

FILED

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
OF THE STATE OF WYOMING**

MAY 22 2007

Terri A. Lorenzon, Director
Environmental Quality Council

**IN THE MATTER OF THE APPEAL OF)
JOHN C. WILLSON FROM THE PITTSBURG) Docket No. 07-4600
& MIDWAY COAL MINING COMPANY)
WELCH MINE, PERMIT NO. 497-T4.)**

**RESPONSE OF JOHN C. WILLSON TO
MOTION TO DISMISS BY THE PITTSBURG & MIDWAY COAL MINING CO.**

John C. Willson (“Willson”), by his undersigned attorneys, respectfully opposes the Motion to Dismiss his Petition filed by the Pittsburg & Midway Coal Mining Co. (“P&M”), on the basis set forth herein.

SUMMARY OF POSITION

P&M is not a party to this appeal and has not properly intervened. Accordingly, it has no standing to raise the objections presented in its motion to dismiss. The matter Willson is appealing is a dispute between him and the Director. Regardless of P&M’s ability to file its motion, Willson timely filed his Notice of Appeal of the final action taken by the Director of the Department of Environmental Quality. These proceedings before the Environmental Quality Council were commenced by Willson’s filing of his Petition. The Notice of Appeal, on the one hand, and the initiation of proceedings before the Environmental Quality Council, on the other, are separate matters. In this case, both were properly filed. No prejudice of any kind whatsoever has resulted to P&M. Willson’s Petition deserves a hearing, and decision, before the Wyoming Environmental Quality Council on the merits.

DISCUSSION

1. P&M has no standing to raise the objections it has presented in this case because it is not yet a party to this appeal and has not taken the proper steps to intervene in this matter. The nature of the dispute between Willson and the Director does admittedly involve P&M, but the matter which Willson is appealing is the Director's decision with respect to Willson's complaint about a permit. P&M is not a party to this appeal at this time. In fact, the only reason P&M was provided a copy of this petition was because Willson was arguably required to serve a copy on P&M pursuant to the General Rules of Practice and Procedure before the Environmental Quality Council, Ch. I, § 3(b)(ii). However, this requirement (i.e., serving a notice) does not make P&M a party to this appeal. The dispute here is between Willson and the Director, not between Willson and P&M. P&M may have an argument for intervention, as allowed by the Rules of Practice and Procedure Applicable to Hearings in Contested Cases before the Environmental Quality Council, Ch. II, § 7, but P&M has not filed a petition for such intervention as clearly required by that rule. As such, it is entirely unclear as to the basis for P&M's motion in the first place, as it is not a party to this action and has not intervened in this action. P&M has not addressed this issue in its lengthy brief.

Notwithstanding the appropriateness of P&M's motion to dismiss, P&M's arguments for dismissal are reviewed below.

2. DIRECTOR CORRA'S LETTER OF 10-16-06 WAS NOT A FINAL REVIEWABLE ORDER

P&M erroneously contends that Director Corra's letter of 10-16-06 was a final appealable decision. Director Corra's 10-16-06 letter was, as plainly stated in the letter, to provide Willson with "... the result of my informal review"; that certain questions were ones that Director Corra "... will explore further."; that Director Corra was asking Administrator Chancellor to schedule a further meeting to clarify additional facts and that Director Corra would inform Willson of the results of such a meeting; and that Director Corra expected the parties would come together and reach a timely consensus as to a resolution of the problems

raised by Willson. (*Exhibit "A", Corra Letter Dated 10-16-06*, emphasis added) There is nothing remotely "final" about Director Corra's letter of 10-16-06. There was nothing to appeal pending Director Corra's further investigation. The terms of Director Corra's letter dated 10-16-06 leave much to be determined before a final decision by Director Corra. Director Corra's letter of 10-16-06 was a status report and a suggestion to Willson of Corra's preliminary views. An appeal may be taken only from a "final action" by Director Corra as stated in Ch. I, § 16 of the Council's General Rules of Practice and Procedure.

