

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL**

**STATE OF WYOMING**

A PETITION TO THE ENVIRONMENTAL ) EQC Docket No. 09-1102  
QUALITY COUNCIL FOR DESIGNATION )  
OF AN AREA KNOWN AS SAND CREEK )  
AS RARE OR UNCOMMON )

**MOTION TO DISMISS FOR FAILURE TO PROVIDE INFORMATION REQUIRED BY OR  
COMPLY WITH THE CHAPTER VII RULES**

COMES NOW, Bronco Creek Exploration Inc., an Arizona Corporation, owner of mineral rights within the area proposed for designation as very rare or uncommon, by and through its undersigned counsel, and hereby submits its Motion to Dismiss for Failure to Provide Information Required by or Comply with the Land Quality Rules, Chapter VII, Designation of Areas Pursuant to W.S. §35-11-112(a)(v). The Chapter VII rules are intended to provide a process to implement W.S. §35-11-112(a)(v) of the Environmental Quality Act (“EQA”). Chapter VII, Section 2. Section 6 of the Chapter VII rules sets out the minimum requirements for any petition to designate lands as very rare or uncommon. Section 6 further provides that, upon receipt of a petition under these rules, the Environmental Quality Council (“Council”) shall consider the petition at a regularly scheduled meeting, notify the petitioner and surface and mineral owners whose lands or minerals are within the area proposed for designation, and that the Council’s consideration of the permit is limited to whether the permit should be accepted or not. Chapter VII, Section 6(b). Chapter VII, Section 6(c) provides that the Council may dismiss a petition if it determines that it does not provide the information required by the Chapter VII rules. Thus, the Council should not consider a petition unless it conforms to and complies with the requirements set forth in the Chapter VII rules.

The Amended Petition filed in this matter (“Petition”) does not provide the information required by the Chapter VII rules, nor does it conform to or comply with the Chapter VII rules, and therefore it must be dismissed by the Council. Specifically, the Petition does not provide the information required by or comply with certain Chapter VII rules, including but not limited to the following:

Section 6. Initiation of Proceedings.

- (a) Any person may file a petition to designate lands as very rare or uncommon pursuant to W.S. §35-11-112(a)(v) or to petition to modify or terminate an existing designation. The petition shall contain the following:
  - (ii) The location by legal description including section, township and range, of the area the petitioner is proposing for designation;
  - (v) An original USGS topographic map showing the area in question which reflects the surface land ownership pattern (private, state, federal) in the area;
  - (vi) A list of the names and addresses of the surface and mineral owners whose lands are included within the area proposed for designation, modification, or termination with a description of the ownership interest of each surface and mineral owner, including a legal description of the lands in which each person has an interest;
  - (viii) A description of the current and historical land use in the area;
  - (ix) A list of any special designations or descriptions of the area made by other governmental agencies, including, but not limited to, designations by the Department of Interior Bureau of Land Management or Office of Surface Mining, designations by the U.S. Fish and Wildlife Service, and designations by the Wyoming Department of Game and Fish; and
  - (xi) The names and addresses of the surface owners of lands contiguous to the area proposed for designation.

**I. Petition Does Not Provide Information Required by or Comply with Chapter VII, Section 6(a)(ii) or (v).**

Chapter VII, Section 6(a)(ii) requires the petition to contain the location by legal description including section, township and range, of the area the petitioner is proposing for designation. Section 6(a)(v) requires the petition to contain an original USGS topographic map showing the area in question which reflects the surface land ownership pattern (private, state,

federal) in the area. Thus, Section 6 requires, *at a minimum*, that the area proposed for designation be accurately identified by legal description and on a map. The legal description and map of the area proposed for designation are critical because they serve as the basis for identifying the persons who may be affected by the decision and thus are entitled to notice and an opportunity to be heard. Therefore, if a petition contains an inaccurate or incomplete legal description or map, or if there are inconsistencies between the legal description and the map, persons who own real property interests in the surface or mineral estates in lands proposed for designation, or contiguous thereto, will be denied due process.

The rule requiring the Petition to provide an accurate legal description and map also serves to identify the exterior boundary line of the area proposed for designation, thus identifying the lands contiguous or adjacent to the area proposed for designation. All persons owning a real property interest in the surface estate in lands contiguous to the area proposed for designation are entitled to notice and an opportunity to be heard. WY Admin. Code EQC rules, Chapter VII, § 7(b)(iii). If the legal description or maps contained in the petition are inaccurate or incomplete, or if there are inconsistencies between the legal description and maps, then the petition fails to identify the persons who own an interest in the surface estate in adjacent lands.

The Petition fails to comply with the requirements that the area proposed for designation be accurately identified by legal description and on a map. The legal description of the lands proposed for designation contains numerous errors. See *Petition, p. 3-4*. Also, the maps showing the boundary of the area proposed for designation are inconsistent with and contrary to the legal description, and thus are inaccurate. See *Petition, Appendices of Maps*.

