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ATTORNEYS FOR PERMIT APPLICANT
BROOK MINING COMPANY, LLC

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

IN RE BROOK MINE APPLICATION)
) Civil Action No. 17-4802
TFN 6 2-025)

**BROOK MINING COMPANY, LLC’ OBJECTIONS TO ADMISSIBILITY OF OBJECTORS’ WITNESS
AND EXHIBITS**

Pursuant to the Council’s May 17, 2017 request, Brook Mining Company, LLC (Brook) hereby files its objections to the admissibility of witnesses and exhibits listed by Powder River Basin Resource Council (PRBRC), Big Horn Coal Company and the Fishers.

I. PRBRC Witnesses

Brook objects to PRBRC witnesses Anton Bocek, John Buyok, Gillian Malone, and Brooke Collins testifying. Each of them filed an individual objection letter but did not request a contested case hearing. As a result, they are not parties to this action and should not get to present testimony about their objections. Likewise, none of them took part in preparing the PRBRC’s objections. Discovery in this case showed that PRBRC’s attorney, Shannon Anderson, and Executive Director, Jill Morrison, prepared the objections and have personal knowledge about those objections. (See Answer to Interrogatory, attached as Ex. 1; excerpt from Ms. Morrison’s deposition transcript, attached as Ex. 2; excerpt from Ms. Malone’s deposition

transcript, attached as Ex. 3; excerpt from Mr. Bocek’s deposition transcript, attached as Ex. 4; and excerpt from Mr. Buyok’s deposition transcript, attached as Ex. 5.)

II. Exhibits

Exhibit No.¹	Description	Brooks’ Specific Objection by Wyoming Rule of Evidence
1.	Objections to the coal mining permit application filed by the Resource Council	Exhibit is hearsay (WRE 802)
2.	Objections to the coal mining permit application filed by Anton Bocek	Exhibit lacks relevance because Mr. Bocek did not request a contested case hearing and this letter does not contribute facts or law in support of PRBRC’s objections (WRE 401-403); Exhibit is hearsay (WRE 802)
3.	Objections to the coal mining permit application filed by Jane Buyok	Exhibit lacks relevance because Ms. Buyock did not request a contested case hearing and this letter does not contribute facts or law in support of PRBRC’s objections (WRE 401-03); Exhibit is hearsay (WRE 802); Exhibit lacks foundation because no listed PRBRC witness has personal knowledge to testify about this exhibit (WRE 602)
4.	Objections to the coal mining permit application filed by Joan Tellez	Exhibit lacks relevance because Ms. Tellez did not request a contested case hearing and this letter does not contribute facts or law in support of PRBRC’s objections (WRE 401-03); Exhibit is hearsay (WRE 802); Exhibit lacks foundation because no listed PRBRC witness has personal knowledge to testify about this exhibit (WRE 602)

¹ Exhibit Nos. 1-90 are PRBRC’s exhibits.

Exhibit No.¹	Description	Brooks' Specific Objection by Wyoming Rule of Evidence
5.	Objections to the coal mining permit application filed by John & Vanessa Buyok	Exhibit lacks relevance because neither Mr. nor Mrs. Buyock requested a contested case hearing and this letter does not contribute facts or law in support of PRBRC's objections (WRE 401-03); Exhibit is hearsay (WRE 802).
6.	Objections to the coal mining permit application filed by Bill Bensel	Exhibit lacks relevance because Mr. Bensel did not request a contested case hearing (WRE 401-03); Exhibit is hearsay (WRE 802); Exhibit lacks foundation because no listed PRBRC witness has personal knowledge to testify about this exhibit (WRE 602)
7.	Objections to the coal mining permit application filed by Wendy Condrat	Exhibit lacks relevance because Ms. Condrat did not request a contested case hearing and this letter does not contribute facts or law in support of PRBRC's objections (WRE 401-03); Exhibit is hearsay (WRE 802); Exhibit lacks foundation because no listed PRBRC witness has personal knowledge to testify about this exhibit (WRE 602)
8.	Objections to the coal mining permit application filed by Sadie Clarendon	Exhibit lacks relevance because Ms. Clarendon did not request a contested case hearing and this letter does not contribute facts or law in support of PRBRC's objections (WRE 401-03); Exhibit is hearsay (WRE 802); Exhibit lacks foundation because no listed PRBRC witness has personal knowledge to testify about this exhibit (WRE 602)

