

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

EXHIBIT "D"

JOHN C. WILLSON
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August 23, 2006



Mr. Richard A. Chancellor
Administrator
Land Quality Division
Herschler Building
122 West 25th Street
Cheyenne, WY 82002

Re: P&M Coals Welch Permit No. 497-T4

Dear Mr. Chancellor:

As a result of the on site inspection with inspectors from your Sheridan office on August 9, 2006, several additional violations were observed and photographed. I would like to amend my complaint under Wyo. Stat. § 35-11-701 dated July 26, 2006 to include the following observed violations.

Wyoming Statutes Title 35, Chapter 11, Article 406 requires that methods of reclamation effectively control erosion. The cut bank of the access road has been under cut and sloughed off due to erosion resulting in a steep bank, greater than 1:1 in spots. This will continue unless the slope is laid back and properly revegetated.

Wyoming Statutes Title 35, Chapter 11, Article 415(b)(vii) states "Replace, as nearly as possible, native or superior self regenerating vegetation on land affected, as may be required in the approved reclamation plan;". The cut bank of the access road has absolutely no vegetation on it, resulting in erosion and the steep slope. In addition the large road fill has no grass or other suitable vegetation growing on it to stabilize it against erosion, there is some volunteer sagebrush but this is hardly adequate to stabilize this large slope. Considering the draught we have had for the last 5 years in Sheridan County and the current evidence of erosion, a normal year of moisture would result in considerably worse erosion. Both of these slopes should be stabilized with self regenerating vegetation.

In addition to violating the State laws mentioned above, these are also violations of The **TITLE V -- CONTROL OF THE ENVIRONMENTAL IMPACTS OF SURFACE COAL**

MINING ENVIRONMENTAL PROTECTION STANDARDS [30 U.S.C. 1251], SEC. 515 (b)
stating:

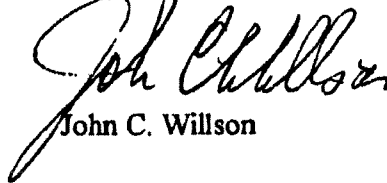
(4) stabilize and protect all surface areas including spoil piles affected by the surface coal mining and reclamation operation to effectively control erosion and attendant air and water pollution;

(17) insure that the construction, maintenance, and postmining conditions of access roads into and across the site of operations will control or prevent erosion and siltation, pollution of water, damage to fish or wildlife or their habitat, or public or private property;

(19) establish on the regarded areas, and all other lands affected, a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved postmining land use plan;

On the foregoing basis, I hereby amend my complaint under Wyo. Stat. § 35-11-701 to include the violations mentioned above and specifically request that your office issue a Notice of Violation to P&M concerning the above described permit and that I, and my counsel, be allowed to participate in any hearing held before your office or the Environmental Quality counsel concerning this matter.

Very truly yours,


John C. Willson

cc: Dan B. Riggs, Esq.