The following list illustrates inaccuracies in the legal description and maps contained in the Petition, but does not enumerate all of the errors therein:

- (1) Two different and inconsistent legal descriptions are provided for Section 25, T.51N., R.61W. See *Petition*, p 3-4.
- (2) No legal description is provided for the “private holdings” Petitioners attempt to exclude from the area proposed for designation, all of which appear to be located in T.51N., R.60W. See *Petition*, p. 4. Petitioners appear to have listed property tax parcel numbers from the County Assessor’s plat. However, these parcel numbers do not provide legal descriptions of the properties, nor can they be used to identify the owners of real property interests in the surface or mineral estates. Instead, these parcel numbers are simply used to identify the person to whom a tax notice is mailed. The property taxpayer usually does not own the entire fee interest in the surface estate or mineral estate. Thus, the Petition fails to provide the information required by Section 6 of the rules because it does not identify the legal descriptions for, or the names of the owners of surface and mineral rights in, the lands “excluded” from the legal description. A copy of the property tax parcel information for parcel 51602130000800 is attached hereto as *Exhibit “A”*.
- (3) The maps of the petition area boundary include lands that are not included in the legal description. See *Petition, Appendices of Maps*. For example, the SE1/4SW1/4 of Section 25, T.51N., R.61W. is shown on the maps as lying within the petition boundary, but it is not included in the legal description. See *Petition*, p. 4. Additionally, the surface and mineral owners in the SE1/4SW1/4 of Section 25, T.51N., R.61W. are not listed in Tables III and IV, as required by Chapter VII, Section 6(a)(vi).

Because the Petition contains an inaccurate or incomplete legal description and inaccurate maps, the persons who own real property interests in the surface or mineral estates in lands proposed for designation, and persons who own real property interests in the surface estate in lands contiguous to the lands proposed for designation, are not listed on Tables III and IV and will be denied due process and an opportunity to be heard on the Petition. Therefore, the Petition does not provide the information required by the rules and should not be accepted by the Council, and the Council should dismiss the Petition without further proceedings.

**II. Petition Does Not Provide Information Required by or Comply with Chapter VII, Section 6(a)(iv) or (xi).**

Chapter VII, Section 6(a)(iv) requires the petition to contain (1) a list of the names and addresses of the surface and mineral owners whose lands are included within the area proposed for designation, (2) a description of the ownership interest of each surface and mineral owner, and (3) a legal description of the lands in which each person has an interest. Chapter VII, Section 6(a)(xi) requires the petition to contain the names and addresses of the surface owners of lands contiguous to the area proposed for designation.

*(1) Petition Does Not Contain A List of All Surface and Mineral Owners Within the Area Proposed for Designation*

Chapter VII, Section 6 requires, *at a minimum*, that the petition contain an accurate list of the names of the current surface and mineral owners—meaning all persons who own an interest in the surface and mineral estate—in the area proposed for designation, as well as an accurate list of the names of all persons owning an interest in the surface estate in lands that are

contiguous to the area proposed for designation. WY Admin. Code EQC rules, Chapter VII, Section 6(a)(vi) and (xi).

The list of surface and mineral owners in the area proposed for designation, and the list of surface owners in adjacent lands, are critical because the Council must rely upon these lists to identify the persons entitled to notice and an opportunity to be heard on the Petition. If the lists of surface and mineral owners are inaccurate or incomplete, then the Council cannot give adequate notice, and persons entitled to notice will be denied an opportunity to be heard. Furthermore, if a petition contains an inaccurate or incomplete legal description or map, or if there are inconsistencies between the legal description and the map, then the persons who own real property interests in the surface or mineral estates in lands proposed for designation will not be included on the lists of surface and mineral owners provided in the petition, and thus will be deprived of due process.

For the lands within the area proposed for designation, the petition must provide the following information for each interest in the surface or mineral estate: (1) the owner's name, (2) the owner's address, (3) a description of the ownership interest, and (4) a legal description of the lands in which the interest is owned. See *Chapter VII, Section 6(a)(vi)*. An interest in the surface estate may arise out of fee ownership, leaseholds, easements, rights of way, licenses, equitable titles or interests (e.g. contracts for deed), liens, mortgages, etc. Likewise, an interest in the mineral estate may arise out of fee ownership, leaseholds, patented or unpatented mining claims, royalties, etc. A designation of very rare or uncommon could adversely affect all of these ownership interests, and the requirement in Section 6 to provide the type of the ownership interest for each owner confirms that the Petition must identify and provide the owners of *all* real property interests in the surface and mineral estates. Therefore, it is essential that the

petition identify each owner's name, describe his ownership interest, and provide a legal description of the interest owned. Without this information, it is not possible to determine the nature of each person's interest or the identity of the owners and interests that will be affected by the designation. Furthermore, it is essential to provide each owner's address so the Council can provide written notice pursuant to Chapter VII, Section 6(b) and Section 7(b)(ii) and (iii).

