

2U Ranch LLC requests that the "PETITIONER BENTONITE PERFORMANCE MINERALS, LLC'S MOTION FOR SUMMARY JUDGMENT", "PETITIONER BENTONITE PERFORMANCE MINERALS, LLC'S MOTION TO LIMIT TESTIMONY AND EVIDENCE AT HEARING", and "PETITION FOR ORDER IN LIEU OF CONSENT AND REQUEST OF HEARING WDEQ/LQD MINE PERMIT 267C STATE OF WYOMING LEASE 0-42804 AMDENDMENT TFN 6 1/197" be dismissed and the hearing scheduled for January 16, 2019 be cancelled as "In Lieu of Consent" is premature as two of the landowners (Valkyrie, LLC and Cinquefoil, LLC) have not had an opportunity to accept or reject the surface owner consent form. They have not been contacted by Bentonite Performance Minerals, LLC (BPM) to sign the surface owner consent form. In addition, BPM has not provided them with the required mining and reclamation plans prior to the signing of the surface owner consent form.

W. S. 35-11-406. Application for permit; generally; denial; limitations, (b), (xii) states "If consent cannot be obtained as to the mining plan or reclamation plan or both, the applicant may request a hearing before the environmental quality council". A hearing cannot be requested before the environmental quality council when BPM has not tried to obtain landowner consent as to the mining plan and/or the reclamation plan.

In addition to the numerous reasons already outlined as to why the council cannot issue an order in lieu of consent, BPM has violated "(B) That the mining plan and the reclamation plan is detailed so as to illustrate the full proposed surface use including proposed routes of egress and ingress".

The mining plan and the reclamation plans do not include proposed routes of egress and ingress, therefore the council cannot issue an order in lieu of consent.



Scott A. Ericsson, PhD
Manager
2U Ranch LLC

January 14, 2019