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## BEFORE THE ENVIRONMENTAL QUALITY COUNCIL STATE OF WYOMING

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

On the 8<sup>th</sup> day of June 2017, the evidence portion of the contested case concluded and the hearing was recessed until further notice. Because there appears that there may be disagreement or confusion about what legal requirements or standards the Council is required to consider to decide this matter, I have decided to require the parties to file briefs addressing the legal issue of what specific statutes, rules, and other legal guidance the Council is required by law to consider in this matter. Specifically, I request that the parties brief whether the Council is required to consider all or portions of Wyo. Stat. Ann. § 35-11-406(n) when deciding this matter. As part of the briefs, the parties are specifically required to address whether subsection (n) is applicable in this matter, and if a party believes it is not applicable, that party must describe why it is not and further explain when subsection (n) becomes applicable with specific reference to other subsections that are applicable instead. As part of this brief, please describe the appropriate burden of proof standard and explain who has the burden. The parties' briefs must not exceed 15 pages. These briefs are due by June 26. The parties may file reply briefs by June 30.

In addition, it is expected that the contested case transcript will be available to the parties on or before June 30, 2017. When the transcript is available, Council staff will notify the parties in writing. Within 20 calendar days after that written notice, the parties shall file proposed findings of facts and conclusions of law with the Council. These filings are limited to 40 pages.

The proposed findings of fact and conclusions of law must focus on the law that is applicable in this matter and must include citations to the specific legal requirements found in statutes, rules, and other legal guidance that the Council is required to consider to decide this matter. The proposed findings of fact and conclusions of law must also include the necessary facts, with citations to the transcript and exhibits to support your legal conclusions. In this filing, please include the appropriate burden of proof standard.

Last, there was testimony about possible permit conditions or changes. The proposed findings of fact and conclusions of law should identify suggested permit changes or conditions that a party is requesting the Council consider, and any legal basis and facts that the party believes supports the inclusion of the condition or change to the permit.

SO ORDERED THIS 13<sup>+(</sup>DAY OF JUNE 2017.

Dr. David M. Bagley

Hearing Officer

## CERTIFICATE OF SERVICE

I, Jim Ruby, certify that at Cheyenne, Wyoming, on the 13th day of June, 2017, I served a copy of the foregoing **ORDER** by electronic mail addressed to the following:

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