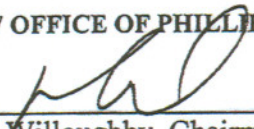
As indicated it has been determined it is not the unauthorized practice of law for you to appear and file before the EQC. Their rules specifically indicate non-attorneys may practice before the council.

The committee did express concern about your webpage which indicates you author... "appeal and legal briefs" on projects effecting public lands. We are assuming this means before bodies such as the EQC.

As a consequence this committee has decided you did not engage in the unauthorized practice of law.

Sincerely,

THE LAW OFFICE OF PHILLIP T. WILLOUGHBY


Phillip T. Willoughby, Chairman U.P.L. Committee

PTW:dcw

c: Sletter Dover, Executive Director of the Wyoming State Bar, with enclosure, by email
U.P.L. Committee, with enclosure, by email

✓ John Green, with enclosure

EXHIBIT B
Pg 1 of 3

UNAUTHORIZED PRACTICE OF LAW SUBCOMMITTEE REPORT

Our subcommittee was asked to address whether Erik Molvar's representation of the Biodiversity Conservation Alliance before the Environmental Quality Council constituted the unauthorized practice of law. As explained below, I have reached the conclusion that Molvar is **not** committing the unauthorized practice of law.

Erik Molvar is the executive director of Biodiversity Conservation Alliance, a registered non-profit corporation with the Wyoming Secretary of State. Jim Ruby at the EQC directed me to the EQC Rules of Procedure on their website at <http://deq.state.wy.us/eqc/index.asp>. The Sandcreek II (EQC 09-1102) case, where Molvar has appeared on behalf of Biodiversity Conservation Alliance, is also available on their website. Interestingly, a Motion for Contempt was filed in the Sandcreek II docket asserting that Molvar was committing the unauthorized practice of law. That motion and the order denying the motion are attached to this email. Ultimately, the EQC found that Mr. Molvar's representation of Biodiversity Conservation Alliance complied with EQC Rules.

Wyo. Bar Assn. Organ. & Gov't. Rule 11.1 defines the unauthorized practice of law. Rule 11.1 generally states that providing legal advice, drafting legal documents, and appearing and advocating before a tribunal is the practice of law. However, there are exceptions to the rule. Rule 11.1(c) provides in pertinent part:

(c) Exceptions to definition of "practice law." . --

(1) **Appearing as an advocate in a representative capacity before any body, board, committee, or commission constituted by law**, if that body, board, committee or commission is functioning as an adjudicative body is not practicing law **when such conduct is authorized by Wyoming Supreme Court rule, federal statute, state statute, county or city resolution or ordinance, federal administrative regulation, or state administrative regulation.**
Rule 11.1 (emphasis added).

The EQC Rules were promulgated under the Wyoming Administrative Procedure Act and the Wyoming Environmental Quality Act. *See* Section 1, Chapter I. Chapter II (Rules of Practice and Procedure Applicable to Hearings in Contested Cases) of the EQC Rules allows for the appearance of attorneys and non-attorneys in EQC proceedings. *See* Chapter II attached to this email. Specifically, Section 6 of Chapter II provides in pertinent part:

Section 6. Appearance

(a) Appearances and representation of parties shall be made as follows:

(iii) A corporation may appear and be represented by a corporate officer or a full-time employee of said corporation.

EXHIBIT D
Pg 2 of 3

(v) An unincorporated association may appear and be represented by any bona fide general officer or full-time employee of such association.

The EQC Rules, a state administrative regulation, permits Molvar, the executive director, to represent Biodiversity Conservation Alliance in EQC proceedings. Pursuant to the exceptions of Rule 11.1(c), Molvar's representation is NOT the unauthorized practice of law. There is one caveat. If Molvar appears on behalf of other entities that he is not a corporate officer for or a full time employee he would be committing the unauthorized practice of law. Please let me know if you disagree or believe I have missed anything.

