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ATTORNEY FOR OBJECTORS  
BIG HORN COAL COMPANY

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

IN RE BROOK MINE APPLICATION )  
 ) Docket No. 17-4801  
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TFN 6 2-025 )

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**OBJECTOR BIG HORN COAL COMPANY’S DISCOVERY REQUESTS TO  
WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ)**

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TO: Wyoming DEQ, by and through Andrew Kuhlman and James LaRock, Wyoming Attorney General’s Office, Pioneer Building, 2nd Floor, 2424 Pioneer Avenue, Cheyenne, WY 82002, their attorneys:

Pursuant to Wyo. Stat. Ann. § 16-3-107(g) and Rules 33 and 34 of the Wyoming Rules of Civil Procedure, Big Horn Coal Company, by and through its counsel of record, submits the following interrogatories and requests for production (collectively, the “Discovery Requests”) to Wyoming DEQ.<sup>1</sup> Pursuant to Order of the Environmental

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<sup>1</sup> By submitting these Discovery Requests, Big Horn Coal Company does not waive any due process objections made of record during the Scheduling Conference of February 2, 2017 and in Big Horn Coal Company’s Objection to Procedure and Scheduling as a Violation of Due Process Rights, filed in this Matter on February 6, 2017. These Discovery Requests are simply an attempt to obtain some of the necessary

Quality Council (“EQC”), dated February 2, 2017, responses from Wyoming DEQ are due by February 10, 2017.

These Discovery Requests are not intended to duplicate any disclosures required by the EQC’s Order of February 2, 2017. Instead, these Discovery Requests are an attempt to supplement these required disclosures with other relevant information as defined by the Wyoming Rules of Civil Procedure and appropriate case law interpreting the same. To the extent that the information requested in these Discovery Requests is duplicative of any already required disclosure, please indicate where that information was/will be provided and provide all other responsive information.

#### **INSTRUCTIONS AND DEFINITIONS**

The following instructions and definitions apply to these Discovery Requests and are incorporated therein:

1. The term “You”, “Your”, any plural, or any synonym thereof, are intended to and shall embrace and include Wyoming DEQ, counsel for said party, and all agents, servants, employees, representatives, or anyone on behalf of Wyoming DEQ, or who has acted for or on behalf of the Wyoming DEQ, who are in possession of, or may have obtained information for or on behalf of Wyoming DEQ.
2. The responses to these interrogatories and document requests (“Discovery Requests”) shall include all non-privileged information and documents that are within your possession, custody, or control, to the fullest extent allowed under the Wyoming Rules of Civil Procedure.

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information to present meaningful objections at the hearing set for February 13, 2017 and despite the lack of appropriate time to prepare under the scheduling in this matter.

3. Each Discovery Request should be construed as broadly as permissible under the Wyoming Rules of Civil Procedure, and no Discovery Request should be construed as a limitation on any other Discovery Request. If, in answering these Discovery Requests, you claim an ambiguity in interpreting a particular request, definition, or instruction, such claim shall not be used as a basis for refusing to respond. Instead, you should identify the language deemed ambiguous and the interpretation chosen or used in responding to the Discovery Request.

4. If there exists no information, documents, or things that are responsive to a particular request, that fact should be stated in response to the request.

5. These Discovery Requests are deemed to be continuing to the fullest extent permitted by the Wyoming Rules of Civil Procedure, until and up to the date and time of the EQC hearing currently set for February 13, 2017 at 9:00 a.m.

6. Regardless of the tense employed, all verbs shall be read as applying to the past, present, and future as necessary to make any paragraph more, rather than less, inclusive.

7. None of these Discovery Requests are intended to request information or documents protected by attorney-client privilege, protected as work-product or otherwise privileged or protected. To the extent that the following Discovery Requests seek such privileged or protected information, please provide all information not so protected and indicate the existence of the protected information.

8. "And," "or," or "and/or" shall be construed in either the disjunctive or conjunctive in order to elicit the broadest possible response.

9. IDENTIFY and/or IDENTIFYING: The terms “Identify” and/or “Identifying,” with respect to a natural Person, means to provide that Person’s name, home address and telephone number, current employer and job title, and work address and telephone number. The term “Identify” and/or “Identifying,” with respect to an entity, means to provide the name, address and telephone number for that entity. The term “Identify” and/or “Identifying,” with respect to a Document, means to provide the date, subject matter, author(s), addressee(s), recipient(s), length and current location of the Document. The term “Identify” and/or “Identifying,” when used with respect to oral statements or communications, means to state the maker of the communication or statement, recipient of the communication or statement, when the communication or statement was made, where the communication or statement was made, the person(s) present when the communication or statement was made, the mode of communication, and the subject matter of the communication or statement.

10. PERSON: The term “Person” includes natural persons and business entities.

11. DOCUMENT: The term “Document” means all materials, things, and tangible evidence within the scope of the Wyoming Rules of Civil Procedure, including, but not limited to, writings, memoranda, correspondence, files, cards, reports, forms, contracts, agreements, notes, inventories, diaries, calendars, communications or summaries of any kind, billing records, drawings, graphs, charts, photographs, films, recordings, videotapes, computer tapes, computer disks, electronically or digitally recorded data or information, electronic mail, and any other data or information compilations in any form, which are in the possession, custody or control of the you, your agents, counsel, or any other person(s)

acting on your behalf. Each draft and non-identical copy of a Document is to be considered a separate Document.