The Petition does not provide the information required by the Chapter VII rules because it does not contain an accurate list of the names of the current surface and mineral owners in lands within the area proposed for designation. See, WY Admin Code, EQC rules, Chapter VII, Section 6(a)(vi). Instead, the Petition contains a list of the names and addresses of "grantors". See *Petition, Table III*. A "grantor" is "one who conveys property to another". *Black's Law Dictionary 8<sup>th</sup> Ed., 2004*. The rules require the Petition to contain a list the names and addresses of the *current owners* of all surface and mineral interests, not the names of prior owners. The current owners are the most recent grantees, not grantors, of real property interests in the lands. Because the Petition fails to list the names and addresses of the most recent grantees of interests in the surface or mineral estate, it does not provide the information required by the rules or comply with the minimum requirements set forth in Chapter VII, Section 6(a)(vi). Therefore, the Petition should be dismissed.

A. Surface Owners Within Area to Be Designated

The Petition contains inconsistent and contrary statements regarding the surface ownership within the area proposed for designation and on lands contiguous or adjacent thereto. The Petition states that the U.S. Forest Service (USFS) manages all surface lands within the area proposed for designation. See, *Petition, p.3*. The USFS has authority to manage only those surface lands in which the federal government owns the fee interest in the surface

estate. Thus, the statement in the Petition suggests that the USFS is the only surface owner within the area proposed for designation. However, Table III lists a number of other persons who own interests within the area proposed for designation. The Petition is erroneous and inaccurate in its contention that all surface lands within the area proposed for designation are managed by the USFS. The following list illustrates the persons other than the USFS who own surface interests within the area proposed for designation, but it does not enumerate all of the errors in the list of surface and mineral owners listed in the Petition:

- (1) T.52N., R.61 W., Section 26: Rongstad
- (2) T.52N., R.61 W., Section 26: Pridgeon

The Petition does not provide the information required by the rules because it does not contain a list of all surface owners within the area proposed for designation, See, Chapter VII, Section 6(a)(vi). In fact, a number of owners of interests in the surface estate within the area proposed for designation are not included in Tables III and IV. The following list illustrates these inaccuracies, but does not enumerate all of the errors:

- (1) The State of Wyoming owns the fee surface and mineral estate in Section 36, T.52N., R.61W. Petitioners failed to list the State in Tables III and IV. Also, other persons likely own leasehold and other rights in the surface and mineral estates in this State land. A copy of the federal Master Title Plat for T.52N., R.61W., is attached as *Exhibit "B"*.
- (2) On 7/13/01, the USFS granted a road easement across lands located in Sections 25 and 26, T.52N., R.61W. This easement burdens both the surface and mineral estates in these lands which are proposed for designation, and is identified on the



federal Master Title Plat (MT Plat) as WYW154057. *See MT Plat, Exhibit B.*

Petitioners failed to list the owners of the road easement in Tables III and IV.

- (3) The federal government owns land in Section 26, T.52N., R.61W., but the USFS is not listed as an owner. *See MT Plat, Exhibit B.*

Because the Petition does not provide the information required in the rules it should be dismissed.

#### B. Mineral Owners Within Area to Be Designated

The Petition fails to provide the information required by the rules related to the identification of mineral owners within the area proposed for designation. See WY Admin. Code, EQC rules, Chapter VII, Section 6(a)(vi). For example, Table IV of the Petition fails to contain a description of any mineral ownership interest, or a legal description of the lands in which each interest is owned. *See Petition, Table IV.*

#### C. Surface Owners in Lands Contiguous to the Area Proposed for Designation

The Petition fails to provide the information required by the rules related to the names and addresses of all surface owners of lands contiguous to the area proposed for designation. See, Chapter VII, Section 6(xi). The rules require that, when a petition is filed, it must contain a list of all surface owners in lands contiguous to the lands proposed for designation. These landowners are likely to be aggrieved by a Council decision on the petition, and thus are entitled to notice under Chapter VII, Section 7(b)(iii) and an opportunity to be heard on the Petition. The list of the owners of surface estate interests in lands contiguous to the area proposed for designation is subject to review prior to and at the Council's hearing to determine whether the petition should be accepted or dismissed.

Petitioner erroneously contends that Table III contains the names and addresses of surface owners in lands contiguous to the area proposed for designation. See, *Petition*, p. 20. However, the owners of numerous surface estate interests in lands contiguous to the area proposed for designation are not listed in Table III. The following list illustrates these inaccuracies, but does not enumerate all of the errors:

- (1) T.51N., R.61W., Section 15 (contiguous to proposed boundary line of Section 14)
- (2) T.51N., R.61W., Section 23 (contiguous to proposed boundary line of Section 24)
- (3) T.51N., R.61W., Section 26 (contiguous to proposed boundary line of Section 25)

A map of the lands described in the legal description on pages 3 and 4 of the Petition is attached hereto as *Exhibit "C"*.

Because the Petition fails to contain an accurate list of the persons who own an interest in the surface estate in lands contiguous to the area proposed for designation, the Council cannot give adequate notice under Section 7(b)(iii) and the Petition should be dismissed.