Exhibit No.¹	Description	Brooks' Specific Objection by Wyoming Rule of Evidence
9.	Objections to the coal mining permit application filed by Gillian Malone	Exhibit lacks relevance because Ms. Malone did not request a contested case hearing and this letter does not contribute facts or law in support of PRBRC's objections (WRE 401-03); Exhibit is hearsay (WRE 802).
10.	Objections to the coal mining permit application filed by Brooke Collins	Exhibit lacks relevance because Ms. Collins did not request a contested case hearing and this letter does not contribute facts or law in support of PRBRC's objections (WRE 401-03); Exhibit is hearsay (WRE 802).
11.	Power Point presentation prepared by Dr. Marino to use as a demonstrative exhibit at the hearing. This exhibit was finalized May 16, 2017 and may be slightly adjusted prior to the hearing	No OBJECTION
12. -14.	Dr. Marino's expert report separated into three files given size. This report was attached to the Resource Council's objections to the coal mining permit application filed with DEQ on January 27, 2017 and was also provided as a part of the expert disclosures filed in the docket to these proceedings	Exhibit is hearsay (WRE 802)
15.	A copy of the Academy of Geo-Professionals website providing information on board certified experts. The website copied is http://www.geoprofessionals.org/board-certifiedexperts/diplomate-categories	Exhibit lacks relevance (WRE 401-403); Exhibit is hearsay (WRE 802)
16.	A copy of the website listing board certified experts certified by the Academy of Geo-Professionals, including Dr. Marino. The website copied is http://www.geoprofessionals.org/board-certified-experts/diplomate-directory	Exhibit is hearsay (WRE 802)
17.	Mr. Wireman's expert report provided as a part of the expert disclosures filed in the docket to these proceedings	Exhibit is hearsay (WRE 802)

Exhibit No.¹	Description	Brooks' Specific Objection by Wyoming Rule of Evidence
18.	CVs of experts Mr. Wireman and Dr. Marino	Exhibit is hearsay (WRE 802)
19.	Biography of Sue Ann Spencer from her company's website	Exhibit is hearsay (WRE 802)
20.	Attachments included with the Resource Council's objections to the coal mining permit application filed with DEQ on January 27, 2017	Exhibit is hearsay (WRE 802)
21.	Brook's answers to the Fishers to discovery questions	Exhibit lacks relevance (WRE 401-403)
22.	Brook's answers to the Resource Council to discovery questions	Exhibit lacks relevance (WRE 401-403)
23.	DEQ's answers to the Fishers to discovery questions	Exhibit lacks relevance (WRE 401-403)
24.	DEQ's answers to the Resource Council to discovery questions	Exhibit lacks relevance (WRE 401-403)
25.	Brook Mine Overview from Ramaco, downloaded from their website, dated May 2014	Exhibit lacks relevance (WRE 401-403); Exhibit is hearsay (WRE 802)
26.	February 27, 2017 Sheridan Press article entitled "Ramaco Carbon plans research, manufacturing facility for coal products"	Exhibit lacks relevance (WRE 401-403); Exhibit is hearsay (WRE 802)
27.	April 4, 2017 NPR radio story from the program <i>Here and Now</i> entitled "Coal CEO Looks For New Ways To Revive the Industry"	Exhibit lacks relevance (WRE 401-403); Exhibit is hearsay (WRE 802)
28.	October 16, 2015 electronic mail correspondence between Thomas Sansonetti and Jeffrey Pope (Brook attorneys) and Andrew Kuhlmann (DEQ attorney) regarding the proposed "Sheridan Industrial Park" associated with the proposed coal mine permit	Exhibit lacks relevance (WRE 401-403); Exhibit is hearsay (WRE 802)
29.	Air Quality Permit No. P0019732 issued to Wyoming Ramaco Coal Company, LLC on January 25, 2016	No Objection
30.	June 04, 2015 electronic mail correspondence between BJ Kristiansen and Deanna Hill	No Objection

