

**EXHIBIT TO**

---

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

) Docket No.: 07-4600  
)  
)  
)  
)  
)

---

**MEMORANDUM IN SUPPORT OF  
MOTION OF THE PITTSBURG & MIDWAY COAL MINING CO.  
TO DISMISS PURPORTED APPEAL, WITH PREJUDICE**

---

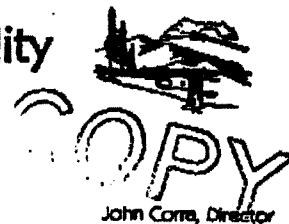
**EXHIBIT "B"**



Dave Freudenthal, Governor

# Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



John Corra, Director

May 19, 2006

Mr. Dan B. Riggs  
Lonabaugh and Riggs LLP  
50 East Loucks Street, Suite 110  
Sheridan, WY 82801

RE: **Pittsburg & Midway Coal Mining Company's (P&M) Permit No. 497-T4**

Dear Mr. Riggs:

I have reviewed the issues raised in your letter of May 8, 2006 to Bob Giurgevich in the Land Quality Division (LQD) Sheridan District III Office. Your letter outlines what you feel is a serious violation by P&M Coal because the surface use agreement between P&M and Mr. Willson terminates prior to the land being eligible for bond release. You state the surface use agreement expires (July 21, 2009) prior to the end of the bond liability period. You state the earliest the bond can be released is September 2011.

There appears to be a misunderstanding of the coal regulatory program and I'll attempt to clarify the facts and our procedures.

- The information from our records show the current T4 permit term extends until August 29, 2010. This date is beyond the end of the surface use agreement. Our records also show the permanently reclaimed lands on Mr. Willson's surface total approximately 0.95 acres. Those lands were permanently seeded in November 1999. Thus, the minimum 10 year bond responsibility period runs through November 2009, not September 2011 as stated in your letter.
- There is ample time for the mine to conduct all necessary remedial actions, if necessary, on the permanently reclaimed lands well in advance of July 2009. There is also ample time prior to July 2009 for the mine to conduct the necessary field studies associated with verification of final bond release performance standards prior to July 2009. I find no violation at this time concerning the termination date of the land use agreement.
- Your letter also states DEQ Land Quality Division is required to revoke the permit (W.S. 35-11-409) because the land use agreement terminates prior to the mine completing all requirements of the Environmental Quality Act and the permit. I do not find grounds for revoking the permit. The mine had and continues to have surface owner consent for the operation.

Herschler Building • 122 West 25th Street • Cheyenne, Wyoming 82002 • <http://deq.state.wy.us>

ADMIN/OUTREACH  
(307) 777-7758  
FAX 777-3810

ABANDONED MINES  
(307) 777-6146  
FAX 777-8482

AIR QUALITY  
(307) 777-7381  
FAX 777-5618

INDUSTRIAL SITING  
(307) 777-7368  
FAX 777-0837

LAND QUALITY  
(307) 777-7758  
FAX 777-5864

SOLID & HAZ. WASTE  
(307) 777-7752  
FAX 777-5973

WATER QUALITY  
(307) 777-7781  
FAX 777-5973



**Mr. Dan B. Riggs  
Lonabaugh and Riggs LLP  
RE: Pittsburg & Midway Coal Mining Company's (P&M) Permit No. 497-T4  
Page 2**

In accordance with Land Quality Division Coal Rules and Regulations Chapter 16, I will treat your letter as a complaint. Since the complaint does not identify possible on-the-ground violations, I will not require an inspection. As I stated above, I find no violations associated with the operation. Also in accordance with Chapter 16, you have the right to request an informal review of this decision by the Director.

If you have any questions, please contact me.

Sincerely,

  
Richard A. Chancellor  
Administrator  
Land Quality Division

RAC:bb

cc: John Corra  
Sheridan District III  
P&M Coal