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

IN RE BROOK MINE APPLICATION)
TFN 6 2-025) **DOCKET 17-4802**
)

**POWDER RIVER BASIN RESOURCE COUNCIL’S FIRST SET OF
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS
SERVED ON THE DEPARTMENT OF ENVIRONMENTAL QUALITY**

In accordance with the Presiding Officer’s Scheduling Order of March 13, 2017, and pursuant to Wyoming Rules of Civil Procedure 26, 33, 34, and the following definitions and instructions, Powder River Basin Resources Council (“Resource Council” or “PRBRC”) requests that the Wyoming Department of Environmental Quality (“DEQ”) or any agent, officer or employee of DEQ who has relevant information answer fully and under oath the following Interrogatories and Requests for Production of Documents.

DEFINITIONS

1. “Brook” means the permit applicant Brook Mining Co., LLC and includes any employee, officer, agent, or expert of Brook.

2. “Communication(s)” means conversations, discussions, meetings, telephone calls, notes, letters, memoranda, reports, telecopies of facsimiles (faxes), electronic mail, voice mail, text messages, data or file transfer, pictures or photographs, and all other forms of oral, written or electronic expression by which information may be conveyed, including any mechanical or electronic sound recording or transcription thereof.

3. “Describe” means to specify in detail and to particularize the content of the answer to the question and not just to state the reply in summary or outline fashion, including all pertinent facts about the fact, event, or situation in question, including but not limited to:

- (a) the time, date, and place;
- (b) identification of all persons present or involved;
- (c) identification of all oral or written communications made during the event or situation;
- (d) a detailed description of all actions taken.

4. “Document(s)” is used in the broadest sense contemplated by W.R.C.P. 34. It means all records and other tangible forms of expression, including information in electronic, magnetic, or photographic form, in your possession, custody, or control, including drafts and any copies thereof that contain notes or otherwise differ from the original, however many, by whomever created, however prepared, circulated, sent, received, dated or used, produced or stores (manually, mechanically, electronically, or otherwise), including but not limited to books, papers, files, modeling files and data, notes, correspondence, memoranda, reports, writings, drawings, photographs, telegrams, facsimiles (faxes), telephone logs, contracts, agreements, calendars, datebooks, worksheets, summaries, magnetic tapes, data files, other data compilations from which information can be obtained, electronic mail, disks, diskettes, disk packs, and other electronic media, microfilm, microfiche, and storage devices. It includes all material that relates or refers in whole or in part to the subjects referred to in any Interrogatory and also includes the file jackets, and any labels thereon, in which responsive documents are contained. If any documents contain attachments or appendices, describe the attachments or appendices.

5. “Identify” means:

(a) When applied to an individual person, state the full name, present or last known business address, position with the state or other employer, job description, and telephone number;

(b) When applied to a document, state the title, date(s), author(s), signer(s), intended recipient(s), addressee(s), present location and custodian of the document, and current or last known address of the custodian of the document.

(c) When applied to oral communication, identify the speaker(s) and the person(s) addressed, state the date, place and medium of the communication and describe completely the content of the communication.

6. “Including” means “including, but not limited to.”

7. “Regarding,” “Related to,” and “Concerning” means concerning, referring to, alluding to, responding to, relating to, connected with, commenting upon, in respect of, about, establishing, analyzing, criticizing, touching upon, constituting, supporting, refuting and/or being.

9. “DEQ” refers to the Wyoming Department of Environmental Quality or any agent, officer or employee of DEQ. This includes the Wyoming Division of Land Quality (“Land Division”) and any agent, officer or employee of any of the divisions.

10. “You” or “Your” means DEQ or any agent officer, or employee of DEQ. This includes the Land Division and any agent, officer or employee of any of the divisions.

INSTRUCTIONS

In responding to these Interrogatories and Requests for Production of Documents, please adhere to the following instructions:

1. Furnish all information that is available to you, known to you, or that can be known after reasonable inquiry, including information in the possession, custody, or control of your attorneys, staff, agents, employees, officers, consultants, experts, or other representatives. In answering, you are required to make a reasonable inquiry to ascertain the information or knowledge necessary to respond in detail to such request. Answers must be specific and responsive.

2. If you do not or cannot answer any Interrogatory or Request for Production of Documents after exercising due diligence in attempting to secure the information, please state your answer to the extent possible and indicate your inability to answer the remainder. Include whatever information you may have concerning the unanswered portions and set forth in detail all efforts undertaken to ascertain the requested information.

3. If anything is deleted from a document produced in response to an Interrogatory or Request for Production, state the reason for the deletion, the subject matter of the deletion, and the name of the person or persons who decided to delete the information.

4. If any information in these Interrogatories or Requests for Production is withheld pursuant to an objection or claim of privilege, answer portions of the Interrogatory or Request for Production for which the privilege does not apply, identify the objection or privilege claimed, set forth a specific basis upon which the objection is raised or the privilege is claimed, and provide a privilege log and/or index of documents withheld that includes the following information: a statement identifying the nature of the information withheld, the date and subject matter of any communication containing that information, the names of all persons with knowledge of the information including the author, and the basis for withholding the information.

5. Answer all Interrogatories and Requests for Production under oath, and provide verification from appropriate representatives of DEQ, to support these answers.

6. Provide answers to these Interrogatories and Requests for Production by 5 p.m. on April 21, 2017. If you cannot complete these answers within this time, provide immediate notice to the Resource Council's counsel so that an amicable resolution to the problem can be reached.