Exhibit No.¹	Description	Brooks' Specific Objection by Wyoming Rule of Evidence
31.	January 31, 2017 electronic mail correspondence between Mark Rogaczewski and Jim Ruby discussing "proposed mining operations within 100 feet of a public road"	Exhibit lacks relevance (WRE 401-403); Exhibit contains hearsay (WRE 802)
32.	May 19, 2014 electronic mail correspondence between Justin Douthat and Jeff Barron regarding "surface mining beneath the county road"	Exhibit lacks relevance (WRE 401-403)
33.	May 15, 2014 electronic mail correspondence between Jeff Barron and Justin Douthat regarding an "affected county road"	Exhibit lacks relevance (WRE 401-403)
34.	July 25, 2014 Google Earth picture identifying a county road to relocate	No Objection
35.	February 24, 2016 DEQ alluvial valley floor determinations for the Brook Mine	No Objection
36.	February 08, 2016 electronic mail correspondence between BJ Kristiansen and Jeff Barron regarding alluvial valley floor determinations	No Objection
37.	December 14, 2016 electronic mail correspondence between BJ Kristiansen and Shannon Anderson regarding alluvial valley floor determinations	Exhibit lacks relevance (WRE 401-403); Exhibit contains hearsay (WRE 802)
38. -40.	April 3, 2009 Contract Documents and Specifications for AML Project 17J, Carney Mine Subsidence Mitigation, submitted by PHC Reclamation, Inc. (This exhibit was split into thirds given its size)	Exhibit lacks relevance (WRE 401-403); Exhibits are hearsay (WRE 802)
41.	May 12, 2010 AML Contract Processing Slip, submitted by Earth Work Solutions, for the AML Project 17J, Carney Mine project	Exhibit lacks relevance (WRE 401-403); Exhibit is hearsay (WRE 802)
42.	May 12, 2009 information associated with AML Project 17J, Carney Mine Rd. Subsidence Abatement	Exhibit lacks relevance (WRE 401-403); Exhibit is hearsay (WRE 802)
43.	April 22, 2008 information associated with AML Project 17J, Acme No. 1 fire subsidence	Exhibit lacks relevance (WRE 401-403); Exhibit is hearsay (WRE 802)

Exhibit No.¹	Description	Brooks' Specific Objection by Wyoming Rule of Evidence
44.	June 29, 2015 information associated with AML Project 17J, Old Monarch Mine subsidence	Exhibit lacks relevance (WRE 401-403); Exhibit is hearsay (WRE 802)
45.	December 12, 2016 electronic mail correspondence between Melissa Bautz and BJ Kristiansen regarding AML's study of subsidence risk in the permit area	Exhibit lacks relevance (WRE 401-403)
46.	Figure 5 from the Sheridan County Land Use Plan documenting "hazardous areas" including "Known Subsidence Area[s]"	Exhibit lacks relevance (WRE 401-403); Exhibit is hearsay (WRE 802)
47.	USGS Paper 1164, "Effects of Coal Mine Subsidence in the Sheridan, Wyoming Area," 1980	Exhibit lacks relevance (WRE 401-403); Exhibit is hearsay (WRE 802)
48.	October 07, 2015 electronic mail correspondence between BJ Kristiansen and Jeff Barron regarding removal of a rail loadout facility from the permit application	NO OBJECTION
49.	July 9, 2014 electronic mail correspondence between Ron Destefano and Jeff Barron regarding coal handling facilities and an associated spur track for review by WYDOT	Exhibit lacks relevance (WRE 401-403); Exhibit contains hearsay (WRE 802)
50.	Handwritten notes from Mark Rogaczewski produced by DEQ during discovery discussing a conversation with Jeff Barron regarding rail facilities inside the permit boundary	Exhibit lacks relevance (WRE 401-403)
51.	June 07, 2015 electronic mail correspondence between Brian Wood and Doug Emme regarding subsidence control plans/highwall mining requirements (and snow)	NO OBJECTION
52.	October 21, 2015 electronic mail correspondence between Mark Rogaczewski and David Schellinger regarding overburden sampling analyses	NO OBJECTION
53.	July 05, 2016 electronic mail correspondence between Matthew Kunze and BJ Kristiansen regarding CHIA requirements	NO OBJECTION

