

BEFORE THE WYOMING ENVIRONMENTAL QUALITY COUNCIL

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|---------------------------------------|---|------------------------|
| In Re Eagle Butte Mine Permit Renewal |) | |
| TFN 6-1/152 |) | |
| |) | EQC Docket No. 15-4801 |
| |) | |

POWDER RIVER BASIN RESOURCE COUNCIL NOTICE OF VOLUNTARY DISMISSAL

The Powder River Basin Resource Council (“Resource Council” or “PRBRC”) hereby notifies the Environmental Quality Council (“EQC” or “Council”) that it is voluntarily dismissing the above-captioned petition for hearing, which is currently stayed before the Council.

As the Council is aware, the case was stayed because of Alpha Natural Resources’ (“Alpha”) bankruptcy proceedings and a corresponding stipulation entered into with Wyoming staying proceedings relating to Alpha’s “self-bonding status.”¹ Wyoming’s stay was effective until “a plan of reorganization for the Debtors that provides for bonding of the Debtors’ reclamation obligations in accordance with applicable law becomes effective by its terms.”

As stated in the Resource Council’s previously provided case status update to the Council, Alpha’s bankruptcy reorganization plan and associated sale of assets plan was confirmed by the bankruptcy court on July 7, 2016.² The plan included a sale from Alpha to a new company, Contura Energy (“Contura”), of Alpha’s Wyoming mines, including the Eagle Butte Mine. Alpha has since emerged from bankruptcy and Contura has since submitted

¹ The Wyoming agreement was attached to DEQ’s Notice of Bankruptcy Stay filed Nov. 13, 2015 in this proceeding.

² The voluminous bankruptcy court docket is available at <http://www.kccllc.net/alpharestructuring/document/list/4084>.

applications to transfer the Alpha permits to Contura. As part of the permit transfer applications, Contura posted new financial assurance instruments for its reclamation bonds for the Eagle Butte and Belle Ayr mines. After objections to the permit transfer applications were raised by the Resource Council, an informal conference was held by the DEQ Director, and a decision was made by the DEQ Director following the informal conference, Contura notified the DEQ Director on April 6, 2017 that it will provide third-party surety bonds to cover all of Eagle Butte's reclamation liability. *See* attached Letter from Jenifer Scoggin to Todd Parfitt, Apr. 6, 2017.

In filing this voluntary notice of dismissal, the Resource Council does not concede its procedural objections to the permit renewal, including DEQ's failure to hold an informal conference and its entering into an agreement with Alpha that effectively revised the state SMCRA program without notice and comment opportunities, or the substantive objections, including DEQ's failure to consider the adequacy of reclamation bond amounts and types at the time of a permit renewal. However, for the aforementioned facts, the Resource Council admits that this proceeding is now moot and should be dismissed.³

The Resource Council respectfully asks the Council to lift the stay in this proceeding merely to acknowledge the dismissal of the proceedings on mootness grounds.

Respectfully submitted this 20th day of April, 2017.

/s/Shannon Anderson
Shannon Anderson (Wyo. Bar No. 6-4402)
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³ The Resource Council apologizes for the length of time that this docket has been stayed before the Council. Counsel for DEQ, Andrew Kuhlmann, had represented that he was planning to file a motion to dismiss last fall, and we were waiting for him to do so.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 20th day of April, 2017, the foregoing NOTICE OF VOLUNTARY DISMISSAL was served on the following parties via the Environmental Quality Council's electronic filing system and via electronic mail:

David Bagley
Chairman, Environmental Quality Council
122 W. 25th St.
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Todd Parfitt
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A handwritten signature in black ink, appearing to read "Shannon Anderson", with a long horizontal line extending to the right.

Shannon Anderson