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

IN THE MATTER OF PERMIT RENEWAL )	OAH DOCKET NO. 19-004-220
APPLICATION OF CONTURA COAL )	C103
WEST, LLC.: PT0214; )	EQC DOCKET NO. 18-4803
AND IN THE MATTER OF THE )	EQC DOCKET NO. 18-4805
APPLICATIONS FOR COAL MINE )	
PERMIT TRANSFERS OF BLACKJEWEL, )	
LLC.: PT0214 & PT0428. )	

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**DEPARTMENT OF ENVIRONMENTAL QUALITY'S  
PROPOSED FINDINGS OF FACT AND  
CONCLUSIONS OF LAW**

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The State of Wyoming, Department of Environmental Quality (DEQ), hereby submits the following proposed findings of fact and conclusions of law regarding the permit transfer applications of Blackjewel, L.L.C., for the Belle Ayr and Eagle Butte surface coal mines:

**INTRODUCTION**

The evidence submitted at the hearing on the permit transfer applications of Blackjewel for the Belle Ayr and Eagle Butte surface coal mines demonstrates that the applications should be granted. Blackjewel has met its burden of proving that the applications are complete and comply with all applicable laws and regulations. In

particular, the Environmental Quality Act and the rules governing permit applications require a list of all notices of violation “pertaining to air or water environmental protection incurred by the applicant” and persons or entities under common control of the applicant. Wyo. Stat. Ann. § 35-11-406(a)(xiv); Wyo. Dept. of Env'tl. Quality, Land Quality Division-Coal, Chapter 2, § 2(a)(ii)(B). In these applications that list is composed of two parts—Table 1.10-2 in the Belle Ayr application and Table 1.10-1 in the Eagle Butte application and the Applicant Violator System (AVS) compliance history report. The list is complete and there is no evidence of any applicable notice of violation that is not on the list. The primary issue pending before the Council is resolved just that simply. In the absence of evidence demonstrating that the list is incomplete, the permit should be granted.

In addition, during its initial deliberations, the Council expressed that it wanted to know more specifics about the notices of violation on the list from other jurisdictions. But no party presented evidence about the specifics of those violations, and for good reason. DEQ and the Council are charged with ascertaining whether the regulatory authority with jurisdiction over the violation is satisfied that the violation is in the process of being corrected. Wyo. Stat. Ann. § 35-11-406(n)(vii). Neither DEQ nor the Council have the legal authority to second guess whether a violation in Kentucky, for example, is being resolved properly or not. That is a determination for the State of Kentucky to make, and DEQ and the Council are obligated to respect the determination of that regulatory authority.

When the AVS compliance history report reveals that violations in other jurisdictions are in a Conditional status, that means the applicable regulatory authority has reported to the Office of Surface Mining Reclamation and Enforcement (OSM) that the

violation is being corrected to the regulatory authority's satisfaction. That is all an applicant has to show under Wyoming Statute § 35-11-406(n)(vii), and it would be error for the Council to reject the determination of the regulatory authority with jurisdiction and to reject an application for a mine permit transfer even though the applicant has no Outstanding violations. Because there is no evidence that there is a notice of violation anywhere else in the country that is not being resolved to the satisfaction of the regulatory authority with jurisdiction, the permit should be granted subject to the results of the final compliance history report from AVS.

#### **FINDINGS OF FACT**

1. Contura Coal West currently holds the permits for the Belle Ayr (Permit No. 214) and Eagle Butte (Permit No. 428) surface coal mines.
2. Blackjewel, L.L.C., was formed on March 24, 2017. DEQ Ex. 2 at 17.
3. The Secretary of State issued a Certificate of Authority to Blackjewel to do business in Wyoming on December 4, 2017. DEQ Ex. 2 at 18.
4. Blackjewel filed applications for permit transfers of the permits for the Belle Ayr and Eagle Butte surface coal mines on August 30, 2018. DEQ Exs. 2 and 3. The contents of the applications were typical and they were processed in accord with DEQ's practice. Tr. 65, 266-67. The applications generally contained the documents necessary to grant the permits. Tr. 66.
5. Table 1.10-2 in the Belle Ayr application and Table 1.10-1 in the Eagle Butte application lists the three-year violation history at the Wyoming mines. DEQ Ex. 2 at 29 and Ex. 3 at 33; Tr. 264. The violation listed on those tables was abated and terminated on

May 27, 2016. *Id.* In fact, the two Wyoming mines have only had five violations in the last eighteen years. Tr. 280.

