

**ENVIRONMENTAL QUALITY COUNCIL, DEPARTMENT OF
ENVIRONMENTAL QUALITY, STATE OF WYOMING**

IN THE MATTER OF THE APPEAL OF)
THE PITTSBURG & MIDWAY COAL)
MINING CO.'S WELCH PERMIT NO.)
497-T4.)

) Docket No.: 07-4600
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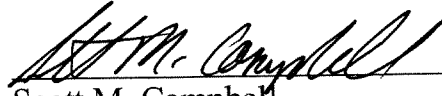
**MOTION OF THE PITTSBURG & MIDWAY COAL MINING CO.
TO DISMISS PURPORTED APPEAL, WITH PREJUDICE**

COMES NOW The Pittsburg & Midway Coal Mining Co. ("P & M"), by and through its undersigned attorneys, Poulson, Odell & Peterson, LLC, and Brown, Drew & Massey, LLP, and, pursuant to Wyo. DEQ Rules of Practice & Procedure, Chapter II, §§ 3(a), 14(a) and W.R.C.P. 12(b)(1) & (b)(2), hereby files its Motion of The Pittsburg & Midway Coal Mining Co. to Dismiss Purported Appeal, with Prejudice. In support of its Motion, P & M submits concurrently herewith its Memorandum in Support of Motion of The Pittsburg & Midway Coal Mining Co. to Dismiss Purported Appeal, with Prejudice.

By filing this Motion and the Memorandum in support thereof, P & M does not submit to the jurisdiction of the Environmental Quality Council outside of its consideration of the issues raised therein. Neither this Motion nor the Memorandum in support thereof shall be construed as an Answer or other responsive pleading, pursuant to Wyo. DEQ Rules of Practice & Procedure, Chapter II, § 1(a), or any other statute, rule or regulation, to the purported Appeal filed with the Council on April 13, 2007. P & M expressly reserves the right, if necessary, to file a substantive Answer or other responsive pleading as permitted under Wyoming law.

Dated this 20th day of April, 2007.

The Pittsburg & Midway Coal Mining Co.



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Its Attorneys

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of April, 2007, a true and correct copy of the foregoing MOTION OF THE PITTSBURG & MIDWAY COAL MINING CO. TO DISMISS PURPORTED APPEAL, WITH PREJUDICE was served upon counsel for the Petitioner/Protestant by depositing a true and correct copy thereof in the United States mail, postage prepaid and properly addressed to:

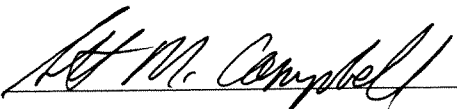
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By:  _____