

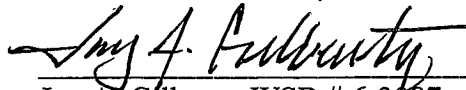
Evidently, Brook seeks to proceed with issuance of a permit without demonstrating that it has supplied the required affirmative proof of compliance with subsection (n) in the hope that the permit will be granted anyway. If it could accomplish this legally improper result then it will inappropriately flip the burden of proof to the public as was described in the Fishers' primary brief. Indeed, Brook goes even further in its brief on page 5, stating "The DEQ administrator has not yet issued any findings under 406(n) because DEQ has not conducted the cumulative hydrologic impact assessment (CHIA) **that allows the administrator to make findings under section 406(n)(iii).**" (emphasis added). This statement demonstrates that Brook's position is that it is somehow the obligation of DEQ to prove (through the CHIA) that Brook will not impact the hydrologic balance. This is not the case at all. Subsection 406(n) is clear that it is Brook which must affirmatively demonstrate that its mining will not negatively impact the hydrology. The CHIA performed by DEQ is only to confirm that DEQ agrees with the proof submitted by Brook.

The briefing submitted by DEQ and Brook warrant no further response or comment.

WHEREFORE, the Fishers request that the EQC find and hold that the requirements of §35-11-406(n) are substantive requirements of the Wyoming Environmental Quality Act and a coal mining applicant must prove its mining activities will be in compliance with these provisions as part of its permit application.

DATED this 30th day of June, 2017.

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CERTIFICATE OF SERVICE

I, Jay A. Gilbertz, hereby certify that on the 30th day of June, 2017, I served a true and correct copy of the above and foregoing by *electronic transmission*, duly addressed as follows:

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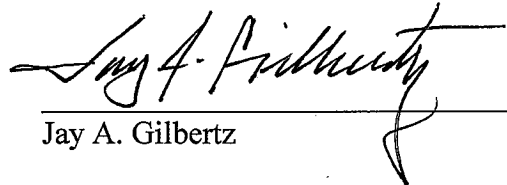
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