Indeed, Director Corra proceeded after October 16, 2006, with further investigation, issued a final decision letter to Willson on January 3, 2007, and declared that decision to be a "final action" for purposes of an appeal to the Environmental Quality Council. (*Exhibit "B", Corra Letter Dated 1-3-07*)

3. WILLSON TIMELY FILED HIS NOTICE OF APPEAL.

Ch. I, § 16 of the General Rules of Practice and Procedure before the Environmental Quality Council require appeals to the Environmental Quality Council to be made within sixty (60) days of the "final action" from which an appeal is taken. Willson filed his appeal dated January 11, 2007. It was received by the Department of Environmental Quality on January 16, 2007, and filed/docketed with the Environmental Quality Council on January 19, 2007. (*Exhibit "C", Willson Notice of Appeal Letter Dated 1-11-07*) Willson's Notice of Appeal has clearly been treated by all parties as a "Notice of Appeal". (*See, e.g., Exhibit "D" Corra Letter Dated 1-19-07 and Exhibit "E", McGee Letter to P&M Dated 2-12-07*)

There is nothing in Ch.I, § 16 requiring that a party wishing to take an appeal to the Council do anything more than make the appeal. If the Council's General Rules of Practice and Procedure required something more, certainly the Rules would so specify. In this case, Willson timely gave notice of his appeal, the notice was accepted, filed and docketed by the Wyoming Environmental Quality Council. Nothing more was required of Willson other than his timely notice.

However, even if one were to accept P&M's position, Willson's letter nonetheless satisfies the requirements of a petition and has resulted in no prejudice to any party. John Willson's letter of January 11, 2007, was written by him, individually. *Pro se* parties are "entitled to a certain leniency from the more stringent standards accorded formal pleadings drafted by lawyers; however, the administration of justice requires reasonable adherence to procedural rules and requirements of the court." Osborn v. Emporium Videos, 848 P.2d 237, 240 (Wyo. 1993) (citing Apodaca v. Ommen, 807 P.2d 939, 943 (Wyo. 1991)). Willson reasonably adhered to the requirements for filing an appeal. Clearly the Council thought as much, as it docketed the appeal.

P&M is apparently arguing for a hyper-technical reading of the rules, insisting that a citizen who filed the document himself adhere to P&M's reading of the Council's General Rules of Practice and Procedure, while apparently ignoring the reality that P&M has not been harmed or prejudiced in any way by Willson's *pro se* actions. Assuming that Willson's letter of January 11, 2007, served as a petition, while not as polished as P&M apparently now demands, does notify the parties of Willson's basis for an appeal. He states that he disagrees with the decision of the Director regarding the status of the Welch Permit No. 497-T4, and is a follow-up to a series of correspondence and meetings involving this Permit. P&M was not in the dark as to Willson's complaint, the basis of his issues with the permit, or the grounds of his appeal. To the extent P&M was in the dark, the petition that was filed by Willson's counsel cleared up any confusion that may have existed and served, at the very least, as an amendment meant to supplement Willson's letter and conform it to the format P&M apparently now feels is required.

P&M makes much of the issues of service of the appeal on the Director, the Council, and P&M. In support, P&M cites cases in which the Supreme Court was called upon to apply statutes which expressly stated that a legal action is only commenced at the time of service of a complaint or when service is required to be concurrent with filing. Lobell v. Stock Oil Co., 115 P. 69 (Wyo. 1911) (applying the following language: "An action shall be deemed commenced, within the meaning of this chapter, as to each defendant, at the date of

the summons which is served upon him”); Cotten v. Hand, 563 P.2d 1343 (Wyo. 1977) (applying Wyo. R. Civ. P. 73, which is now found in W.R.A.P. 2, which requires “concurrent” service and filing). All of P&M’s citations refer to litigation in the judicial system, not administrative proceedings before the Environmental Quality Council. The General Rules of Practice and Procedure before the Environmental Quality Council, however, are clear that the “filing of such petition shall constitute commencement of the proceeding on the date filed.” Ch. I, § 4(d). These rules do not state anywhere that the service itself commences an action or that the service in any way affects the timing of filing. The rules only require that the party be served. Accordingly, P&M’s argument that service must be concurrent with filing of a Notice of Appeal is misplaced.

