

Exhibit A

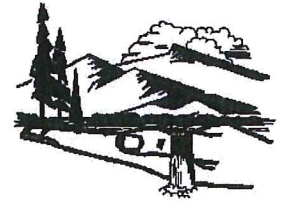


Matthew H. Mead, Governor

Department of Environmental Quality

Filed: 1/30/2017 4:31:23 PM WEOC

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



Todd Parfitt, Director

Mr. Jordan Sweeney
Big Horn Coal Co.
10980 S. Jordan Gateway
South Jordan, UT 84095

RE: Proposed Brook Mine Permit Application, Sheridan County – TFN 6 2/025
Public Comment Period

Dear Mr. Sweeney:

Your letter regarding the proposed Brook Mine permit application has been received by the Department of Environmental Quality (DEQ). The public notice and approval process for such surface coal mine permit applications is addressed in Wyoming Statute § 35-11-406. Several of the comment letters received by the DEQ requested an informal conference be conducted on the permit application and on specific objections to the application.

I have carefully considered the objections received and determined that an attempt to informally resolve the disputes is unlikely to be successful through the informal conference process. Therefore, I am referring this permit application to the Environmental Quality Council (EQC) for their review and determination at a contested case hearing. Your comment letter, and all others received by the Department are being forwarded to the EQC. The EQC will be in contact with you regarding arrangements for a hearing before them. If you would like to contact the EQC directly for more details regarding their process, they can be reached at:

Wyoming Environmental Quality Council
122 W. 25th
Herschler Bldg. 1W, Room 1714
Cheyenne, WY 82002
Phone: (307) 777-7170
Email: eqc-all@wyo.gov

Thank you for sharing your comments with the Department regarding this proposed new mine permit application. Your participation in the public review process is important and very helpful to the Department and the State.

Sincerely,

[Handwritten signature of Todd Parfitt]

Todd Parfitt
Director

Date: Jan. 30, 2017

cc: Alan Edwards, Deputy Director DEQ
Jim Ruby, Executive Secretary, Wyoming Department of Environmental Quality

Exhibit B

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BEFORE THE ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

IN RE BROOK MINE APPLICATION Docket No. 17-4801

TRANSCRIPT OF PREHEARING CONFERENCE

PURSUANT TO NOTICE duly given to all parties in interest, this matter came on for hearing on the 2nd day of February, 2017, at the hour of 10:30 a.m., in the Board of Equalization Board Room, Herschler Building, 122 West 25th Street, Cheyenne, Wyoming, before the Wyoming Environmental Quality Council, Council Member Tim Flitner presiding. Also present were Ryan Schelhaas, Wyoming Attorney General's Office, attorney for the Environmental Quality Council; Jim Ruby, Executive Officer, Wyoming Environmental Quality Council; and Joe Girardin, Business Office Coordinator, Wyoming Environmental Quality Council.

1 So at this point I'm going to turn it over to
2 Jim, because he's a lot more adept at navigating his way
3 through these different timelines and different things, and
4 I'll be here --

5 MS. ANDERSON: Mr. Presiding Officer,
6 Shannon Anderson, if I may. The law does allow if the
7 parties stipulate to a different time frame. It's my
8 understanding that all parties, maybe minus one, are
9 willing to do that. We have inflexibility of --

10 COUNCIL MEMBER FLITNER: They might be, but
11 I'm -- that's what I'm saying. I'm not very flexible.

12 MS. ANDERSON: I'm saying the law says that
13 if the parties stipulate, it allows for a different
14 schedule.

15 COUNCIL MEMBER FLITNER: I don't disagree
16 with that, but as I've said, you can look back, I don't
17 grant many continuances. These things are set up -- and
18 generally it can happen, but I personally, to make it to
19 the hearing, don't have the flexibility. That's what I'm
20 saying. I mean, it's just a short --

21 MS. ANDERSON: Okay. Our witnesses don't
22 as well. I mean --

23 COUNCIL MEMBER FLITNER: I'm sorry about
24 that. Unless we move this thing clear back. I mean, this
25 is it or months, and, you know, the tradition of the

1 MR. POPE: This is Jeff Pope, Mr. Hearing
2 Officer. I just would echo your comments that if those are
3 issues that are related to the permit and whether or not
4 the permit satisfies state law, we'll obviously dispute
5 that, since it's our permit, but we think those are issues
6 that should get fleshed out at the hearing, proven at the
7 hearing, if they're true, and then ruled upon by the
8 Council.

