

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL**

**STATE OF WYOMING**

**A PETITION TO THE ENVIORNMENTAL )  
QUALITY COUNCIL FOR DESIGNATION )  
OF AN AREA KNOWN AS SAND CREEK )  
AS RARE OR UNCOMMON )**

**Docket No. 09-1102**

**FILED**  
**JUL 06 2009**  
Jim Ruby, Executive Secretary  
Environmental Quality Council

**MOTION FOR A CONTINUANCE**

COMES NOW, John Green, General Partner of Mineral Hill, L.P., which are surface and mineral owners of property located in the Sand Creek area and motions for a continuance upon the following grounds and reasons.

I am in receipt of EQC's notice of a meeting scheduled on the petition to be held on July 14, 2009 at 9:00 A.M. at the Crook County Courthouse, 308 Cleveland St., Sundance, WY. I am concerned about the lack of notice, which I believe your rules require and would particularly draw your attention to W.S. Section 35-11-112 which states:

Upon receipt of a petition under these rules, the Council shall consider the petition at a regularly scheduled Council meeting and *shall notify* the petitioner and *surface and mineral owners whose lands or minerals are within the area proposed for designation* of the time, date, and location of the meeting. The Council's consideration shall be limited to whether the petition should be accepted or dismissed. (Emphasis added.)

This petition is the same petition as previously filed by the Friends of Sand Creek, Docket No. 07-1102, and which was previously dismissed on 09/03/2008. See Exhibit A. In the previous petition, which the EQC allowed the petitioner's to amend, they continually failed to include all property owners. See Docket, Exhibit B. Apparently the petitioners simply did not want to give notice to all parties and eventually elected to just withdraw their petition after over a year of litigation. See Exhibit C. Now they have returned. The Friends of Sand Creek are once again listed but a new party has been provided as a petitioner – the Biodiversity Conservation Alliance. However, if you will compare the petition filed in Docket No. 07-1102 with the current petition, you will find that they match almost word for word. The only exception is that now they are cleverly seeking to avoid giving notice to all parties by stating that this new petition is only for "surface lands managed solely by the United States Forest Service." See Petition,

page 3. However Table III and Table IV of the petition lists the names and addresses of some of the owners holding property within the area but I am advised that it does not include all the surface and mineral owners within one-half mile of the proposed area. The docket index indicates that only some of the parties listed on Table III and IV have been given notice. I have spoken with several of the parties listed on Table III and IV as well as one which is omitted and they have received no notice whatsoever of the proposed meeting. Thus, these parties are entitled to proper notice prior to proceeding.

It is apparent that the current petition seeks to draw lines in irregular patterns, rectangles and squares as necessary to cut out all owners other than the Forest Service. However, W.S. Section 35-11-103(a)(vii) provides that all parties who would be aggrieved by any actions taken under this act are entitled as a matter of right to be admitted as a party to protect them from any damages that they may sustain or be entitled to claim because of their unique position. Subsection (e)(vii) provides that "adjacent lands" means all lands within one-half mile of the proposed permit area. Clearly, the petitioners are attempting to circumvent these provisions of the law by omitting necessary parties. Proceeding without giving notice to all necessary parties would constitute a violation of due process. Continuing the proceedings until notice can be given to all parties would not unduly prejudice the petitioners and would be in the best interest of all individuals and the State of Wyoming.

I would therefore request that the scheduled hearing be cancelled or at least continued until proper legal notice is given to all parties entitled to notice as a matter of law as required by Wyoming law before proceeding further. I believe that proceeding without complying with the notice requirements of Wyoming law would constitute a violation of due process.

Dated: July 6, 2009

Respectfully submitted,



John Green, General Partner  
Mineral Hill, L.P.  
PO Box 33010  
Austin, TX 78764  
Tel: 512-892-6430  
Fax: 512-692-2936

CERTIFICATE OF MAILING

I certify that I have this 6<sup>th</sup> day of July, 2009, mailed the above and foregoing Motion for Continuance to the Wyoming Environmental Quality Council, Herschler Bldg., Room 1714, 122 W. 25<sup>th</sup> St., Cheyenne, Wyoming 82002 and faxed it to them at 307-777-6134. I have also mailed a copy to the Attorney General's Office, Administrative Division, 123 Capital Building, 200 W. 24<sup>th</sup> St., Cheyenne, WY 82002.



John Green

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STATE OF WYOMING**

A PETITION TO THE ENVIORONMENTAL )  
QUALITY COUNCIL FOR DESIGNATION )  
OF AN AREA KNOWN AS SAND CREEK )  
AS RARE OR UNCOMMON )

Docket No. 07-1102

**FILED**  
SEP 03 2008

Jim Ruby, Executive Secretary  
Environmental Quality Council

**ORDER DISMISSING PETITION FOR RARE OR UNCOMMON**

**IT IS HEREBY ORDERED AS FOLLOWS:**

The Petitioner in the above captioned matter having withdrawn the petition, and the Environmental quality Council being fully advised in the premises,

**IT IS HEREBY ORDERED** that the petition to designate the area known as Sand Creek as Very Rare or Uncommon is dismissed.

DATED this 3<sup>rd</sup> day of September, 2008.