Similarly, as cited by P&M itself, even in the context of a judicial proceeding when a party “does not dispute that he was served, a court may decline to dismiss the case.” (*P&M’s Memorandum in Support of Motion to Dismiss Purported Appeal, With Prejudice, p. 14*) Here, there can be no doubt that P&M received all the documents which it is now contesting. Further, no prejudice has been shown as a result of the manner in which it has been served. Other than the appeal being docketed, no other actions with respect to this appeal have taken place. P&M obviously has had an opportunity to respond, knows exactly what the issues are, and has demonstrated no prejudice to its position. Indeed, P&M has been afforded exactly what service of any petition is meant to accomplish: “all parties in interest must be given an opportunity to be heard before the court will or can proceed to a decision upon the merits of a case.” First Nat’l Bank v. Bonham, 559 P.2d 42, 50 (Wyo. 1977). P&M, the Council, and the Director all have now been served and acknowledge receipt of Willson’s letter of appeal and his petition before the Council. As service is not the event that commenced a proceeding, the manner and timing in which service was accomplished is not a jurisdictional issue in this case. No prejudice exists in the method in which service was accomplished, and, as such, the matter should proceed and be heard by the Council on its merits.

With respect to P&M's complaint that the Director and Council were not properly served, Willson is of the position that P&M has no standing or interest in objecting to that aspect of this matter, as it is the Director's and Council's issue to raise, and as they have proceeded in treating this appeal as properly filed and have docketed it, no issue exists. Besides, the evidence demonstrates that the Director and Council were properly served. (*See, Riggs Affidavit*).

4. THESE PROCEEDINGS COMMENCED WITH WILLSON'S PETITION.

Willson's Petition to the Environmental Quality Council dated April 12, 2007, constituted the commencement of these proceedings in accordance with Ch. I, § 3.d. of the General Rules of Practice and Procedure before the Wyoming Environmental Quality Council. The Petition is drafted in accordance with Ch. I, § 3.c. setting forth the nature of Willson's objection to the Director's action, or lack of action, in concise language. Willson's Petition was served in accordance with Ch. I, § 3.b.(i) as demonstrated by the attached Affidavit of Dan B. Riggs. (*See, Riggs Affidavit and Attached Certified Mail Postal Receipts*)

Willson's Notice that he appealed Director Corra's decision of January 3, 2007, was timely filed as allowed by Ch. I, § 16. The initiation of these proceedings with Willson's Petition commenced on April 12, 2007, as provided by Ch. I, § 3.d. The filing of the appeal, timely made in this case, and the Petition to the Environmental Quality Council, also made as provided by Ch. I, § 3, "Initiation of Proceedings", are different and both come within the plain General Rules of Practice and Procedure of the Environmental Quality Council.

Because Willson requested a hearing before the Council, in accordance with Ch. I, § 3.b., Willson caused a Petition to be filed with the Council. Two (2) copies were directed to and served upon the Chairman of the Council and Director Corra. (*See, Certificate of Service on Petition/Appeal dated 4/12/07*). Service of the Petition, requesting a hearing, was appropriately served. (*See, Riggs Affidavit*). The Petition complies with the requirements of Ch. I, § 3.c. Willson's Petition, requesting a hearing, falls squarely within the

requirements of Ch. I, § 3 when Willson initiated this proceeding before the Wyoming Environmental Quality Council.

5. WILLSON DESERVES A HEARING ON THE ISSUES RAISED.

Willson has raised important issues respecting the Director of the Wyoming Department of Environmental Quality adequately enforcing Wyoming Statutes dealing with coal mining permits. Willson complains that this Permittee will, by the earliest day for a bond release, have had the Willson lands under a permit for some thirty-eight (38) years under circumstances where a coal mine was never developed, only twelve (12) acres were disturbed and a mere three (3) acres required reclamation. Willson contends that the Director has not enforced timely reclamation of the land, has improperly issued renewals of the disputed permit under circumstances where the Wyoming Department of Environmental Quality should not do so; and has charged that the Permittee has secured additional permits and extensions of permits by making false statements to the Wyoming Department of Environmental Quality. These issues are serious matters. The parties, and the public, deserve a hearing, and resolution, before the Wyoming Environmental Quality Council.