Exhibit No.¹	Description	Brooks' Specific Objection by Wyoming Rule of Evidence
54.	June 03, 2014 electronic mail correspondence between Matthew Kunze and BJ Kristiansen the permit and the CHIA	NO OBJECTION
55.	December 10, 2015 electronic mail correspondence between BJ Kristiansen and LQD staff regarding the permit application review	NO OBJECTION
56.	February 23, 2015 electronic mail correspondence between BJ Kristiansen and Andrew Kuhlmann regarding permit application review	NO OBJECTION
57.	March 16, 2015 electronic mail correspondence between BJ Kristiansen and Andrew Kuhlmann regarding permit application review	NO OBJECTION
58.	January 12, 2016 electronic mail correspondence between BJ Kristiansen and Andrew Kuhlmann regarding permit application review	NO OBJECTION
59.	January 14, 2016 electronic mail correspondence between BJ Kristiansen and Andrew Kuhlmann regarding permit application review	NO OBJECTION
60.	November 17, 2015 electronic mail correspondence between BJ Kristiansen and Kyle Wendtland regarding permit application review	NO OBJECTION
61.	March 24, 2016 electronic mail correspondence between BJ Kristiansen, Kyle Wendtland, and Alan Edwards regarding permit application review	NO OBJECTION
62.	April 12, 2016 electronic mail correspondence between Alan Edwards and Mark Rogaczewski (copying Kyle Wendtland) regarding permit application review	NO OBJECTION
63.	March 15, 2017 letter from Tony Wendtland to Joan Tellez	Exhibit lacks relevance (WRE 401-403); Exhibit is hearsay (WRE 802)

Exhibit No.¹	Description	Brooks' Specific Objection by Wyoming Rule of Evidence
64.	April 5, 2000 OSMRE Directive 882, Handbook for Calculation of Reclamation Bond Amounts	Exhibit lacks relevance because DEQ standards govern this case not OSM (WRE 401-403); Exhibit contains hearsay (WRE 802)
65.	Brook draft reclamation bond calculation, provided through discovery	NO OBJECTION
66.	Another draft of a reclamation bond calculation	NO OBJECTION
67.	Brook Mine 2015 Bond	NO OBJECTION
68.	OSMRE 2013 Annual Evaluation Report for the Wyoming Regulatory Program, October 2013, excerpts related to evaluation of blasting	Exhibit lacks relevance because DEQ standards govern this case not OSM (WRE 401-403); Exhibit contains hearsay (WRE 802)
69.	Supplemental OSMRE Special Study Topic Oversight Report on Blasting in Wyoming for the 2013 Annual Evaluation Report for the Wyoming Regulatory Program	Exhibit lacks relevance because DEQ standards govern this case not OSM (WRE 401-403); Exhibit contains hearsay (WRE 802)
70.	April 12, 2016 electronic mail correspondence between Mark Rogaczewski and Kyle Wendtland regarding a meeting request from the Resource Council	Exhibit lacks relevance (WRE 401-403); Exhibit contains hearsay (WRE 802)
71.	April 27, 2016 electronic mail correspondence between Kyle Wendtland and Alan Edwards regarding a meeting request from the Resource Council	Evidence lacks relevance (WRE 401-03)
72.	April 7, 2017 presentation from Atlas Carbon on Advanced Carbon Products given in Gillette, Wyoming	Evidence lacks relevance (WRE 401-03); Exhibit is hearsay (WRE 802)
73.	Photo of Resource Council member home in the area, provided by John Buyok	NO OBJECTION
74.	Photo of recreation use on the Tongue River near the mine site provided by the Sheridan Community Land Trust	NO OBJECTION
75. -78.	Photos of the Bocek property, provided by Joan Tellez and Anton Bocek	NO OBJECTION
79.	Aerial photo of the area of Resource Council member properties, provided by the Sheridan Community Land Trust	NO OBJECTION