9 COUNCIL MEMBER FLITNER: Thanks. Anybody
10 else?

11 Andrew, do you have anything? Do you need to say
12 anything?

13 MR. KUHLMANN: No, Mr. Hearing Officer.

14 COUNCIL MEMBER FLITNER: So nobody else has
15 any comments on that.

16 What I was getting to later was because of my
17 flexibility and because I was given the heads-up earlier
18 that this was a 20-day hearing and we kind of set that date
19 for the 13th and 14th tentatively and I'm pretty firm on
20 holding that. I know that time is short, but that is the
21 law.

22 And my belief is, and always has been, when you
23 guys file these things, you ought to be ready to go under
24 those timelines. And, you know, we'll issue continuances
25 when we can, but we're going to have cases like this where

1 I personally don't have the flexibility.

2 And I don't like moving this thing back six or
3 eight months. I think that's hard on all parties
4 concerned. I think they have a right to move ahead. And,
5 you know, if that's a hardship to get ready in 20 days, you
6 know, that's just the way it is. That's the law. So I
7 would really appreciate your cooperation on that, even
8 though I know it's maybe a bit of an inconvenience for you.

9 The other thing, I'd just as soon have it here,
10 because the legislature is still in session, the DEQ
11 employees are running back and forth and trying to give
12 testimony down here, and it's going to be pretty difficult
13 to ship everybody up there for a day or two, or whatever,
14 and then bring them down.

15 So as a matter of convenience for the state and
16 since I just came from that building over there and all
17 they can talk about is budget cuts, there's also we're all
18 supposed to be doing our part there as well, and I think
19 it's important to recognize that, even though I know we
20 should be moving these around from time to time, and we
21 will when we can. But with that, I'll kind of open it up
22 to discussion, and I'm going to turn it over to Jim, unless
23 I feel I need to butt in. He's a little quicker at moving
24 through this process than I am.

25 So with that, I'll open it up for comment. Who

1 wants to go first?

2 MR. POPE: This is Jeff Pope on behalf of
3 Brook Mine. I guess we'll lead it off since it's our
4 permit that's at issue.

5 We agree generally with the sentiment that we
6 don't want to extend this out six to eight months. I know
7 Mr. Gilbertz referenced the need for discovery and all that
8 kind of stuff, but this is not a typical contested case
9 hearing where you're going to want to take depositions and
10 serve written discovery. It's a public comment review of a
11 permit that's gone through the process, and frankly, it's a
12 review of an application that the Council has already seen
13 a little bit through the order in lieu process.

14 With all of that said, Brook is willing to agree
15 to a one-month continuance to March, both to help ensure
16 that the maximum number of council members can be there and
17 also to provide the parties additional time, if they want,
18 to prepare for the hearing.

19 We're certainly not saying that we should do
20 full-blown discovery and get a scheduling order to that
21 effect, but we are willing to do that. We agree that
22 Cheyenne makes the most sense for a lot of reasons on that
23 front. So that's where Brook stands on the schedule
24 itself.

25 COUNCIL MEMBER FLITNER: Okay. And just

1 let me address one issue real quick. The reason March
2 doesn't work for me is I've got conflicts. You know, I'll
3 just put that out there right now. Otherwise, that would
4 be a problem -- or it wouldn't be a problem, because we'll
5 be down here in March anyway. I just don't have those
6 extra days in March.

7 And there really isn't any guarantee that any
8 more council members will be there then, although, you
9 know, we just don't know that part yet.

10 So anyway, I just want to put that out there. So
11 if there is any more discussion about March, it's probably
12 not going to happen in March.

13 MR. POPE: I appreciate that, Mr. Hearing
14 Officer, and I guess our goal in all of this, and maybe
15 this will shape the discussion for everybody, we want to
16 find the best time, not six to eight months down the road,
17 but either February or March where we get a quorum there of
18 the most possible EQC members so that we can get this ball
19 moving forward.

20 COUNCIL MEMBER FLITNER: Okay.

21 MS. ANDERSON: Mr. Presiding Officer, it
22 sounds like maybe there's been some communication with
23 Brook about availability of the council members and I'm
24 just wondering --

25 COUNCIL MEMBER FLITNER: Not that I'm aware

1 of.