D. Notice Requirement for Surface Owners Outside the Area Proposed for Designation

The designation of an area as very rare or uncommon is a land quality decision that authorizes the director to deny mining permits under W.S. 35-11-406(m)(iv). Therefore, the requirements for a petition to designate an area as very rare or uncommon must be consistent with the land quality statutes under the Environmental Quality Act ("EQA"). For purposes of all land quality decisions, the EQA defines "adjacent lands" as "all lands within one-half mile of the proposed permit area". Wyo. Stat. Ann. § 35-11-103(e)(vii)(West 2009). Although the

Chapter VII rules refer to surface owners of lands “contiguous” to the area proposed to designation, the term “contiguous” is not defined in either the EQC or the Chapter VII rules.

Prior to granting a mining permit, the Department must give notice to the surface owners of all “adjacent lands”, meaning lands within one-half mile of the proposed mine permit boundary. Wyo. Stat. Ann. § 35-11-406 (West 2009). If surface owners within one-half mile of a proposed mine permit are entitled to notice and an opportunity to be heard, then it is reasonable for the Council to give notice to surface owners within one-half mile of an area proposed for designation as very rare or uncommon. After all, *adjacent lands are contiguous*.

The purpose of the notice requirements in the Chapter VII rules is to identify and notify all affected persons, meaning those who are likely to be aggrieved by the Council’s decisions on a petition. Persons who may be aggrieved are entitled to due process, including written notice and an opportunity to be heard on all matters related to the petition. Because the term “contiguous” is not defined in the rules or EQA, but the term “adjacent lands” is defined specifically for land quality decisions, the Council should require the Petitioner to provide the names and addresses of surface owners of adjacent lands. Where the requirement under a rule is inconsistent with a statute, the statute must prevail. *See, RME Petroleum Co. v. Wyo. Dept. of Revenue*, 2007 WY 16, ¶ 54, 150 P.3d 673, 691 (Wyo. 2007). Providing notice to surface owners of adjacent lands would assure that the same persons who would be entitled to receive notice of a proposed mining operation would receive notice of Petitioners’ proposed designation of a very rare or uncommon area. Furthermore, providing notice to surface owners on adjacent lands will result in no harm or injury to Petitioners or the Council.

*(3) Petition Does Not Provide a Description of Ownership Interests*

The Petition does not provide the information required by the rules related to a description of the ownership interest for the persons listed in Tables III and IV. The Petition must provide a description of the type of ownership interest held by each person listed as a surface or mineral owner in the area proposed for designation, and listed as a surface owner in lands contiguous to the area proposed for designation. *See*, WY Admin. Code, EQC rules, Chapter VII, Section 6(a)(vi). Thus, it is not known what type of interest the persons listed in Tables III and IV own in the lands. Because the Petition does not contain a description of the type of ownership interest held by surface and mineral owners, it does not provide the information contained in the rules and should be dismissed.

*(4) Petition Does Not Provide Legal Descriptions of the Lands in Which the Surface or Mineral Interest is Owned*

The Petition does not provide the information required in the rules because it does not contain a legal description of the lands in which each surface and mineral owner's interest is located. *See*, WY Admin. Code, EQC rules, Chapter VII, Section 6(a)(vi). At most, Tables III and IV of the Petition identify a section in which an ownership interest may be located. However, the Petition fails to identify with reasonable certainty the lands in which each person owns an interest. For example, Petitioners listed ten (10) persons as owning Section 26, T.52N., R.61W. However, it is likely the listed persons own separate tracts or parcels of land within Section 26, rather than an undivided interest in the entire section. Because the Petition does not provide the information required in the rules, it should be dismissed.

*(5) Petition Does Not Provide Accurate Addresses of Surface and Mineral Owners*

The Petition does not provide the information required in the rules because it provides inaccurate addresses for surface and mineral owners. *See*, Chapter VII, Section 6(a)(vi). At a

minimum, the addresses contained in the Petition for Moskee Land Corp LLC and Pope and Talbot, Inc. are inaccurate. The mailing address provided for each entity does not comport to the address of the principal place of business provided on the Secretary of State's website. In fact, it appears that, after the Council sent notice to these entities on 6/17/09, it used different mailing addresses in subsequent notices sent on 7/8/09.

The Council did not send notices to surface and mineral owners by registered mail. Therefore, it is unknown how many persons entitled to notice actually received it. However, given the errors contained in the Petition for the addresses easiest to verify (registered business entities), the accuracy of the other addresses of surface and mineral owners contained in the Petition is subject to reasonable doubt. Because the Petition does not provide the information required by the rules, it should be dismissed.

**III. Petition Does Not Provide Information Required by or Comply with Chapter VII, Section 6(a)(viii).**

Chapter VII, Section 6(a)(viii) requires the petition to contain a description of the current and historical land use in the area. The Petition fails to provide the information required by the rules because it does not completely and accurately describe the current and historical land use in the area proposed for designation. *See*, WY Admin. Code, EQC rules, Chapter VII, Section 6(a)(viii). The Petition devotes a mere seven (7) sentences to the description of the current and historical ranching, recreational, timbering, mining, and mineral exploration activities in the area. *See, Petition*, p. 15. Specifically, the Petition fails to describe the current and historic mining and exploration activities in the Mineral Hill Mining District.