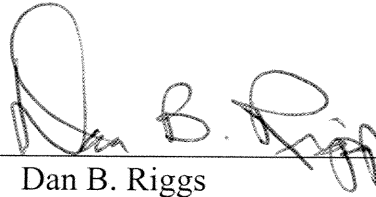
CONCLUSION

P&M is not yet a party to this action and has no standing to raise the objections it has raised in its motion to dismiss. Even if one were to accept P&M has the right to file its motion, Willson timely filed his Notice of Appeal from Director Corra's adverse decision letter dated 1-3-07, all parties have treated the appeal as timely made and the matter was docketed before the Environmental Quality Council. Willson's Petition, under Ch. I, § 3, of the Rules of Practice and Procedure before the Environmental Quality Council complies with the requirement of the Rules and was properly served. No hearing has been set, modest discovery has been completed and the parties remain at complete liberty to state their claims and make their defenses. Willson's Complaint reflects important issues that deserve to be decided by the Council. P&M's Motion should be denied.

DATED: May 21, 2007.

LONABAUGH AND RIGGS, LLP

By:

A handwritten signature in black ink, appearing to read "Dan B. Riggs", is written over a horizontal line.

Dan B. Riggs
P.O. Drawer 5059
Sheridan, WY 82801
307-672-7444 - Telephone
307-672-2230 - Fax
Attorneys for John C. Willson

CERTIFICATE OF SERVICE

The undersigned hereby certifies that I served true and correct copies of the within and foregoing document by mailing copies thereof this 21st day May, 2007, as follows:

Chairman - Wyoming Environmental Quality Council
122 West 25th Street
Herschler Building - Room 1714
Cheyenne, WY 82002

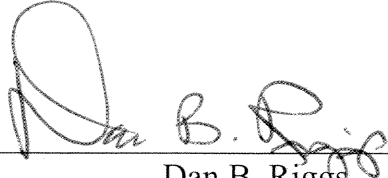
Director - Wyoming Department of Environmental Quality
122 West 25th Street
Herschler Building
Cheyenne, WY 82002

John Burbridge
Assistant Wyoming Attorney General
Wyoming Attorney General's Office
123 Capitol Building
Cheyenne, WY 82002

John C. Willson
P.O. Box 2244
Gillette, WY 82717

Thomas F. Reese
Brown, Drew & Massey, LLP
159 N. Wolcott, Suite 200
Casper, WY 82601

Scott M. Campbell
Poulson, Odell and Peterson, LLC
1775 Sherman St., Suite 1400
Denver, CO 80203

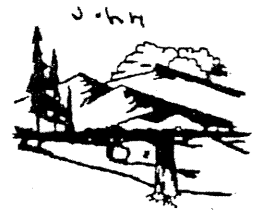


Dan B. Riggs

EXHIBIT “A”



Department of Environmental Quality



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

Dave Freudenthal, Governor

John Corra, Director

October 16, 2006

Mr. John C. Willson
PO Box 2244
Gillette, WY 82717

RE: Request for Director review

Dear Mr. Willson:

You have requested that I informally review a decision by Rick Chancellor, Administrator of the Land Quality Division, concerning your complaint of September 20, 2006. The purpose of this letter is to provide you with the results of my informal review.

In Mr. Chancellor's letter of September 15, 2006, he adequately responded to the issue of surface owner consent by requiring the operator to obtain the necessary access assurances prior to the expiration of the surface use agreement. Regarding your complaint of incomplete reclamation of the "cut bank" along the access road, I am directing Mr. Chancellor to issue the appropriate notice to the operator that reclamation of that area is un-satisfactory and to submit a plan for correction.

The questions of whether the operator deliberately made false statements to DEQ and our awareness of that at the time of permit approval is one that I will explore further. By copy of this letter, I am directing Mr. Chancellor to schedule a meeting with P&M Coal Company to discuss this matter. The purpose of this meeting will be to clarify the facts at the time of the review of the application for permit renewal and ascertain any culpability. I will inform you of the results of that meeting.