6. The Applicant Violator System (AVS) is a database administered by the Office of Surface Mining Reclamation and Enforcement (OSM). Tr. 67. The AVS lists notices of violations as either Outstanding or Conditional. DEQ Ex. 8 at 4. An Outstanding violation means the violation is unabated or uncorrected. *Id.* A Conditional violation means the violation is being abated or corrected to the satisfaction of the regulatory authority that issued the notice, or the violation is the subject of an administrative or judicial appeal. *Id.*; 30 C.F.R. § 773.14(b). Outstanding violations result in a permit block; Conditional violations do not. Tr. 71. Conditional violations are not unusual and DEQ has granted permits to applicants with Conditional violations in the past. Tr. 82.

7. Blackjewel relied on DEQ to obtain a compliance history report from AVS at appropriate times during the pendency of the permit transfer applications in conformity with the agency's prior practice. Tr. 83, 267, 282. The rules also require DEQ to obtain compliance history reports from AVS at various times during the review process, including a final report no more than five business days before the permit is issued. Rules Wyo. Dept. of Env'tl. Quality, Land Quality Division-Coal, Chapter 12, § 1(a)(viii) and (xii).

8. DEQ obtained a compliance history report from AVS for Blackjewel and its affiliated entities on October 4, 2018, immediately before concluding that the application was complete and ready for publication under Wyoming Statute § 35-11-406(j). DEQ Ex. 11; Tr. 80-81. The resulting report showed 42 violations, but all of them were Conditional. DEQ Ex. 11; Tr. 82. The compliance history report shows the violation type, violation

number, the violating entity's name, the permit number, the state where the violation occurred, the violation status, and the date of the violation. DEQ Ex. 11. DEQ also requested, and the report includes a narrative report from OSM. DEQ Ex. 11; Tr. 79-80. The narrative report indicates that all of the violations were being resolved through payment plans, settlements, or pending challenges as allowed by law. DEQ Ex. 11.

9. Administrator Wendtland called OSM staff after receipt of the October 4, 2018, compliance history report from AVS and asked if there was something that DEQ was not aware of or that it should be aware of before granting the permit transfers. Tr. 85. OSM staff advised Administrator Wendtland that they knew of nothing that would prevent the transfers and, from OSM's point of view, DEQ can approve these transfers. Tr. 85.

10. No evidence was presented that Blackjewel had any other notices of violation anywhere in the country issued by any other state or federal agency that were not included in the October 4, 2018 AVS compliance history report. Tr. 184, 197, 283. The Powder River Basin Resource Council (PRBRC) offered no witness testimony or documentary evidence establishing that Blackjewel has other Notices of Violation that were not identified in the two tables and the AVS compliance history report.

11. DEQ will obtain one more compliance history report from AVS immediately before the permit transfers are approved. Tr. 83; Rules Wyo. Dept. of Env'tl. Quality, Land Quality Division-Coal, Chapter 12, § 1(a)(xii). This final report will be placed in the applications by DEQ. Tr. 85. If the final report shows Outstanding violations at that time, DEQ cannot approve the permit transfer. Tr. 83; Rules Wyo. Dept. of Env'tl. Quality, Land Quality Division-Coal, Chapter 12, § 1(a)(xii).

12. No evidence was presented demonstrating that Blackjewel has engaged in a pattern of willful violations resulting in irreparable harm to the environment. Tr. 86-87, 306-08.

13. On October 5, 2018, DEQ determined that the transfer applications were technically complete and ready for publication under Wyoming Statute § 35-11-406(j). DEQ Exs. 12 and 13.

14. Contura Coal West offered the Black Thunder Ranch and the Belle Ayr Ranch as real property collateral to satisfy a portion of its performance bond in 2016. Tr. 41-43. The ranches had been transferred by order of the bankruptcy court to Contura from Alpha Natural Resources shortly before the mortgage was executed on August 4, 2016. *Id.*

15. The mortgage dated August 4, 2016, was recorded with the appropriate county clerks. DEQ Ex. 4; Tr. 42-43. The mortgage grants the DEQ a valid enforceable first priority security interest in the property. DEQ Ex. 4; Tr. 47. There is no evidence that any person or entity has a higher priority security interest in the ranches. All obligations in the mortgage are covenants that run with the land and bind Contura's successors in interest, including Blackjewel. DEQ Ex. 4; Tr. 46. The mortgage grants DEQ a power of sale. DEQ Ex. 4; Tr. 48.

16. Robert J. Brockman prepared an appraisal on July 7, 2017, for Contura. Ex. CCW 1. Contura proposed Mr. Brockman to serve as the appraiser on May 1, 2017. DEQ Ex. 6. Mr. Brockman is a well-qualified, experienced, and distinguished Wyoming real estate appraiser. Tr. 317-20, 324. Administrator Wendtland investigated Mr. Brockman and, based upon Mr. Brockman's certification by the State of Wyoming and his extensive

experience and qualifications, Administrator Wendtland approved Contura's use of Mr. Brockman as the appraiser. DEQ Ex. 6; Tr. 50-53.