F. David Searle, Presiding Officer  
Environmental Quality Council

EXHIBIT A  
Page 1 of 2

**CERTIFICATE OF SERVICE**

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 3<sup>rd</sup> day of September, 2008, I served a copy of the foregoing **ORDER DISMISSING PETITION FOR RARE OR UNCOMMON** by electronic mail to the following:

Mary Anne Budenske  
Attorney  
[MBudenske@aol.com](mailto:MBudenske@aol.com)

John Corra  
Director, DEQ  
[jcorra@wyo.gov](mailto:jcorra@wyo.gov)

Don McKenzie  
LQD Administrator  
[Dincken@wyo.gov](mailto:Dincken@wyo.gov)


  
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Kim Waring, Executive Assistant  
Environmental Quality Council  
122 W. 25<sup>th</sup>, Rm. 1714  
Herschler Bldg.  
Cheyenne, WY 82002  
Phone: 307-777-7170  
FAX: 307-777-6134

EXHIBIT A  
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7/6/2009

New Page 1

07-1102

*Sand Creek Petition*

10/15/2007

<u>Petition</u>	Dunsmore	10/15/2007
<u>Tables</u>	Dunsmore	10/15/2007
<u>Maps</u>	Dunsmore	10/15/2007
<u>Comments.Eric Jensen</u>	Jensen	6/3/2008
<u>Comments.John Green</u>	Green	6/5/2008
<u>Comments.Crook Cty. Board of Commissioners</u>	Burch,Moline,Hedley	6/5/2008
<u>Green Letter.6-9-08</u>	Lorenzon	6/9/2008
<u>Dunsmore Letter.6-9-08</u>	Lorenzon	6/9/2008
<u>Comments.Crook County Land Use Planning &amp; Zoning Comrmission</u>	Dennis	6/12/2008
<u>Comments.Senator Townsend</u>	Tow nsend	6/12/2008
<u>Green Response to Lorenzon Letter</u>	Green	6/13/2008
<u>Dunsmore Response to Green and Lorenzon</u>	Dunsmore	6/17/2008
<u>Comments Wyoming Farm Bureau Federation</u>	Moline	6/17/2008
<u>Comments from Hugh Thompson</u>	Thompson	6/18/2008
<u>Comments from Wyoming Stock Grow ers Association</u>	Magagna	6/19/2008
<u>Comments from PRERC</u>	Lind	6/19/2008
<u>Comments from Black Hills Multiple Use Coalition</u>	Troxel	6/20/2008
<u>Comments from Tinton Partners</u>	Beatty	6/20/2008
<u>Comments from Crook County Farm Bureau</u>	Haw ken	6/20/2008
<u>Comments.M.LeVoir</u>	LeVoir	6/23/2008
<u>Comments with Maps.J.Green- Mineral Hill</u>	Green	6/23/2008
<u>Comments.S.McConnell</u>	McConnell	6/23/2008
<u>Barrack Subsurface Map. 6-23-08</u>	Dunsmore	6/23/2008
<u>Inholdings Map with Private</u>	Dunsmore	6/23/2008

...state.wy.us/.../07-1102%20Sand...

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7/6/2009

New Page 1

Surface Excluded from Petition

<u>Comments.K.Haier</u>	Haier	6/23/2008
<u>Comments.Rep.Mark Semlek</u>	Semlek	6/25/2008
<u>Comments.H. Marriott</u>	Marriott	6/24/2008
<u>Comment</u>	Green	7/1/2008
<u>Letter.Jgreen.Mineral Hill</u>		
<u>Amended Petition.8-7-08</u>	Dunsmore	8/7/2008
<u>Table 1.Unpatented and</u>	Dunsmore	8/7/2008
<u>Unvalidated Mining Claims</u>		
<u>Table 2.Mineral Land Owners</u>	Dunsmore	8/7/2008
<u>Table 3.Surface Owners</u>	Dunsmore	8/7/2008
<u>Comments.Khaier</u>	Haier	8/22/2008
<u>Comments.Ggade</u>	Gade	8/26/2008
<u>Comments.Massey-Lee</u>	Massey-Lee	8/27/
<u>Comments.Trikkelson</u>	Mikkelson	8/28/2008
<u>Comments.Johnson</u>	Johnson	8/29/2008
<u>Comments.Green-Mineral</u>	Green	9/2/2008
<u>Hill.9-2-08</u>		
<u>Comments.Bronco Creek</u>	Jensen	9/3/2008
<u>Exp. 9-3-08</u>		
<u>Dunsmore.e-mail</u>	Dunsmore	9/3/2008
<u>Motion to Withdraw Petition</u>	Budenske	9/3/2008
<u>Order Dismissing Petition for</u>	Searie	9/3/2008
<u>Rare or Uncommon</u>		

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Page updated on 09/03/2008

EXHIBIT B  
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A Petition to the Environmental Quality Council  
For Designation of an Area Known as Sand Creek  
As Rare and Uncommon

MOTION TO WITHDRAW PETITION

FILED  
SEP 03 2008  
Jim Ruby, Executive Secretary  
Environmental Quality Council

COMES NOW, Friends of Sand Creek, by and through their attorney, Mary Ann Budenske and request the Commission allow them to withdraw the petition filed herein for the reason that:

The Friends of Sand Creek have inadvertently failed to include the updated property owners listing as required by statute and rule thus making the petition as submitted incomplete.

Requested this 4 day of September, 2008.

M. Budenske  
Mary Ann Budenske  
WSB # 1 - 2883  
450 S. Wolcott  
Casper, WY 82601  
307 - 232 - 8725  
Mbudenske@aol.com

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing was served upon the Environmental Quality Commission by fax

To 307 - 777 - 6134

This 4 day of September 2008.

MPB

EXHIBIT C  
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