The issue at this time is what, if anything should be done in response to the outcome of this inquiry. It is clear that LQD staff issued the most recent renewal with the stated purpose of providing time to ensure that reclamation already completed is successful. Obviously, access to the area is necessary to make that determination. Any remedy that transfers the obligation ensuring reclamation success from the operator to the State via bond forfeiture does not change the basic facts on the ground,

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

ADMIN/OUTREACH (307) 777-7758 FAX 777-3610	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7369 FAX 777-6937	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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Mr. John Willson

Page 2

does not deal with the access issue, and does not affect the quality of outcome as far as your interest is concerned. What it would do is transfer the liability to the state, which I am not willing to accept until absolutely necessary. My view is that the responsibility rests squarely with P&M Coal Company, and should remain there.

Mr. Chancellor's response requiring the operator to remedy the access situation is appropriate for the time being. At the actual time of expiration of the surface use agreement, all of the parties will be faced with the reality that the bond clock will continue and there must be some method for reaching a conclusion. I would expect all of the parties by that time to have come together and reached consensus on a resolution.

Sincerely,



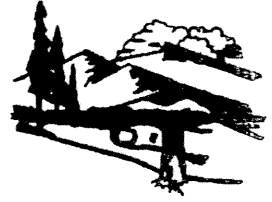
John V. Corra
Director

cc: Rick Chancellor, DEQ Administrator
John Burbridge
Steve Leach, P & M Coal Mining Co.

EXHIBIT "B"



Department of Environmental Quality



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

Dave Freudenthal, Governor

John Corra, Director

January 3, 2007

Mr. John C. Willson
PO Box 2244
Gillette, WY 82717

Dear Mr. Willson:

As I indicated to you during our phone conversation on December 11, 2006, Rick Chancellor and I met with P&M Coal Company for the purpose of determining the degree of culpability on P&M's part regarding documentation showing surface access in their most recent permit renewal application. What follows is the written version of the conclusion that I had reached prior to this call, and that I had discussed with you on that call. You raised another question that I needed to research before sending this letter to you, hence the delay. That research does not change my position on this matter. I summarize this in the third to last paragraph of this letter.

Section 35-11-409 (a) of the Act provides me with the authority to revoke the permit if I find that P&M intentionally misstated or failed to provide any fact that would have resulted in the denial of a permit. I am satisfied that there was no deliberate attempts to deceive the DEQ because: no attempt was made to alter or disguise the surface access documentation which shows a discrepancy in timing regarding reclamation on your property; second, since prior transactions with DEQ did not raise this matter as an issue, P&M was led to believe that the application for renewal would carry no additional burdens concerning proof of access; and lastly, since there was not a definitive ruling on the part of DEQ extending the bond clock as a result of inter-seeding, P&M made a reasonable and good faith assumption that DEQ was both aware of the difference in timing, that inter-seeding took place, and that the bond clock had not changed.

Section 35-11-412 contains the authority to revoke an operator's mining license for similar reasons as stated in 35-11-409. Here again, I find no evidence that such an action is warranted. Given that the renewal application only calls for permission to extend the term of the permit to cover bond release, and the fact that the permit application provides surface access documentation, there is not a compelling reason to revoke the permit or the license.

Had DEQ addressed the documentation issues during review of the renewal application, the appropriate remedy would have been to condition the permit renewal to require clarification of the access documentation and require a good faith effort to resolve the issue prior to the expiration date of



the current agreement. Taking any other action would only transfer the responsibility to reclaim the area to the DEQ and not resolve the access matter.


I will note that P&M submitted a Surface Landowner's Consent as well as a Surface Use Agreement with its renewal application. Both documents cover and are applicable to your land. The Landowner's Consent documentation is the primary instrument through which DEQ determines an operator's right to disturb and reclaim the land. In this instance, both of those physical activities are complete. The only remaining question is whether the reclamation is successful. Access is obviously required to make this determination and most certainly will be an issue at the appropriate time. Out of an abundance of caution, I am asking Mr. Chancellor to propose a permit condition to P&M for the purpose of resolving discrepancies regarding access issues.