Bronco Creek Exploration, Inc. ("Bronco Creek") is currently engaged in mineral exploration programs within the proposed area for designation, and has a valid license to explore

from the Department of Environmental Quality (“Department”). A copy of the License to Explore is attached hereto as *Exhibit “E”*. The USFS, which oversees management of the surface and mineral rights in the area proposed for designation, has approved Bronco Creek’s plans of operation. Petitioners are well aware of Bronco Creek’s mineral interests and mining activities, as evidenced by a letter submitted in June 2006 by Petitioner Biodiversity Conservation Alliance to the USFS commenting on various aspects of Bronco Creek’s activities. The Petition fails to describe Bronco Creek’s past and current extensive mineral uses in the area proposed for designation, thus making the Petition inaccurate and incomplete.

Additionally, the Petition fails to completely and accurately describe the historical mining activities in the area proposed for designation. Multiple mining operations, including surface mines, underground mines, and extensive placering occurred in the Mineral Hill Mining District in the past, as is evidenced by the physical remnants of mill sites, processing facilities, and historic mines in the area proposed for designation. Further, much of the area around Mineral Hill was placer-mined down to bedrock in the drainages, as is evidenced by the hummocky spoils present throughout the drainages within the petition area. In the 1970s and 1980s, several exploration and drilling programs were active in the area proposed for designation and placer mining in the area continued through recent years.

The Petition also fails to completely and accurately describe current and historical timbering activities within the area proposed for designation. Timbering has routinely occurred over time in the area, and the Petition fails to describe that use of the area proposed for designation.

The Petitioner’s failure to completely and accurately describe the historical and current uses in the area is egregious, as this information is most relevant to evaluating the socioeconomic

impacts that would occur if the Petition were granted. Because the Petition encompasses such a large area, including considerable land outside the Sand Creek drainage itself, complete and accurate descriptions of past and current land uses in the area are critical to understanding and valuing the resources in the area that would be prohibited or rendered commercially impracticable by a designation of very rare or uncommon.

Because the Petition does not provide the information required by the rules related to current and historical uses in the area proposed for designation, it should be dismissed.

**IV. Petition Does Not Provide Information Required by or Comply with Chapter VII, Section 6(a)(ix).**

Chapter VII, Section 6(a)(ix) requires the petition to contain a list of any special designations or descriptions of the area made by other governmental agencies, including, but not limited to, designations by the Department of Interior Bureau of Land Management or Office of Surface Mining, designations by the U.S. Fish and Wildlife Service, and designations by the Wyoming Department of Game and Fish. The Petition does not provide the information required in Section 6(a)(ix) because it fails to list at least one federal designation. The Petition does not list the Cement Ridge lookout and administrative site in the NE1/4 of Section 5, T.50N., R60N., for which a withdrawal was made in 1959. *See MT Plat, T.50N., R.60W.*, attached as **Exhibit “D”**. The failure of the Petition to list all special designations, withdrawals, disposals, and other adjudications within the area proposed for designation results in an inaccurate characterization of the ownership patterns in the area and the current and historical uses. Therefore, the Petition does not provide the information required by the rules, and should be dismissed.

**V. Petition Includes Lands that are Exempt from Applicability and Designation under Chapter VII**

Contrary to the provision in Chapter VII, Section 3(b), the Petition includes lands on which there are existing mining operations for which the Department has issued a permit. Bronco Creek is currently engaged in mineral exploration programs within the proposed area for designation, and has License to Explore No. 271LE, TFN 4 6/334 from the Department. A copy of the License to Explore is attached hereto as *Exhibit "E"*. Additionally, the USFS, which oversees management of the surface and mineral rights in the area proposed for designation, has approved Bronco Creek's plans of operation. Pursuant to Section 3(b) of the rules, no area subject to existing mining operations under a valid permit shall be affected by a designation. The Petition should not include any lands subject to Bronco Creek's License to Explore, and therefore should be dismissed.

#### **VI. Petitioners Have Burden of Proof**

Petitioners have the burden of proof that the Petition provides all of the information required by the Chapter VII rules, and that it conforms to and complies with the rules. Petitioners cannot, by submitting an incomplete and inaccurate petition, shift the burden onto the public to determine the deficiencies. Because the defects in the Petition are material and pervasive, the Petition should be dismissed.

Petitioners have the burden of proof that they have provided accurate and proper legal descriptions for the lands proposed for designation. Petitioners failed to provide reasonable evidence that the legal descriptions and maps are accurate.

Petitioners have the burden of proof that the lists of surface and mineral owners and legal descriptions of the land each owns are accurate. Petitioners failed to provide reasonable evidence that the names and address of surface and mineral owners are accurate.