2 MS. ANDERSON: Okay. So I mean, who would
3 not be available in March, I guess?

4 COUNCIL MEMBER FLITNER: Well, one that
5 won't be available for sure in March is Aaron Clark --

6 MS. ANDERSON: Okay.

7 COUNCIL MEMBER FLITNER: -- because he'll
8 be done by then. So we know we have a vacant seat. That's
9 the only one we know that won't be available in March. We
10 don't know that anybody won't be available or absolutely
11 will be available in February, although I did get an email
12 from Rich. I know he's okay in February. I don't know
13 where he is in March. The others I couldn't tell you.

14 MR. RUBY: But we do have the issue of
15 Megan Degenfelder conflicted out with regards to the prior
16 Brook Mine and --

17 COUNCIL MEMBER FLITNER: But that doesn't
18 matter, March or February.

19 MR. RUBY: But we don't know whether she'll
20 conflict out again. And that has no bearing, whether it's
21 February or March, it's just that she had conflicted out.
22 She may again. We just don't know.

23 And so the difference between February and March
24 is Aaron Clark is still on the Council in February. He has
25 not asked for reappointment. So he could be off in March.

1 We don't know who that other person may be.

2 We also have Meghan Lally, who is up for
3 reappointment. She has asked to be reappointed. We
4 anticipate she will be, but in the event she isn't, then
5 we'll have that person.

6 And so we don't know whether either of those two
7 will have conflicts or not have conflicts, but that's our
8 rolling ball at the moment.

9 MS. ANDERSON: And Mr. Presiding Officer,
10 if I may, our main concern is our organization and
11 representing the landowners that we would have objected and
12 would have been a part of an informal conference, but now,
13 because this is the process that it is, they're no longer
14 comfortable in proceeding. So we've taken them under our
15 wing, so to speak.

16 And we have several witnesses that we believe
17 will be important to the hearing that are -- form the basis
18 of our objections. Those witnesses have limited
19 availability, and we need some flexibility in order -- as
20 was heard earlier, this is our due process rights to
21 proceed with this hearing, and to basically set something
22 that will not allow our witnesses to be a part of this
23 hearing will affect those rights and we're very concerned
24 about that.

25 COUNCIL MEMBER FLITNER: Point taken.

1 Anybody else?

2 MS. BOOMGAARDEN: Yes. This is Lynne
3 Boomgaarden on behalf of Big Horn Coal. I appreciate the
4 hearing officer's points with regard to preparedness when
5 objections are filed, I just would reiterate that Big Horn
6 Coal kept their comments largely to the technical issues,
7 and while, you know, understanding the DEQ director's
8 discretion with regard to informal conference I think was
9 reasonable in its expectation that there would be an
10 opportunity for informal conference, and then with the
11 short time frame that informal conference having been
12 denied is creating both witness availability problems for
13 the week of the 13th as well as I have a personal
14 obligation for other clients to appear before the Wyoming
15 Oil and Gas Conservation Commission on March 14th and 15th.

16 And please understand that these aren't personal
17 inconveniences. These are other clients' obligations I
18 have to be in Casper for hearings on those dates. Big Horn
19 Coal wouldn't object to continuing until March. I have
20 heard and understand the limitations with that, but we
21 would ask for purposes -- and excuse me, I believe I didn't
22 mention that Mr. Jordan Sweeney, the mine manager for Big
23 Horn Coal, is not available on the week of the 13th. We
24 would make ourselves available, if February became the only
25 option, the week of February 20th, in addition to our other

1 witnesses.

2 COUNCIL MEMBER FLITNER: Well, I don't know
3 how many times I have to say this, but March does not work
4 for me. That's the clutch of this thing. You know, that's
5 what I'm trying to tell you. It's either going to be
6 February or it's going to be out there a ways and that's
7 the dilemma here.

8 And, you know, that's -- normally I don't care,
9 but I hate pushing things back this far. You know, it's
10 been always the culture of the Council not to kick these
11 things down the road and to deal with them, and I cannot
12 stress enough, when you file these things on a 20-day
13 hearing, you need to do so knowing that that can happen.