You asked me to look at the 1999 transactions on permits, license to mine, and access agreements to see if there was any intention on the part of P&M to deceive the Department. My examination shows that there is continuity and the permits were properly issued. A surface use agreement was in place, with an expiration date of 2001, at the time of application of permit transfer from Fort Union Coal Company to P & M. A new agreement was signed on July 22, 1999 for an additional 10-year term by the surface owner, Bluegrass Development Company. An agreement has been in place since the time of original permit issuance in 1979, and has always had a 10-year term. In fact it had been renewed twice. The mining license was transferred to P & M in May of 1999, and the Fort Union permit was transferred in July, 1999. A surface use agreement was in place (expiration in 2001 as noted above) and a surface owners consent to reclaim was also signed in July, 1999 (with no expiration date). Later in July, 1999, Bluegrass negotiated the surface access agreement with P&M that you now own. The final permit was issued to P& M in September, 2000.

I understand that part of your concern is the inability to initiate construction of a new home on the property. I recently received a copy of a letter from P&M to you proposing a land use change that would help you with this issue. I encourage you to give this proposal serious consideration as we work through the access matter.

In accordance with Land Quality Division Rules and Regulations Chapter 16, Section 1(e), this constitutes the Departments final action for purposes of any appeal to the Environmental Quality Council.

Sincerely,



John V. Corra
Director

cc: Rick Chancellor, LQD Administrator
John Burbridge, AG's Office

EXHIBIT "C"

JOHN C. WILLSON
P.O. BOX 2244
GILLETTE, WYOMING 82717
Telephone: 307-682-8261

JAN 16 2007

REC ✓
EQC

January 11, 2007

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JAN 19 2007

Terri A. Lorenzon, Director
Environmental Quality Council

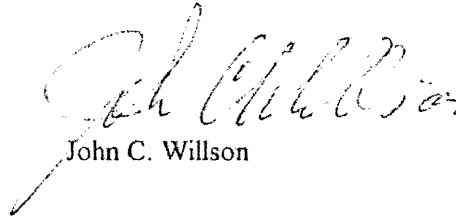
Mr. John V. Corra
Director - WDEQ
Herschler Building
122 West 25th Street
Cheyenne, WY 82002

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

Dear Mr. Corra:

I do not agree with your decision concerning my complaint and hereby request an appeal to the Environmental Quality Council. Could you provide me with available dates and any procedural requirements as I need to coordinate this meeting with my attorney?

Very truly yours,

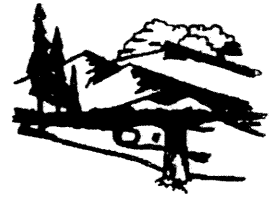


John C. Willson

cc: Dan B. Riggs, Esq.



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

Dave Freudenthal, Governor

January 19, 2007

John C. Willson
P.O. Box 2244
Gillette, WY 82717

RE: The Pittsburg & Midway Coal Mining Company (P&M Coal)
Welch Mine, Permit No. 497-T4

Dear Mr. Willson:

I have received your letter of January 11, 2007 requesting an appeal of my decision concerning your complaint to the Wyoming Environmental Quality Council. I have forwarded your letter to them and they will contact you concerning the date, time, and location of the hearing. They can also assist you with any procedural questions. If you need to contact them, their phone number is 307-777-7170.