#### **VII. Notice to Surface and Mineral Owners is Not Adequate**



The Council's notice to surface and mineral owners within the area proposed to be designated, and to surface owners on lands contiguous to the area proposed to be designated, is inadequate. Surface and mineral owners are entitled to reasonable notice of the Petition and an opportunity to be heard on whether the Petition should be accepted or dismissed. Notice of an administrative proceeding should give the respondent adequate warning of the nature of the proceedings so that the respondent may prepare a reply case and arguments in opposition. 2 *Am. Jur. 2d Administrative Law* § 289 (2009). As set out hereinabove, the Petition does not provide all the information required by the rules related to the identification of surface and mineral owners. Therefore, the Council has not sent notice to all persons entitled to notice and an opportunity to hearing. Also, the notices sent by the Council on July 8, 2009 are inadequate because they do not give the surface and mineral owners adequate time prior to the Council's meeting on July 14, 2008 to become informed about the Petition and the relevant laws, to prepare and file a response to the Petition, or to have a reasonable opportunity to be heard. Because the Petition does not provide the information required by the rules, the Council's notice to surface and mineral owners is inadequate. While the timeliness of the Council's notice could be cured by a continuance, the Petition defects related to the identification of the surface and mineral owners entitled to notice cannot. Therefore, the Petition should be dismissed.

### **VIII. Conclusion**

As set forth hereinabove, the Petition does not provide the information required by the Chapter VII rules, nor does it not conform to or comply with the Chapter VII rules. Section 6(b) of the rules provides that the Council may consider a petition only if it is filed under—i.e. in compliance with—the Chapter VII rules. The rules further provide for the Council to dismiss

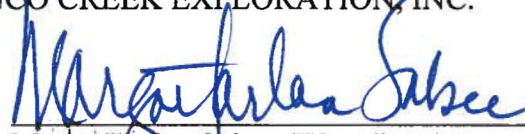
any petition that does not provide the information required by the Chapter VII rules. Chapter VII, Section 6(c).

**WHEREFORE**, the undersigned hereby respectfully requests that the Council determine that the Petition does not provide the information required by the Chapter VII rules or conform to or comply with the Chapter VII rules, and that the Council dismiss the Petition without accepting it or considering it further.

**DATED** this 14<sup>th</sup> day of July, 2009.

BRONCO CREEK EXPLORATION, INC.

By:



Margo Harlan Sabec (Wyo. Bar. No. 5-1590)  
Nicol Thompson Kramer (Wyo. Bar. No. 6-3630)  
WILLIAMS, PORTER, DAY & NEVILLE, P.C.  
P.O. Box 10700  
Casper, Wyoming 82602  
(307) 265-0700  
(307) 266-2306 (fax)


**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing was served by electronic mail this 14<sup>th</sup> day of July, 2009, addressed as follows:

Erik Molvar  
Biodiversity Conservation Alliance  
[erik@voiceforthewild.org](mailto:erik@voiceforthewild.org)

I certify that a true and correct copy of the foregoing was served by electronic mail and postal mail this 14<sup>th</sup> day of July, 2009, addressed as follows:

Kim Waring  
[kwarin@wyo.gov](mailto:kwarin@wyo.gov)  
Environmental Quality Council  
122 W. 25<sup>th</sup>, Rm. 1714  
Herschler Bldg.  
Cheyenne, WY 82002  
Phone: 307-777-7170  
Fax: 307-777-6134



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Margo Harlan Sabec (Wyo. Bar. No. 5-1590)  
WILLIAMS, PORTER, DAY & NEVILLE, P.C.  
P.O. Box 10700  
Casper, Wyoming 82602  
(307) 265-0700  
(307) 266-2306 (fax)

## CROOK COUNTY ASSESSOR PROPERTY PROFILE

Account #: R0002655  
Local #: 00000000

Parcel #: 51602130000800  
MH Seq #: MH Space:

Appr Year: 2009	Levy: 61.5	# of Bldgs: 0	Create On:
Tax Dist: 0100	Map #: 516021300008	LEA: 1850	Active On: 20050916
Assign To: UnAssigned	Initials: DEEG	Acct Type: Agricultural	Inactive On:
	New Growth: 0		Last Updated: 3/27/2009

**Owner's Name and Address:**

FERDERER DONALD L & GAYLE  
MAHER PATRICA A  
PO BOX 801  
  
SUNDANCE WY 82729

**Property Address:**

Street:  
City: SUNDANCE

Business: EAST EDGE OF COUNTY NEAR SD L9NE

### Sales Summary

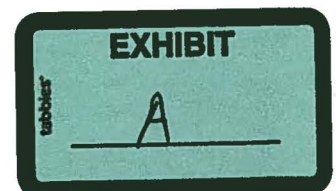
### Legal Description

T51N R60W SEC 21 LODGE CLAIMS IN SURVEY #345 LESSING ATTILLA, ATTILLA #1, ATTILLA #2, HUMBOLT; SEC 28 ARCADE #3  
TOTAL ACRES: 105.00