14 And if I sound a little impatient, I apologize,
15 but honestly, from where I stand, it's an inconvenience to
16 everybody, and filing a -- you know, putting these things
17 out there and expecting continuances and rules to be bent
18 and things to be moved is maybe the wrong presumption.

19 And I'm sorry if every time we can't accommodate
20 you, but there are going to be times when you can't be
21 accommodated to that degree. We'll keep working through
22 this and see what we can do, but I can't stress enough this
23 isn't going to happen probably in March.

24 I mean, that was my early point, and I'm sorry
25 about that, but as far as inconveniences and difficulties

1 with clients and different people, well, I'm one of those
2 people as well, and I kind of have to be here, too. So
3 you've got to mix me in there as well. And so when that
4 happens, I'm down to the law, and the law says 20 days, or
5 I can accommodate, if everybody wants to, and we can go
6 back six or eight months, or whatever the case may be, but
7 that I always felt like was a real disservice to the person
8 with the permit on the table to get it buried that long. I
9 don't like that.

10 So again, at this point, I'll keep allowing for
11 discussion and let Jim kind of walk us through this a
12 little bit. We'll see if we can get something done.

13 MS. ANDERSON: Mr. Presiding Officer, can I
14 ask a question, if witnesses would be able to appear via
15 video conference or --

16 COUNCIL MEMBER FLITNER: Always.

17 MS. ANDERSON: Okay. That may help a
18 little bit. I mean, we do have three out-of-state
19 witnesses. So scheduling is troublesome for us.

20 MR. RUBY: Mr. Gilbertz, do you have
21 anything on that issue?

22 MR. GILBERTZ: Nothing more. I mean, I
23 understand your concerns, but the point is, I guess, that
24 scheduling doesn't trump the ability of the folks to be
25 properly prepared and present their cases, but it sounds

1 like you've made your decision. So we'll move forward.

2 MR. RUBY: And Brooke Collins, anything?

3 MS. COLLINS: I guess, just real quick

4 like, just forgive me. I have absolutely no legal

5 background. So if I don't follow what I'm supposed to

6 here, I apologize. I was listening to the rules can't be

7 bent, and I'm not entirely sure, then, why the informal

8 conference can't be held.

9 COUNCIL MEMBER FLITNER: Well, excuse me,

10 excuse me. No, no. I didn't say the rules can't be bent.

11 I said I think it's the wrong presumption to expect them to

12 be bent.

13 MS. COLLINS: Okay, yes. And I just know

14 that there are an awful lot of stakeholders like myself who

15 just were not -- and we don't have enough information in

16 the permit to try to get everything together in the matter

17 of such a short period of time. So if it could be extended

18 out, that would be greatly appreciated.

19 MS. BOOMGAARDEN: Mr. Hearing Officer,

20 Lynne Boomgaarden, and perhaps this is what you were

21 delegating back to Mr. Ruby. Is it a possibility to move

22 it at least to the week of February 20th?

23 COUNCIL MEMBER FLITNER: That's -- I mean,

24 past the 20th is where my bind starts, unfortunately. I

25 mean, we could -- the 13th and 14th is a Monday and

1 Tuesday. Is that correct?

2 MR. RUBY: The 20th and 21st will be a
3 Monday and Tuesday as well.

4 COUNCIL MEMBER FLITNER: Right. But I'm
5 thinking later in the week on the week of the 13th, like,
6 say, the 16th and 17th or something like that.

7 MS. BOOMGAARDEN: I'm still presented with
8 a primary witness unavailability on those dates until the
9 20th. The 20th, I just want to point out for everybody, is
10 a federal holiday and state holiday.

11 COUNCIL MEMBER FLITNER: Right.

12 MS. BOOMGAARDEN: I'm not worried about
13 that. Any time the week of the 20th.

14 MR. GILBERTZ: This is Jay. I'm scheduled
15 on a long scheduled hearing in district court on the 16th
16 in Basin, Wyoming.

17 COUNCIL MEMBER FLITNER: And see, this is
18 what we're going to run into, folks. And this is why it's
19 just easier for me to stick with -- and I'm going to give
20 Ryan a chance to comment on this in a minute. This is why
21 it's better just to stick with what we know. It's a 20-day
22 hearing. That's the one thing everyone knew walking into
23 this.

24 Now, we can start juggling dates and the chances
25 are some people are going to make it and some aren't.

1 me.