17. Mr. Brockman valued the two ranches at \$26,749,000. Ex. CCW 1 at 2. Mr. Brockman's appraisal was thorough and professional. Tr. 321-23. But upon review and dialogue with Mr. Sherman, Mr. Brockman did agree that the appraised value should have been reduced by approximately \$600,000. Ex. CCW 2; Tr. 404-06. DEQ is justifiably unconcerned about this reduction because it will be addressed in the next renewal which is due in June and there are more than sufficient funds posted as unknown costs in the existing performance bond to cover this error in the fair market value. Tr. 61-62.

18. There is no evidence that DEQ erred in relying on or accepting Mr. Brockman's appraisal. Tr. 194-95. PRBRC offered no witness testimony or documentary evidence establishing that the fair market value of the properties was different than the value determined by Mr. Brockman.

19. The annual bond calculation for the Belle Ayr mine includes \$4,676,900 in unknown costs. DEQ Ex. 7 at 9. The reasonable expenses associated with selling the ranch properties are included in the bond calculation as an unknown cost. Tr. 56, 116. \$4,676,900 is more than sufficient to pay the expenses associated with selling the properties. Tr. 60-61.

20. Administrator Wendtland verbally approved Mr. Brockman to identify any change in the value of the properties in 2018. Tr. 53. Mr. Brockman recertified the appraisal on July 18, 2008. DEQ Ex. 15. At that time, it was his opinion that the value of the ranches

had not changed. *Id.* There is no evidence that Mr. Brockman's recertification was deficient or that DEQ erred in relying on it. Tr. 55.

21. The transfer applications are complete and technically sufficient. Tr. 92, 270; DEQ Exs. 12 and 13.

## CONCLUSIONS OF LAW

### I. Burden of Proof

1. Under Wyoming Statute § 35-11-406(m) and (n), Blackjewel bears the burden of proving the permit transfers should be granted.

2. Wyoming Statute § 35-11-406(m) provides in relevant part:

(m) The requested permit, other than a surface coal mining permit, shall be granted if the applicant demonstrates that the application complies with the requirements of this act and all applicable federal and state laws. The director shall not deny a permit except for one (1) or more of the following reasons:

(i) The application is incomplete; ...

(ix) The operator is unable to produce the bonds required; ...

(xv) If the applicant has been and continues to be in violation of the provisions of this act;

(xvi) No permit shall be denied on the basis that the applicant has been in actual violation of the provisions of this act if the violation has been corrected or discontinued.

3. Wyoming Statute 35-11-406(n) provides in relevant part:

(n) The applicant for a surface coal mining permit has the burden of establishing that his application is in compliance with this act and all applicable state laws. No surface coal mining permit shall be approved unless the applicant affirmatively demonstrates and the administrator finds in writing:

(i) The application is accurate and complete; ...



(vii) The schedule provided in paragraph (a)(xiv) of this section indicates that all surface coal mining operations owned or controlled by the applicant are currently in compliance with this act and all laws referred to in paragraph (a)(xiv) of this section or that any violation has been or is in the process of being corrected to the satisfaction of the authority, department or agency which has jurisdiction over the violation.

## **II. Permit Transfers**

4. Every mining operation in Wyoming is required to obtain a mining permit and a license to mine from DEQ prior to commencing operations. Wyo. Stat. Ann. §§ 35-11-405 and -410. Mine operators can transfer their permit to another entity if they so desire so long as the proposed transferee demonstrates that it is qualified to hold the permit “as though he were the original applicant for the permit” and he agrees “to be bound by all the terms and conditions of the original permit.” Wyo. Stat. Ann. § 35-11-408.

5. Operators seeking to transfer their mine permit must submit an application on a form supplied by DEQ. See DEQ Exs. 2 and 3. This application incorporates the existing permit, including the mine and reclamation plans and is therefore much less extensive than a new application. *Id.* However, all of the procedural requirements relating to review, public participation, and approval or disapproval of permit applications, and permit term and conditions generally apply to permit transfers. Rules Wyo. Dept. of Env'tl. Quality, Land Quality Division-Coal, Chapter 12, § 1(b).

6. Among other requirements, the proposed transferee must show that they are not in violation of the Environmental Quality Act or the laws of the United States and must post a sufficient bond or other collateral to ensure the mine can be fully reclaimed. A

potential transferee can “obtain a renewal bond by either transfer of the permit holder’s bond, written agreement with the permit holder, or providing other sufficient bond or equivalent guarantee.” Rules Wyo. Dept. of Env’tl. Quality, Land Quality Division-Coal, Chapter 12, § 1(b)(ii)(A). Thus, a potential transferee can transfer both the permit and any real property collateral securing a performance bond.