EXHIBIT B
Pg 3 of 3

STATE OF WYOMING * SECRETARY OF STATE
MAX MAXFIELD
BUSINESS DIVISION

200 West 24th Street, Cheyenne, WY 82002-0200

Phone 307-777-7311 · Fax 307-777-5339

Website: <http://soswy.state.wy.us> · Email: business@state.wy.us

Filing Information

Name	Biodiversity Conservation Alliance
Filing Type	NonProfit Corporation
Status	Active

General Information

Fictitious Name		ID	1994-000290712
Old Name	Biodiversity Associates	Standing - Tax	Good
Sub Status	Current	Standing - RA	Good
Sub Type	Public Benefit	Standing - Other	Good
Formation Locale	Wyoming	Name Consent	N
Filing Date	05/02/1994 12:00 AM	Term of Duration	Perpetual
Delayed Effective Date		Expiration Date	
Inactive Date			

Registered Agent Address

Perry Wechsler
Dept 3038 1000 E University
University Of Wyoming Dept of Atmospheric Science
Laramie, WY 82071 USA

Mailing Address

PO Box 1512
Laramie, WY 82073 USA

Parties

Type	Name / Organization / Address
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Public Notes

EXHIBIT C

Filing Information

Name **Biodiversity Conservation Alliance**
Filing Type NonProfit Corporation
Status Active

Most Recent Annual Report Information

Type	Original	AR Exempt	N	AR Year	2009
License Tax	\$25.00	Electronic AR	Y	AR ID	01005818
AR Date	4/24/2009 9:28 AM	AR Email			
Web Filed	N				

Officers / Directors

Type	Name / Organization / Address
Director	Alyssa Wechsler
Director	Joycee Corcoran
Director	Perry Wechsler
President	Jeff Kessler
Secretary	Chip Rawlins
Treasurer	Chip Rawlins
Vice President	Jay Lillegraven

Principal Address

215 S 3rd St Ste 114
Laramie, WY 82070 USA

Mailing Address

PO Box 1512
Laramie, WY 82073 USA

Filing Information

Name **Biodiversity Conservation Alliance**
Filing Type NonProfit Corporation
Status Active

Amendment History

Num	Type	Date	Delayed Date	Status	Username
2007-000607357	System Amendment	05/01/2007		Active	SYSTEM.USER
	RA Name Change	02/16/2006		Active	CRANDA
	RA Address Change	02/16/2006		Active	CRANDA
	Common Amendment	06/17/2002		Active	CRANDA

**A Petition to the Environmental Quality Council
for Designation of an Area Known as Sand Creek
as Rare and Uncommon**

Under the Authority of the Wyoming Environmental Quality Act,
W.S. §35-11-112

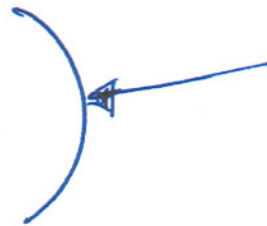
and

Chapter VII of the Wyoming Department of Environmental Quality
Rules of Practice and Procedure

This petition is formatted according to the numbering scheme found in Section 6(a) of Chapter VII of the Department of Environmental Quality Rules of Practice and Procedure

Section 6(a)(i) The name, address, phone number, and fax number for the petitioner
Petitioner:

Friends of Sand Creek
c/o Marcia F. Dunsmore
PMB 175 24695 US Highway 85
Four Corners, WY 82715
307.941.1281
Fax: 307.672.5800



Section 6(a)(ii) The location by legal description, including section, township and range, of the area the petitioner is proposing for designation.

The petition is for lands managed solely by the United States Forest Service (USFS) in

T52N R61W: That portion of Section 26 east of the forest boundary and south of Forest Road 863, SW portion of Section 25 south of Forest Road 863 and west of Thompson Gulch, the portion of Section 35 east of Forest Road 863, western portion of Section 36 as shown on map.

T51N R61W: All of Section 1, that part of Section 2 which is east of Forest Road 863, the extreme SE portion of Section 3 east of Forest Road 863, extreme NE portion Section 10 as shown on the map, that portion of Section 11 east of Idol Gulch, all of Section 12, all of Section 13, that portion of Section 14 east of Idol Gulch, that portion of Section 24 east of Idol Gulch, the eastern portion of Section 25 as shown on the map, the eastern portion of Section 36 as shown on the map.

T51N R60W: that portion of Section 6 as shown on the map (roughly the SW 1/4 west of Forest Road 852), all of Section 7 except that portion north of Forest Road 864 in the NE corner, the portion of Section 8 south of forest roads 864 and 865, the Forest Service portion of Section 17 as shown on the map, all of Section 18 excluding the private land, all of Section 19, all of Section 20, portions of Section 21 as shown on the map, portions of Section 28 as shown on the