

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

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

**ORDER DENYING 2U RANCH, LLC'S MOTION TO
COMPEL COMPLIANCE WITH DISCOVERY REQUEST**

Respondent, 2U Ranch, LLC filed a Motion to Compel Compliance with Discovery Request on January 17, 2019, requesting this hearing officer to require Petitioner, Bentonite Performance Minerals, LLC (BPM) answer interrogatories and respond to requests for production of documents.

Having considered 2U Ranch's motion, BPM's response, and being fully advised, I find and conclude as follows:

1. 2U Ranch served BPM with interrogatories and requests for production.
2. BPM subsequently responded to the written discovery by answering each interrogatory and responding to each request for production.
3. As part of its responses, BPM objected to certain interrogatories and requests for production contending that they sought irrelevant information or confidential business information. Notwithstanding its objections, BPM responded to each interrogatory and request for production.
4. Although 2U Ranch conceded in its motion that BPM responded to its written discovery, it claimed that "BPM did not comply with [the] discovery in good faith." 2U Ranch also alleged that BPM's discovery responses were a "type of gamesmanship."

5. However, 2U Ranch's motion does not specifically identify how BPM failed to comply with the discovery. Indeed, 2U Ranch failed to even identify specific responses to requests for production or answers to interrogatories that it deemed insufficient or undertaken in bad faith.

6. Under rule 37 of the Wyoming Rules of Civil Procedure, 2U Ranch has the burden to prove that BPM failed to answer an interrogatory or produce documents under a request for production. 2U Ranch has not met its burden because it has failed to provide any evidence showing how BPM did not answer an interrogatory, did not respond to a request for production, or did not comply with its discovery in good faith. In fact, upon review of BPM's discovery responses that were attached to 2U Ranch's motion, it appears that BPM answered each interrogatory and responded to each request for production. Further, 2U Ranch does not explain why BPM's objections were improper.

7. 2U Ranch has the burden to prove that BPM failed to answer its written discovery. 2U Ranch failed to meet its burden.

8. As a result, 2U Ranch's motion to compel is denied.

SO ORDERED.

DATED this 24th day of January 2019.



John Corra, Hearing Examiner
Environmental Quality Council

CERTIFICATE OF SERVICE

I, Joe Girardin, certify that at Cheyenne, Wyoming, on the 24th day of January 2019, I served a copy of the foregoing **Order Denying 2U Ranch's Motion to Compel Compliance with Discovery Request** by electronic mail to the following:

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