### Land Valuation Summary

Land Type	Ag Code	Abst Code	Net SF	Unit of Measure	No. Of Units	Value Per Unit	Actual Value	Mkt Value	Asmt %	*Assessed Value
Agricultural	LRA 1 R-3	40303	3,746,160	Acres	86	\$115	\$9,890	\$9,890	0.1	\$940
Agricultural	LRA 1 R-4	40304	392,040	Acres	9	\$81	\$729	\$729	0.1	\$69
Agricultural	LRA 1 R-5	40305	217,800	Acres	5	\$58	\$290	\$290	0.1	\$28
Agricultural	LRA 1 Waste	40306	217,800	Acres	5	\$30	\$150	\$150	0.1	\$14
<b>Taxable Value</b>							<b>\$11,059</b>	<b>\$11,059</b>		<b>\$1,051</b>

### Buildings Valuation Summary



**Total Property Value** \$11,059 \$1,051

\*Approximate Assessed Value



TOWNSHIP 52 NORTH RANGE 61 WEST OF THE 6th PRINCIPAL MERIDIAN, WYOMING

SECTION OR TRACT	SUBDIVISION				LOTS	OTHER DESCRIPTION	ACRES	KIND OF ENTRY -OR- PURPOSE OF ORDER	SERIAL FILE -OR- ORDER NUMBER	DATE OF ACTION	DATE POSTED	REMARKS E. G. DATE CLOSED, TERMINATED, REJECTED OR RESCINDED
	NE 1/4	NW 1/4	SW 1/4	SE 1/4								
	NE NW SW SE	NE NW SW SE	NE NW SW SE	NE NW SW SE								
FOR ORDERS EFFECTING DISPOSAL OR USE OF UNIDENTIFIED LANDS WITHDRAWN FOR CLASSIFICATION, MINERALS, WATER, AND/OR OTHER PUBLIC PURPOSES, AND INDIAN TREATIES, REFER TO INDEX OF MISCELLANEOUS DOCUMENTS												
						All Secs 16 & 36		Territorial Res	Act of Cong	7/25/1868		
18	X	X	X				160.00	TC	C 62	1/22/1883		Conc 6/13/1887
6	X	X				1, 2	162.27	TC	C 222	12/10/1883		Conc 3/16/1906
4			X	X								
5												
8	X						160.00	NE	C 1222	2/17/1886		Conc 3/21/1895
1							160.00	TC	C 1220	4/14/1886		Conc 3/16/1900
5		X	X				160.94	TC	C 1282	5/5/1886		Conc 11/18/1887
7		X					160.00	TC	C 1427	6/25/1886		Conc 3/25/1900
4	X	X	X				161.31	TC	C 2087	11/7/1887		Conc 4/17/1905
5		X	X	X			160.00	TC	C 2094	11/15/1887		Conc 7/18/1903
18			X			1, 2	528.62v	NE Pat	250	10/17/1889		
8							160.00	NE Pat	253	10/17/1889		
14			X	X	X		160.00	NE	B 355	6/28/1890		Conc 3/6/1902
						All Secs 16 & 36		SO	Act of Cong	7/10/1890		Title to State vested by Proc 7/10/1890 Subj to prior rights
7												
8			X									
17		X										
18	X						160.00	CE Pat	1032	7/18/1890		
22		X										
23			X				160.00	NE Pat	25	11/29/1890		
2		X					160.00	NE Pat	75	11/29/1890		
26		X	X	X			160.00	NE Pat	116	11/29/1890		Partially Recon B051175 7/16/1931
28			X	X								
29							160.00	CE Pat	730	2/12/1891		
15	X	X	X	X			160.00	CE Pat	762	2/12/1891		
1												
2												
3												
4												
5												
6												
9												
17												
18						Subdiv Und; 528 60N		R/W Eastern Wyoming RR	V 0119075	2/13/1891		Conc 5/19/1915
30							160.00	CE Pat	1153	3/12/1891		
23			X				160.00	CE Pat	1188	3/12/1891		
4							160.00	CE Pat	1243	3/12/1891		
1						1	528 60N, 528 60W	CE Pat	1423	3/12/1891		
32							518 61W	CE Pat	1452	3/12/1891		
29	X	X	X				160.00	CE Pat	833	3/18/1891		
1		X	X			2	161.32	CE Pat	993	3/18/1891		
23	X	X	X				160.00	CE Pat	6	4/23/1891		
13							40.00					
24	X						528 60W	CE Pat	577	4/23/1891		
22		X					160.00	CE Pat	202	8/4/1891		
6			X			3, 4	528 62W	CE Pat	139	10/26/1891		
21			X									
22			X				160.00	CE Pat	169	10/26/1891		