Exhibit No.¹	Description	Brooks' Specific Objection by Wyoming Rule of Evidence
80. -82.	Photos of subsidence on the Buyok property, provided by John Buyok	NO OBJECTION
83.	Game & Fish Department Map of Sheridan County Walk-in Areas 1, 6, and 7	NO OBJECTION
84.	OSMRE subsidence course training materials provided by OSMRE to DEQ	NO OBJECTION
85.	March 6, 2017 electronic mail correspondence between Jeff Barron and BJ Kristiansen regarding a Sheridan County Board of County Commissioners meeting	Evidence lacks relevance (WRE 401-03)
86.	July 22, 2014 information on AML project 17.32 relating to the Buyok-Monarch mine fire	Evidence lacks relevance (WRE 401-03); Exhibit is Hearsay (WRE 802)
87.	July 31, 2014 information on AML project 17.32 for mine subsidence abatement at the Carney Mine	Evidence lacks relevance (WRE 401-03); Exhibit is Hearsay (WRE 802)
88.	September 2, 2016 information on AML project 17.32 for portal closures at the Acme, Kooi, and Old Monarch Mines	Evidence lacks relevance (WRE 401-03); Exhibit is Hearsay (WRE 802)
89.	Jan 30, 2017 electronic mail correspondence between LQD staff, Todd Parfitt, and Alan Edwards	NO OBJECTION
90.	Letter from the Tongue River Water Users regarding concerns with the proposed mine	Evidence lacks relevance because the Tongue River Water Users did not request a contested case or file a timely objection (WRE 401-03); Exhibit is Hearsay (WRE 802); Exhibit lacks foundation because no listed PRBRC witness has personal knowledge to testify about this exhibit (WRE 602)
FISHER 1	Aerial Photo of portion of Tongue River Valley	NO OBJECTION

Exhibit No. ¹	Description	Brooks' Specific Objection by Wyoming Rule of Evidence
FISHER 2	Photos of Fishers' house and property 2-A: Old Photo of House 2-B: Old Rock Barn Structure 2-C: Initials carved on rock barn: L.S. July 26, '13 2-D: Old Rock Building/Dwelling on Property 2-E: Fisher house at time of purchase in 1996 2-F: Phase 1 depiction of house remodel 2-G: Current depiction of Fisher house 2-H: Mature fruit trees and pine trees with new fence 2-I: Landscape photo of Fisher property from frontage road 2-J: Landscape photo of Fisher property from I-90	NO OBJECTION
FISHER 3	Photos of Boceks' property adjacent to Fishers 3-A: Bocek property view along frontage road 3-B: Bocek property view along frontage road	NO OBJECTION
FISHER 4	Photo of Mine Subsidence in Sheridan County	NO OBJECTION
FISHER 5	Letter from Todd Parfitt dated 01/30/17 denying informal conference	Evidence lacks relevance (WRE 401-03)
FISHER 6	Letter from Fishers to BKS Environmental Associates, Inc. dated 07/03/13	Exhibit is Hearsay (WRE 802)
FISHER 7	Email chain between BKS and Niles Veal (July, 2013) regarding trespass on Fisher property (<i>Brook 041660-041662</i>)	Evidence lacks relevance (WRE 401-03); Exhibit is Hearsay (WRE 802)
FISHER 8	Article dated 12/15/14 entitled "Feds To Boost Mine Blasting Emissions Rules" (Cheyenne (AP))	Evidence lacks relevance (WRE 401-03); Exhibit is Hearsay (WRE 802)
FISHER 9	Internet Blog posted on 02/04/14 entitled: "Photos: Hazardous Gas Clouds From Coal Mine Blasting In Southeastern Montana"	Evidence lacks relevance (WRE 401-03); Exhibit is Hearsay (WRE 802)
FISHER 10	WyoFile Article by Bleizeffer dated 02/22/13: "There's \$428M in Unfunded Abandoned Mine Reclamation Work in Wyoming"	Evidence lacks relevance (WRE 401-03); Exhibit is Hearsay (WRE 802)