7. These Interrogatories and Requests for Production are to be deemed continuing in nature up until the date of the hearing. Supplement all answers as required by W.R.C.P. 26(e).

INTERROGATORIES

1. Identify and describe all persons at DEQ who were involved in any aspect of the permit application review process for Brook's permit and identify and describe their role in the process.

2. Identify and describe any advisors, consultants, or experts, if any, hired or used by DEQ in reviewing Brook's permit application and identify and describe their role in the permit process.

3. Please explain where DEQ is in the process of issuing a Cumulative Hydrologic Impact Assessment (CHIA) for Brook's proposed mine and disclose the anticipated timing of when the CHIA will be finalized. Please identify and describe all DEQ staff, and any advisors, consultants, or experts, if any, from outside the agency involved in the CHIA writing and review process.

4. Please explain how DEQ will incorporate the CHIA's findings into any decisions on Brook's permit application and/or please explain how DEQ will ask the EQC to incorporate the CHIA's findings into any decisions on Brook's permit application.

5. Please explain where DEQ is in the process of determining and designating Alluvial Valley Floors (AVFs) in the area. Please explain what work, if any, DEQ plans to carry out to further determine and designate AVFs in the area and the timing for the proposed actions.
6. Please explain when DEQ plans to issue a State Decision Document and/or a draft permit for Brook's proposed mine.
7. Please disclose how many water wells the groundwater modeling indicates will be impacted by Brook's proposed mine.
8. Please disclose the number and location of surface and ground water monitoring sites and explain how DEQ determined that the monitoring program was sufficient to adequately characterize the hydrologic balance and hydrologic systems of the area.
9. Please explain how DEQ plans to respond to a subsidence occurrence at the mine site.
10. Please describe what evidence, data, and information DEQ relied upon to review Brook's subsidence control plan and determine its effectiveness. Please disclose whether DEQ consulted with any third-parties in reviewing the subsidence control plan.
11. Please explain why DEQ chose not to include information on potential subsidence in the public notice, as described under Chapter 7, Section 3 of DEQ's coal regulations.
12. Please explain and describe any coal fires that DEQ knows to be occurring in the area at the present time or have occurred in the area over the course of the AML and LQD programs.
13. Please provide all information from the AML division regarding efforts to address coal mine fires and subsidence and please list all dates and times the AML division has had to address coal mine fires and subsidence in the area.

14. Please explain how the DEQ reviewed and considered potential impacts to recreation uses in and around the Brook mine permit boundary.

15. Please explain how DEQ evaluated and required buffers around public roads and streams in reviewing Brook's proposed mining operations.

16. Please list all highwall mines that DEQ has previously approved permit(s) for, including mines that are partially highwall and partially surface, room & pillar, or longwall. Identify the DEQ Land Quality Division office that reviewed and approved the permits.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Provide a copy of any written findings by DEQ made pursuant to W.S. 35-11-406(n).

2. Provide a copy of any DEQ reports or memorandum used as background to make findings pursuant to W.S. 35-11-406(n), including, but not limited to, the Cumulative Hydrologic Impact Assessment required under Chapter 19 of DEQ's coal mining rules and regulations.

3. Provide a copy of any written findings by DEQ made pursuant to W.S. 35-11-406(m).

4. Provide a copy of any recommendation by the administrator (or other DEQ staff) made pursuant to W.S. 35-11-403(a)(iv) related to the issuance or denial of Brook's permit application.

5. Please provide a copy of "The administrator's estimate of the additional cost to the state of bringing in personnel and equipment should the operator fail or the site be abandoned" that is to be incorporated into the bond amount under W.S. 35-11-417(c)(i).

6. Please provide a copy of any workbooks or spreadsheets used by DEQ in calculating the reclamation bond amount.

7. Please provide a copy of the names and addresses of all surface owners and affected properties who received a copy of the public notice published in December 2016 pursuant to W.S. 35-11-406(j).
8. Please provide a copy of any determinations made by DEQ related to Alluvial Valley Floor designations inside the permit boundary or in the area surrounding the proposed mining operation.
9. Please provide a copy of any draft or final mine permit, state decision document, and/or other written determinations by DEQ related to permit terms and conditions.
10. Please provide a copy of any correspondence that DEQ staff or agents have in their possession, including electronic correspondence or transcripts of voicemails, between the DEQ and EQC related to the referral of the permit application for a contested case hearing.
11. Please provide a copy of any correspondence between the DEQ and any person that submitted an objection letter regarding the objection letter or the referral of objections to the EQC. Letters that are already part of the EQC Docket need not be provided.
12. Please provide a copy of any water quality TMDLs for the Tongue River, Goose Creek, and any other streams or tributaries that are located within the permit boundary.
13. Please provide a copy of any AML reports related to coal mines in the area.
14. Please provide any and all data or other information collected or analyzed as part of the AML division's study of subsidence in Sheridan County. Also provide any draft reports of the Sheridan County subsidence study.
15. Please provide a copy of any searches ran through the Applicant Violator System related to this permit application.

Dated this 7th day of April, 2017.

/s/ Shannon Anderson

Shannon Anderson
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CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2017, I served a copy of the foregoing **FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS SERVED ON THE DEPARTMENT OF ENVIRONMENTAL QUALITY** on the following parties by electronic mail, and through the EQC's electronic filing system, which will send a notice of electronic filing to all counsel and parties of record.

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