EXHIBIT  
B pg 2

OK  
M  
RMT

T_N	Township <u>50</u> North										Township <u>51</u> North										Township <u>52</u> North										T_N	
	Range <u>61</u> West										Range <u>60</u> West										Range <u>60</u> West											
R_W	38	31	32	33	34	35	38	31	32	33	38	31	32	33	34	35	38	31	32	33	38	31	32	33	34	35	38	31	32	33	R_W	
1	6	6	6	4	3	2	1	6	6	4	6	6	6	4	3	2	1	6	6	6	4	6	6	6	4	3	2	1	6	6	6	6
12	7	9	9	9	10	11	12	7	9	9	7	9	9	9	10	11	12	7	9	9	9	7	9	9	9	10	11	12	7	9	9	7
18	18	18	17	18	15	14	18	18	17	18	18	18	17	18	15	14	18	18	17	18	15	18	18	17	18	15	14	18	18	17	18	18
24	19	20	20	21	22	23	24	19	20	20	19	20	20	21	22	23	24	19	20	20	21	19	20	20	21	22	23	24	19	20	20	19
25	30	29	29	28	27	26	25	30	29	29	30	29	29	28	27	26	25	30	29	29	28	30	29	29	28	27	26	25	30	29	29	30
38	31	32	32	33	34	35	38	31	32	32	31	32	32	33	34	35	38	31	32	32	33	31	32	32	33	34	35	38	31	32	32	31

Lands described in legal description, Petition P3-4.







TOWNSHIP 50 NORTH RANGE 60 WEST OF THE 6th PRINCIPAL MERIDIAN, WYOMING

SECTION OR TRACT	SUBDIVISION				ACRES	KIND OF ENTRY -OR- PURPOSE OF ORDER	SERIAL FILE -OR- ORDER NUMBER	DATE OF ACTION	DATE POSTED	REMARKS  E. G. DATE CLOSED, TERMINATED, REJECTED OR RESCINDED		
	NE 1/4	NW 1/4	SW 1/4	SE 1/4							LOTS	OTHER DESCRIPTION
	NE/NW/SW/SE	NE/NW/SW/SE	NE/NW/SW/SE	NE/NW/SW/SE								
FOR ORDERS EFFECTING DISPOSAL OR USE OF UNIDENTIFIED LANDS WITHDRAWN FOR CLASSIFICATION, MINERALS, WATER, AND/OR OTHER PUBLIC PURPOSES, AND INDIAN TREATIES, REFER TO INDEX OF MISCELLANEOUS DOCUMENTS												
	ENTIRE TOWNSHIP					50N 61W		ED Md1 for Resurvey	4960	9/12/1928	Rest. ED 5995 1/13/1933	
	ENTIRE TOWNSHIP					50N 61W		ED Rest ED 4960 9/12/1928	5995	1/13/1933	Open to Entry	
5					12	52N 63W		ApIn Md1 USFS Adm Site	W 059282	12/20/1957	Cement Ridge Lookout; Md1 PLD 1797 2/19/1959	
	ENTIRE TOWNSHIP					52N 61W		Determination PL 167 Act of Cong 7/23/1955	W 073288	4/3/1958	Determination completed 11/4/1958; All N.F. surface management by USFS	
5					12	52N 63W		PLD Md1 USFS Adm Site	1797	2/19/1959	Cement Ridge Lookout	
7					16							
8					11							
16					12							
17					10, 11							
18					13, 14							
						50N 61W See Reks		QCD From USFS Small Tract Act R/W Roads Smt to US (USFS)	WYW 141145 WYW 139946	8/11/1992 8/11/1992	Reference Case File for Mineral interest; R/W Portions of HES 136 and HES 143 in Secs 7-9;	

EXHIBIT  
D page 2

NO  
RINT



# 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

July 3, 2007

Eric Jensen  
Bronco Creek Exploration, Inc.  
2841 E. Manchester  
Tucson, AZ 85719

**RE: Approval of License to Explore No. 271LE, TFN 4 6/335**

Dear Mr. Jensen:


With the recommendation of Mark Taylor, District III, your License to Explore is approved as 271LE. A copy of the signed form is enclosed. The License allows extraction of minerals for assaying and testing purposes only and does not authorize commercial mining.

**\*Annual Operating Plans must also be submitted and approved by the surface owner before any work may begin on Federal Lands.**

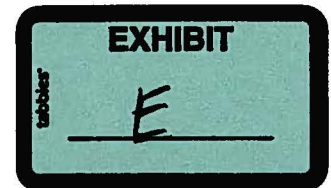
Chase Bank certificate of deposit no. 010-007-1253751 has been accepted by the Land Quality Division in the amount of Ten Thousand Dollars (\$10,000) as a performance bond to ensure compliance with all provisions of the Wyoming Environmental Quality Act and the Land Quality Division Rules and Regulations.

The exploration license may be renewed annually, following a review of your operations by the District III staff **\*and submittal of your operating plans to the surface owner.** Notification of your renewal will be sent to you prior to the anniversary date of the license.

If you should have any questions, please contact the District III office in Sheridan (307-672-6488).

Sincerely,  
  
Richard A. Chancellor  
Administrator  
Land Quality Division

RAC:DH:jh  
Enclosure  
xc: District III w/encl.  
Surety (if surety bond) w/encl.  
USFS



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

ADMIN/OUTREACH (307) 777-7758 FAX 777-3810	ABANDONED MINES (307) 777-8145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7358 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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