12. **INCLUDING:** The term “Including” means including but not limited to.

13. **COMMUNICATION:** The term “Communication” means the imparting or interchange of thoughts, opinions, or information by speech, writing, or signs, including but not limited to all inquiries, discussions, conversations, negotiations, agreements, meetings, telephone conversations, letters, correspondence, notes, facsimile transmissions, answering machine or voice mail information, electronic mail transmissions, or recordings, whether communicated by writing, electronically, orally, or otherwise.

### **INTERROGATORIES**

**INTERROGATORY NO. 1:** Please identify all persons who aided in the preparation of these answers and responses to these Discovery Requests.

**ANSWER:**

**INTERROGATORY NO. 2:** Please identify each and every person you may, or intend to, call as a witness at the hearing for this matter, including a description of the substance of their proposed testimony, an identification of all documents or communications that will be referred to in each person’s testimony or that was relied on forming any knowledge, beliefs or opinions that will be expressed in each witness’s testimony. If any witnesses identified in response to this request will or may be presented or qualified as an expert, please indicate this as well.

**ANSWER:**

**INTERROGATORY NO. 3:** Please identify any person holding himself/herself out to be an expert or consultant in any field with respect to any of the issues in this hearing which you, your attorneys, or the potential experts/consultants listed herein have consulted with, and/or which you may use to in the presentation of your case or who have assisted in the preparation of your case. For each person state:

- a) the name address and field of expertise of each such person;
- b) the subject matter on which the expert is expected to testify or has consulted with you regarding;
- c) the substance of the facts and opinions to which the expert is expected to testify or has consulted with you regarding;
- d) a summary of the grounds for each such opinion of the expert/consultant;  
and
- e) all documents and facts relied upon by such person in reaching his or her opinion(s).

**ANSWER:**

**INTERROGATORY NO. 4:** Please provide a summary of the evidence you believe establishes the requirements for a surface coal mining permit found in Wyo. Stat. Ann. § 35-11-406(n)(i)-(vii). Included in this summary, please identify what witnesses, documents, exhibits or any other evidence that you may use to establish each of these requirements at the EQC hearing for this matter set to begin on February 13, 2017.

**ANSWER:**

**INTERROGATORY NO. 5:** Please identify and describe any information responsive to any required disclosure found in Rule 26 of the Wyoming Rules of Civil Procedure, replacing as necessary the use of “trial” with “hearing” referring to the hearing in the matter currently set to begin on February 13, 2017, including but not limited to any disclosure required by Rule 26(a)(1) and (a)(3).

**ANSWER:**

**INTERROGATORY NO. 6:** Please identify and describe any documents, research, communications or correspondence with any person or entity discussing or referencing any potential material impacts on hydrologic balance inside or outside of the permit area, or any other potential material environmental, health, safety or other impacts of the proposed mining operations involved in this matter, including but not limited to any risks associated with existing underground coal fires and possible subsidence, and the extent to which the proposed reclamation bond is sufficient to address such impacts.

**ANSWER:**

**INTERROGATORY NO. 7:** Please identify and describe any documents, research, communications or correspondence discussing or referencing the requirements, policies or guidelines of the Wyoming Department of Environmental Quality, Land Quality Division’s Coal Standard Operation Procedure 2.1, regarding Coal Permit Content and Review Procedures Relating to Abutting and Overlapping Coal Permit Area Boundaries.

**ANSWER:**

**REQUESTS FOR PRODUCTION**

**REQUEST FOR PRODUCTION NO. 1:** Please produce a true and correct copy of any and all documents, exhibits, drawings, photographs, videotapes, motion pictures or other items of evidence that you may use or present at the EQC hearing set to begin on February 13, 2017.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 2:** Please produce copies of all documents identified or referred to in your answers to these Discovery Requests, or utilized or relied on in answering these Discovery Requests.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 3:** Please provide all documents responsive to any required disclosure found in Rule 26 of the Wyoming Rules of Civil Procedure, replacing as necessary the use of “trial” with “hearing” referring to the EQC hearing in the matter currently set to begin on February 13, 2017, including but not limited to any disclosure required by Rule 26(a)(1) and (a)(3).

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 4:** Please produce any documents, research, communications or correspondence with any person or entity discussing or



referencing any negative environmental, health or safety impacts of the proposed mining operations involved in this matter.

**RESPONSE:**

**REQUEST FOR PRODUCTION NO. 5:** Please produce any data, mapping, documents or research concerning, or any communications or correspondence with any person or entity discussing or referencing any of the following:

- a. Geotechnical designs or highwall mining design of the proposed mining operations involved in this matter;
- b. Coal strength or stability factors of the proposed mining operations involved in this matter;
- c. Materials reports or studies regarding the proposed mining operations involved in this matter;
- d. Water use rates and/or groundwater aquifer testing;
- e. Historical underground workings in or around the mining area of the proposed mining operations involved in this matter; **or**
- f. Subsurface fires in or around the mining area of the proposed mining operations involved in this matter.

**RESPONSE:**

DATED: February 6, 2017.

[Signature page to follow.]

By 

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*Attorney for Objectors*

*Big Horn Coal Company*

## CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2017, a true and correct copy of the foregoing was served by email to the following:

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