2 MR. SCHELHAAS: There's not. So I guess
3 going with what the presiding officer has stated, March is
4 off the table. So the parties have February to think about
5 or four, five months, potentially, down the road.

6 And so as I view it, it's really up to the
7 parties to come to the table today, right now, and give the
8 presiding officer options. Some time maybe in February or
9 everybody agree to something down the road that fits within
10 the presiding officer's schedule and the EQC's schedule.

11 So I can't help you with that, and the presiding
12 officer can't help you with that. I think it's the
13 parties. And since you're all around the table, or on the
14 phone, it's maybe time to chew on that issue.

15 COUNCIL MEMBER FLITNER: Mr. Pope, the way
16 it sounds, I don't think anybody else minds stretching this
17 out indefinitely. So it's probably going to come down to
18 you. I mean, I don't have a dog in the fight. So if it
19 doesn't get decided for six months, you know, it's really
20 not affecting me at all. You're the one, really, that has
21 the right to a speedy trial as they say. So why don't you
22 give me your comments on how you want to proceed and we'll
23 start there?

24 MR. POPE: Thank you, Mr. Hearing Officer,
25 and maybe this will simplify it. You know, we had said

1 March, which is now off the table, as a matter of helping
2 everyone out, but if it's going to extend out beyond that,
3 our answer will be no to that. I mean, if March is not an
4 option, then February is it. And like you said, the law
5 states 20 days. This permit's been out there, and
6 certainly a permit application has been out there for a
7 long time, and we have the right to a hearing within 20
8 days. So we're certainly fine with the February date.

9 We also think that, you know, a day, maybe two,
10 is all that will be necessary to present the evidence for
11 the contested case hearing, but at the core of your
12 question, we're not going to stipulate to anything, that if
13 we can't do March, we're not going to stipulate to April or
14 beyond.

15 COUNCIL MEMBER FLITNER: Okay. Well, and
16 since I can't stipulate to anything after about February
17 20th, that leaves us, you know, the 13th and 14th. And
18 again, I'm sorry that's an inconvenience, but I cannot
19 stress enough, folks, you know, be ready to go.

20 I mean, this information is already out there.
21 We've had one hearing on this already, and it was a long,
22 detailed hearing with a long, detailed permit. So I mean,
23 it's there. You can be ready.

24 And it's a little bit hard for me to swallow the
25 fact that everybody's so wide-eyed and surprised when this

1 time.

2 MR. RUBY: Okay. Jay Gilbertz?

3 MR. GILBERTZ: Nothing I know of at this
4 moment.

5 MR. RUBY: Mr. Pope, Jeff?

6 MR. POPE: We anticipate filing a motion to
7 exclude a commenter. It should be a very brief motion and
8 we can get that filed very shortly.

9 MR. RUBY: Brooke Collins, any preliminary
10 motions you may file?

11 MS. COLLINS: No, sir.

12 MR. RUBY: Okay. Thank you.

13 Okay. So with regards to preliminary motions, we
14 are looking at basically one week to get done all this
15 stuff. Today is Thursday. We are looking at basically
16 next week to do anything and everything with regards to any
17 discovery, et cetera, et cetera.

18 So here is my proposed timeline. You guys think
19 if there is any flexibility in this, let me know. As far
20 as filing preliminary motions, they need to be filed by
21 Monday, the 6th. Any responses to those need to be filed
22 by the 9th. We will take up those motions prior to the
23 contested case hearing on the 13th. Any conversation with
24 regards to those dates?

25 MR. POPE: This is Jeff Pope, Mr. Ruby.

1 We're fine with those dates.

2 MR. RUBY: Anybody else?

3 MR. GILBERTZ: This is Jay Gilbertz.

4 Again, I'm just going to -- just to make sure the record is
5 clear on this, I object. The way this goes, it says you've
6 got essentially four or five days to do limited discovery,
7 if you want to. I think it just ends up being violated
8 with due process to do it that way. So I just want that
9 objection on the record.

10 MS. ANDERSON: Mr. Presiding Officer, I
11 would echo that. And I would also remind the Council, of
12 course, as you know, you're trying to be more consistent
13 with the Rules of Civil Procedure, and those rules do have
14 time limits that are more generous than what you're giving
15 us here, but it is what it is.