Sincerely,

John V. Corra
Director

cc: Environmental Quality Council w/encl.
Rick Chancellor, Land Quality Administrator
John Burbridge, AG's Office





THE STATE OF WYOMING
ENVIRONMENTAL QUALITY COUNCIL

Dave Freudenthal,
Governor
Mark Gordon,
Chair
Jon E. Brady,
Vice-Chair
Richard C. Moore, P.E.,
Secretary
Dennis M. Boal
Sara M. Flitner
Wendy S. Hutchinson,
P.E.
John N. Morris
Terri Lorenzon, Esq.
Director
Joe Girardin,
Paralegal
Kim McGee,
Executive Assistant

122 W. 25th, Herschler
Bldg., Rm. 1714,
Cheyenne, WY 82002
(307) 777-7170
FAX: (307) 777-6134
[http://deq.state.wy.us/
eqc](http://deq.state.wy.us/eqc)

February 12, 2007

P & M Coals Welch
Steve Leach
116 Inverness Dr. East, Ste. 207
Englewood, CO 80112

**RE: In the Matter of the Appeal of P & M Coals Welch Permit No. 497-T4,
Docket No. 07-4600**

Dear Mr. Leach:

The letter of appeal received by Mr. John C. Willson in reference to the Appeal of P & M Coals Welch Permit No. 497-T4 was received and filed on January 19, 2007. This appeal has been assigned to Docket NO. 07-4600.

A hearing date will be set as it was received on our docket unless you notify the Council of an immediate need to expedite this case.

If you need any further information, please call us at (307)777-7170.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kim McGee".

Kim McGee
Executive Assistant

Cc: John Corra, Director, DEQ
John Burbridge, Asst. Attorney General
Mr. John C. Willson
Dan B. Riggs, Esq.

AFFIDAVIT OF DAN B. RIGGS

STATE OF WYOMING)
 : ss.
COUNTY OF SHERIDAN)

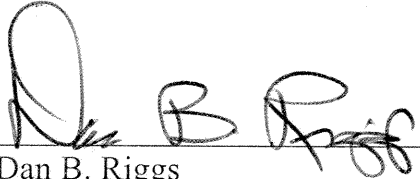
Dan B. Riggs, being first duly sworn, does depose and say:

1. I am an attorney at law, reside in Sheridan, Wyoming, and am counsel for the Protestant, John C. Willson, in the above entitled matter.

2. Upon filing the Petition in the above entitled matter dated April 12, 2007, being the initiation of these proceedings, I caused a copy of the signed Petition drafted in accordance with Chapter 1, Section 3(c) to be served upon the appropriate parties identified in Chapter 1, Section 3, via Certified Mail, Return Receipt Requested. Attached are copies of the Postal Receipts indicating receipt thereof by P&M Coal Mining Co., the Environmental Quality Council and the Wyoming Attorney General's Office.

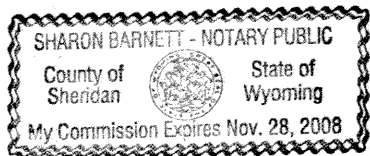
FURTHER, your Affiant saith not.


DATED: May 18, 2007.



Dan B. Riggs

Subscribed and sworn before me this 18th day of May, 2007.

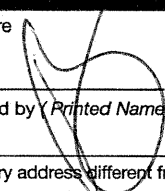


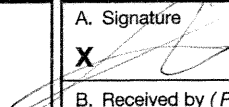


Notary Public

My commission expires: 11-28-08

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee <i>Paula S. Wilkerson</i>	
1. Article Addressed to: P & M Coal Mining Co. 116 Inverness Dr. East, Ste. 207 Englewood, CO. 80112	B. Received by (Printed Name) <i>Paula S. Wilkerson</i>	C. Date of Delivery <i>4/10/05</i>
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes		
2. Article (Trac) <u>7005 1160 0001 6441 4202</u>		
PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540		

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee 	
1. Article Addressed to: Kim McSee EQC 122 West 25 th Herschler Bldg., Room 1714 Cheyenne, WY 82002	B. Received by (Printed Name)	C. Date of Delivery <i>APR 13 2007</i>
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes		
2. Article (Trac) <u>7005 1160 0001 6441 4196</u>		
PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540		

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	A. Signature <input checked="" type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee 	
1. Article Addressed to: John Burbridge Wyoming Atty. General's Office 123 Capital Bldg. Cheyenne, WY 82002	B. Received by (Printed Name)	C. Date of Delivery
	D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No	
3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.		
4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes		
2. Article (Trac) <u>7005 1160 0001 6441 4172</u>		