

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

FILED

JUL 10 2009

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

**Jim Ruby, Executive Secretary
Environmental Quality Council**

Docket No. 09-1102

**MOTION TO CONTINUE
FOR FAILURE TO GIVE PROPER NOTICE
TO THE UNITED STATES**

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 files this motion to continue on the grounds that the Wyoming Environmental Quality Council has failed to give proper notice to the United States as required by law.

1. Title 35 U.S.C. §547 provides that each United States attorney, within his district, shall (2) "prosecute or defend, for the Government, all civil actions, suits or proceedings in which the United States is concerned."
2. The Wyoming Environmental Quality Council, which is composed of attorneys, is presumably aware of their obligations under the law to give notice to the local U.S. Attorney.
3. Rule 5.1 of U.S. Title 18A, Constitutional Challenge to a Statute – Notice, Certification and Intervention, requires that when a party files a pleading, written motion, or other paper drawing into question the constitutionality of a federal statute, a notice must be served on the Attorney General of the United States if a federal statute is challenged – either by certified or registered mail or by sending it to an electronic address designated by the attorney general for this purpose. Presumably, the Wyoming Environmental Quality Council is also aware of the notice obligations in this regard.
4. The petition in the above referenced case identifies the parties effected by the petition as the United States Forest Service and the U.S. Department of Interior Bureau of Land Management and alleges the need for the Wyoming Environmental Quality Council to intercede and declare the federal lands as Very Rare and Uncommon under Wyoming state law to protect the land in

light of federal statutes and regulations which are not constitutionally insufficient to properly protect the lands. Whether the federal statutes are constitutionally insufficient or not, does not negate the obligation of Wyoming officials to give proper notice to the U.S. Attorney and/or the U.S. Attorney General as required by law.

4. The docket sheet for the above referenced action fails to include any notice to the U.S. Attorney or the U.S. Attorney General as required.

WHEREFORE, it is respectfully requested that the Wyoming Environmental Quality Council stay all proceedings, including the meeting presently scheduled to be held on July 14, 2009, and continue no further until proper notice is given to the legal representatives of the United States as required by law.

Dated: July 10, 2009

Respectfully submitted,



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CERTIFICATE OF MAILING

I certify that I have this 10th day of July, 2009, mailed the above and foregoing: **MOTION TO CONTINUE FOR FAILURE TO GIVE PROPER NOTICE TO THE UNITED STATES** to the Wyoming Environmental Quality Council, Herschler Bldg., Room 1714, 122 W. 25th 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. 24th St., Cheyenne, WY 82002.

I further certify that I have this day faxed a copy of the above and foregoing to U.S. Attorney Kelly H. Rankin at 307-772-2123, 307-261-5471 and 307-332-7104 and mailed to Eric Holder, U.S. Attorney General at U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.


John Green