16 MR. RUBY: Okay.

17 MS. BOOMGAARDEN: This is Lynne
18 Boomgaarden. I would also like to put the same objection
19 with regard to violation of due process on the record.

20 MR. RUBY: Okay. The next is a deadline
21 for naming of expert witnesses, sending of any written
22 interrogatories and requests for production of documents,
23 if any. I'm sorry for this, but you've got to get those to
24 the other parties by February 6th, and you've got to have
25 your responses back to the requesters by February 10th.

Exhibit C



Department of Environmental Quality

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



Matthew H. Mead, Governor

Todd Parfitt, Director

February 21, 2017

Lynette Boomgaarden
Crowley Fleck Attorneys, PLLP
237 Storey Blvd. Suite #110
Cheyenne, WY 82009
(Delivered in Person)

Re: Renewed Request for an Informal Conference regarding Big Horn Coal Company's Written Objections to Brook Mining Co., LLC's Coal Mining Permit Application, DEQ File No. TFN 6 2-025

Dear Ms. Boomgaarden,

I have received and reviewed your letter, dated February 15, 2017, renewing Big Horn Coal Company's request for an informal conference regarding its objections to the surface coal mining permit application for the proposed Brook Mine. This letter is my response to that request.

I appreciate Big Horn Coal's interest in having an opportunity to have its objections to the permit heard. However, the company's renewed request has not changed my determination regarding this application. After reviewing your latest letter and the other objection letters submitted in response to the Brook Mine permit application, I have determined that the nature of the complaints and the positions of the complainants indicate that an attempt to informally resolve the disputes is not preferable to a contested case proceeding before the Environmental Quality Council.

Thank you for contacting me regarding Big Horn Coal's renewed request.

Sincerely,

Todd Parfitt
Director

cc: Alan Edwards, Deputy Director DEQ
Andrew Kuhlmann, Wyoming Attorney General's Office
Counsel for Brook Mining Company

Exhibit D

Public Notice

The Brook Mining Co., LLC of 1101 Sugarview Drive, Suite 201, Sheridan, WY 82801 has applied for a coal mining permit from the Land Quality Division of the Department of Environmental Quality for the State of Wyoming. The coal mining permit area will be located in: Sections 10, 11, 12, 13, 14 and 15 Township 57N, Range 85W, and Sections 7, 8, 9, 10, 15, 17, 18, 20, 21, 22 and 27 Township 57N, Range 84W Sheridan County, Wyoming. The Brook Mine is located approximately 6 miles Northwest of Sheridan, Wyoming. This area can be found on the Acme and Monarch USGS quadrangle maps. The proposed operation is scheduled to begin July 2017 and is estimated to continue until 2032. The land, after mining, will be returned to a grazing land use. Information regarding the proposed mining operation and reclamation procedures may be reviewed in the Office of the Land Quality Division of the Department of Environmental Quality in Cheyenne and Sheridan, Wyoming, the office of RAMACO in Sheridan, WY, or the Sheridan County Clerk's Office Sheridan, Wyoming. Written objections to the proposed mining operation must be received by the Administrator of the Land Quality Division, Department of Environmental Quality, 200 W. 17th Street, Cheyenne, WY 82002, before the close of business January 27, 2017. The Director may hold an informal conference if requested, hear the complaint and take action on the application in accordance with the Department's Rules of Practice and Procedure. The complainants shall have a right of appeal to the Environmental Quality Council where the complaint will be heard a second time. A conference shall be held if the Director determines that the nature of the complaint or the position of the complainants indicates that an attempt to informally resolve the disputes is preferable to a contested case proceeding. An informal conference or a public hearing shall be held within twenty (20) days after the final date for filing objections unless a different period is stipulated to by the parties. The Council or Director shall publish notice of the time, date and location of the hearing or conference in a newspaper of general circulation in the locality of the proposed operation once a week for two (2) consecutive weeks immediately prior to the hearing or conference. The hearing would be conducted as a contested case in accordance with the Wyoming Administrative Procedure Act (W.S. §16-3-101 through §16-3-115), and the right of judicial review would be afforded as provided in that act. All parties as given in W.S. §35-11-406(j) will be mailed a copy of this notice. The Wyoming Oil and Gas Commission will be mailed a copy of the application mine plan map as required by W.S. §35-11-406(j).