

**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 DISMISS**

Respondent, 2U Ranch, LLC filed a motion to dismiss Petitioner Bentonite Performance Minerals, LLC's (BPM) petition for an order in lieu of consent on January 14, 2019. 2U Ranch alleges that BPM's petition is premature and should be dismissed because on December 10, 2018, 2U Ranch transferred a portion of its lands at issue in this matter to Valkyrie, LLC and Cinquefoil, LLC. As a result, 2U Ranch contends that Valkyrie and Cinquefoil have not had an opportunity to accept or reject the surface owner consent form. Further, 2U Ranch asserts that BPM has not provided Valkyrie and Cinquefoil with the mining and reclamation plans. The Council heard oral argument on 2U Ranch's motion on January 16, 2019.

Having considered 2U Ranch's motion, BPM's response, and being fully advised, the Council unanimously finds and concludes as follow:

1. 2U Ranch served its motion to dismiss on January 14, 2019, twenty-four days after the deadline to file dispositive motions.
2. As a result, the motion is untimely and improper and must be denied on that basis alone.
3. However, if the Council were to consider the motion, the Council would deny the motion. 2U Ranch bases its motion on the allegation that Valkyrie and Cinquefoil have not had the opportunity to accept or reject the surface owner consent form and have not received the mining and reclamation plans.

4. However, based upon 2U Ranch's own documents in the record, Valkyrie and Cinquefoil are entities related to 2U Ranch and have full knowledge of the ongoing matter before the Council.

5. Ronald Ericsson, who has participated in and represented 2U Ranch in this matter, is the registered agent for both Valkyrie and Cinquefoil. Because Ronald Ericsson admittedly received both the mining and reclamation plans, Valkyrie and Cinquefoil cannot claim that they have not received those plans.


6. Further, Valkyrie and Cinquefoil cannot claim that they were unaware of the pending matter before the Council. Valkyrie and Cinquefoil accepted the transferred lands subject to the pending proceeding.

7. The Council will not allow a party to frustrate this process by transferring lands subject to this proceeding at the eleventh hour in an effort to stop this case—a case that has been ongoing since July 5, 2018.

8. 2U Ranch's motion to dismiss is denied.

SO ORDERED.

DATED this 3<sup>rd</sup> day of January 2019.

  
\_\_\_\_\_  
John Corra, Hearing Examiner  
Environmental Quality Council

**CERTIFICATE OF SERVICE**

I, Jim Ruby, certify that at Cheyenne, Wyoming, on the 30 day of January 2019, I served a copy of the foregoing **Order Denying 2U Ranch, LLC's Motion to Dismiss** by electronic mail to the following:

Samuel Yemington  
Holland and Hart  
[sryemington@hollandhart.com](mailto:sryemington@hollandhart.com)

Matt J. Micheli  
Holland and Hart  
[mjmicheli@hollandhart.com](mailto:mjmicheli@hollandhart.com)

Ronald Ericsson  
Petitioner  
[ericsson@childselect.com](mailto:ericsson@childselect.com)

Roland Ericsson  
[roalericsson@cox.net](mailto:roalericsson@cox.net)

Scott Ericsson  
[scottaericsson@gmail.com](mailto:scottaericsson@gmail.com)

  
Jim Ruby  
Environmental Quality Council  
First Floor Hathaway Building  
2300 Capitol Ave.  
Cheyenne, WY 82002  
Phone: 307-777-7170