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

**In the Matter of the Appeal of the Notice of )  
Violation and Order Issued to Good Bentonite )     Docket 17-4201A  
Company, LLC, DEQ NOV Docket 5748-17     )**

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**DEPARTMENT OF ENVIRONMENTAL QUALITY'S  
NOTICE OF OBJECTIONS TO PROPOSED EXHIBIT "GOOD 01"**

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The State of Wyoming, Department of Environmental Quality ("Department"), through its undersigned counsel, hereby notifies the hearing officer and the Council about its objections to the admission of proposed Exhibit, "Good 01".


Proposed Exhibit Good 01 was attached to a November 30, 2017 email from Good Bentonite Company, LLC ("Good Bentonite") to Mr. Jim Ruby with the Environmental Quality Council ("Council"). The Department and its counsel were also copied on the email. After receiving the email, it appears the document was uploaded to the Council's online docket as Exhibit Good 01. Although Good Bentonite did not state in the email its reason for sending the attached document to the Council and did not label the attachment as an exhibit, the Department understands how the email could be interpreted as offering the document as an exhibit.

The Department notes that the status of proposed Exhibit Good 01 on the Council's docket is currently listed as "Disabled". Based on that status, the Department believes that the exhibit has not yet been admitted or distributed to the full Council. However, in case the hearing officer is still

deliberating whether to admit the exhibit prior to the hearing next week, the Department hereby objects to admission of the exhibit.

The admission of the proposed exhibit would not be appropriate because the Department has not agreed to its admission. Also, the Department objects<sup>1</sup> to the exhibit being admitted as evidence because it is irrelevant to this case, it was submitted late and without sufficient time for review by the Department, it lacks foundation, and, if it is admitted, the Department may not have any opportunity to question a witness about the alleged facts and conclusions in the document. The Department can more fully explain the basis for its objections at the hearing. Briefly stated here, the Department asserts that the proposed exhibit is a revised annual report for the 2017-2018 renewal period and is not related or relevant to the facts or violations alleged in the Notice of Violation and Order at issue in this case. Further, the document was not submitted in accordance with the scheduling order and the first time the Department was provided the document, in any form, was in Good Bentonite's email to Mr. Ruby on November 30, 2017. In addition, the Department has reason to believe that neither of Good Bentonite's two designated witnesses are the document's authors and neither would otherwise be able to testify to or explain the contents of the document at the hearing.

Respectfully submitted this 1<sup>st</sup> day of December, 2017.

  
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<sup>1</sup> The Department reserves the right to raise these and additional objections at the hearing.

**CERTIFICATE OF SERVICE**

I hereby certify that on the 1<sup>st</sup> day of December, 2017, a copy of the foregoing document was filed electronically with the Wyoming Environmental Quality Council's online docket system and copies were served by electronic mail through that system on the following:

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