

FILED

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

Jim Ruby, Executive Secretary
Environmental Quality Council

IN RE BENTONITE PERFORMANCE)
MINERALS LLC) DOCKET 18-1601

ORDER OF SCHEDULE AND DENIAL OF MOTION TO CONTINUE

The Parties appeared for a pre-hearing conference in this matter on Tuesday, August 21 at 10:30 a.m. Appearing in person on behalf of the Petitioner, Bentonite Performance Minerals LLC were Matt Micheli and Samuel Yemington. Appearing on behalf of the Respondent, 2U Ranch were Ronald Ericsson, Scott Ericsson and Roland Ericsson. Also appearing were Brandi O'Brien and Kyle Wendtland from the DEQ, James Ruby from the EQC and Steve Lenz from the Council.

The Respondent had filed a Motion to Continue the pre-hearing conference since the parties were attempting to mediate the dispute. After hearing oral argument by the Parties and review of the pleadings, the Motion was Denied.

The Petitioner has filed a Petition for Order in Lieu of Consent. A hearing on this matter only looks to identify whether four statutory elements have been met. Those elements are:

1. That the mining plan and reclamation plan have been submitted to the surface owner for approval.
2. That the mining plan and the reclamation plan is detailed as to illustrate the full proposed surface use including proposed routes of egress and ingress.
3. That the use does not substantially prohibit the operations of the surface owner. And
4. The proposed plan reclaims the surface to its approved future use, in segments if circumstances permit, as soon as feasibly possible.

Issues that are not going to be considered at the final hearing in this matter include but are not limited to the following:

1. Whether the application is technically correct.
2. Whether the state lands lease is valid.
3. Whether DEQ should issue the permit.

After discussion with the parties, the following schedule has been established for this matter.

1. **Deadline for Discovery.** Requests for production of documents, written interrogatories and other discovery may be undertaken by phone, email, fax or mail. Deadline for service of discovery shall be November 16, 2018 5:00 p.m. Responses to Discovery shall be no later than 30 days after receipt.

2. **Deadline for naming of expert witnesses, if any.** Do any of the parties expect to call any expert witnesses? Experts must be identified no later than 5:00 p.m. December 1, 2018 and the parties must comply with Rule 26 of the Wyoming Supreme Court Rules of Civil Procedure

3. **The identification of all exhibits and witnesses, including a summary of their testimony, shall be exchanged by the parties no later than 12:00 noon on December 14, 2018.** Exhibits shall be filed with the Council through the electronic docket no later than 12:00 noon on January 10, 2018. The filing of all of these documents for the Council can and should be done on the e-file docket site. The e-file will name and number your exhibits. So please do not name and number the originals until after you have filed them so that they have the same numbers. In addition, when filing these Exhibits identify them on e-file as final exhibits not pleading exhibits. If you need help, please contact Mr. Girardin at 307-777-6454

4. **The filing of any dispositive motions or motions in limine shall be filed no later than December 21, 2018 with responses filed within 20 days of receipt.** Oral arguments on any motions filed will be held on January 16, 2019 prior to the final hearing on this matter.

5. The final hearing on this matter shall begin on January 16, 2019 at 9:00 a.m. The hearing will be held in Sundance WY. The exact location in Sundance will be determined later.

DATED this 21st day of August 2018.



John Corra, Hearing Examiner
Environmental Quality Council

CERTIFICATE OF SERVICE

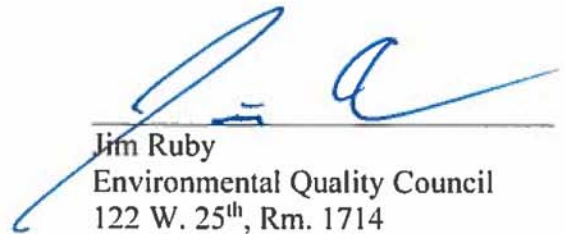
I, James Ruby, certify that at Cheyenne, Wyoming, on the 21st day of August 2018, I served a copy of the foregoing **Order of Schedule and Order of Denial of Motion to Continue by** electronic mail to the following:

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