Exhibit No.¹	Description	Brooks' Specific Objection by Wyoming Rule of Evidence
FISHER 11	Sheridan Media Web Content Article dated 02/09/17 (<i>produced by Fishers in discovery</i>)	Evidence lacks relevance (WRE 401-03); Exhibit is Hearsay (WRE 802)
FISHER 12	Gerlach-Map (C-1 Objection Exhibit C) from Expert Report	NO OBJECTION
FISHER 13	<i>Brannaman vs. Paxton Resources, LLC.</i> Judgment	Evidence lacks relevance (WRE 401-03)
FISHER 14	<i>Sorenson vs. High Plains Gas, Inc., et al.</i> Judgment	Evidence lacks relevance (WRE 401-03)
FISHER 15	Email from Deanna Hill to BJ Kristiansen dated 11/21/14 (<i>part of DEQ document production</i>)	NO OBJECTION
FISHER 16	Email from Kim Pandullo to Kyle Wendtland dated 08/12/15 (DEQ Emails pg. 6298)	Evidence lacks relevance (WRE 401-03)
FISHER 17	Emails from/to Morrison and DEQ re meeting with landowners dated April, 2016 (DEQ Emails pg. 7756)	Exhibit is Hearsay (WRE 802)
FISHER 18	Emails between Page and Rogaczewski dated May 23-24, 2016 (DEQ Emails pgs. 8007-8008)	NO OBJECTION
FISHER 19	Email from Barron to Rogaczewski and Kristiansen dated 06/21/16 (DEQ Emails pg. 8123)	NO OBJECTION
FISHER 20	Email from Kristiansen to Barron dated 02/13/17 with attached Memorandum: Brook Mine A VF Determination, Slater Creek dated 01/07 /16	NO OBJECTION
FISHER 21	DEQ Emails regarding mine subsidence plan dated 01/03/14	NO OBJECTION
FISHER 22	Email from BJ. Kristiansen to Tanya King re underground mine plan dated 01/02/14	NO OBJECTION
FISHER 23	Email from BJ. Kristiansen to Robin Jones re underground mine permits dated 01/02/14	NO OBJECTION
FISHER 24	Email from Matt Kunze to Shannon Anderson re CHIA for Brook Mine dated 03/20/15	NO OBJECTION
FISHER 25	Letter dated 02/24/16 from B.J. Kristiansen to Randall Atkins re AVF	NO OBJECTION
FISHER 26	Fishers' Objection Lt. dated 01/22/17 (already filed and part of record)	Exhibit is Hearsay (WRE 802)

Exhibit No.¹	Description	Brooks' Specific Objection by Wyoming Rule of Evidence
BHC 1	Sweeney CV	Exhibit is Hearsay (WRE 802)
BHC 2	Map of BH and BM Permit Boundaries	NO OBJECTION
BHC 3	Big Horn 1-25-2015 Objection Letter	Exhibit is Hearsay (WRE 802); Hearsay within Hearsay (WRE 805);
BHC 4	Email to DEQ Requesting Informal Conference	NO OBJECTION
BHC 5	List of Requested Conditions	Exhibit was not produced in discovery (WRCP 26); hearsay (WRE 802)
BHC 6	Cordero Rojo and Buckskin Permit Provisions	Exhibit is Hearsay (WRE 802); Exhibit lacks relevance (WRE 401-03); Exhibit lacks foundation (WRE 901, 602)
BHC 7	Brook Mine RP .12 and MP .22	NO OBJECTION
BHC 8	Gerlach CV	Exhibit is Hearsay (WRE 802)
BHC 9	Gerlach Expert Report	Exhibit is Hearsay (WRE 802)
BHC 10	Gerlach Report, C-1 Objection Exhibit A	NO OBJECTION
BHC 11	Gerlach Report, C-1 Objection Exhibit B	NO OBJECTION
BHC 12	Gerlach Report, C-1 Objection Exhibit C	NO OBJECTION
BHC 13	Gerlach Report, C-1 Objection Exhibit D	NO OBJECTION
BHC 14	Gerlach Report, C-1 Objection Exhibit E	NO OBJECTION
BHC 15	Gerlach Report, C-1 Objection Exhibit F	NO OBJECTION
BHC 16	Gerlach Report, C-2 Objection Exhibit A	NO OBJECTION
BHC 17	Gerlach Report, C-2 Objection Exhibit B	NO OBJECTION
BHC 18	Gerlach Report, C-3 Objection Exhibit A	NO OBJECTION
BHC 19	ATC-Ramaco Termination of Services Letter	NO OBJECTION

DATED: May 19, 2017.



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CERTIFICATE OF SERVICE

I hereby certify that on May 19, 2017, I served a true and correct copy of the foregoing by email to the following:

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