### **III. Performance Bonds and Real Property Collateral**

7. Among other requirements, an applicant for a mining permit must submit a detailed mine and reclamation plan “dealing with the extent to which the mining operation will disturb or change the lands to be affected, the proposed future use or uses and the plan whereby the operator will reclaim the affected lands to the proposed future use or uses.” Wyo. Stat. Ann. § 35-11-406(b). The reclamation plan must include a “projected timetable for accomplishment.” *Id.* at 406(b)(xix). “The reclamation plan shall include a time schedule for each major step in the reclamation which coordinates the operator’s reclamation plan with the mining plan in such a manner so as to facilitate reclamation at the earliest possible time ... and the orderly development of the mining property.” Rules Wyo. Dept. of Env’tl. Quality, Land Quality Division-Coal, Chapter 2, § 6(a). This includes a schedule for rough backfilling and grading, which must “follow coal removal as contemporaneously as possible based upon the mining conditions.” Rules Wyo. Dept. of Env’tl. Quality, Land Quality Division-Coal, Chapter 4, § 2(b)(i).

8. In order to ensure that mine operators faithfully perform all statutory and regulatory requirements, including reclamation as outlined in the approved plan, operators have to post a performance bond. Wyo. Stat. Ann. § 35-11-417(a). The amount of the

performance bond is calculated annually and equals the estimated cost of reclaiming the land that has been mined and the land that will be mined over the next year. Wyo. Stat. Ann. §§ 35-11-411(d) and 417(c)(i) and (ii). The amount also includes DEQ's "estimate of the additional cost to the state of bringing in personnel and equipment should the operator fail or the site be abandoned."<sup>1</sup> *Id.* In lieu of a bond, an operator may deposit with DEQ federally insured certificates of deposit, cash, governmental securities, or irrevocable letters of credit. Wyo. Stat. Ann. § 35-11-418. In addition, the administrator may accept real property as a collateral bond, "provided that the real property is located in this state, the bond provides a perfected first lien security interest in the real property in favor of the department and the protection provided by the bond is consistent with the objectives and purposes of [the Environmental Quality Act]." Wyo. Stat. Ann. § 35-11-417(g).

9. Before accepting real property as a collateral bond, an appraiser or qualified agent must determine the fair market value of the property. Rules Wyo. Dept. of Env'tl. Quality, Land Quality Division-Coal, Chapter 11, § 5(a)(iii)(A).<sup>2</sup> The proposed operator must propose one or more appraisers to the administrator. *Id.* The administrator may select one of the proposed appraisers or he may reject any or all of them. *Id.* There is no requirement in the rules that the administrator's selection of the appraiser be in a specific form. Thus an email or verbal approval is permitted. Once the administrator selects an

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<sup>1</sup> The amount of the bond is calculated using Guideline 12 entitled Standardized Reclamation Performance Bond Format and Cost Calculation Methods. Tr. 57. Guideline 12 requires operators to include an additional 5% for unknown costs in the annual bond calculation. Tr. 60.

<sup>2</sup> References to Chapter 11 in this document are to the new rule in effect as of May 3, 2019.

appraiser, and the appraisal is completed, the property is “valued at the difference between the fair market value and any reasonable expense anticipated by the Department in selling the property.” *Id.* Once real property collateral has been accepted, the collateral must be re-appraised every three years. *Id.*

10. If the administrator accepts real property collateral, the operator is required to execute a mortgage in favor of the DEQ. Rules Wyo. Dept. of Env'tl. Quality, Land Quality Division-Coal, Chapter 11, § 5(a)(iii)(D). The mortgage must vest in DEQ “the right and power to sell or otherwise dispose of the property by public or private proceedings so as to ensure reclamation of the affected lands[.]” *Id.* The mortgage must be executed by the operator “and duly recorded as required by law so as to be first in time and constitute notice to any prospective subsequent purchaser of the same real property or any portion thereof.” *Id.*

11. DEQ’s acceptance of the Black Thunder and Belle Ayr Ranches as real property collateral complies with the foregoing requirements in all respects. The Administrator approved a well-qualified appraiser who thoroughly and professionally determined the fair market value of the property. The Administrator properly accounted for the reasonable cost of selling the property. The permittee executed a mortgage in favor of DEQ creating a first lien security interest in the ranch properties. That security interest runs with the land and binds successors in interest, including Blackjewel, to the obligations in the mortgage. The mortgage vests DEQ with the power of sale. And, finally, the mortgage was properly recorded with the appropriate county clerks. Accordingly, PRBRC’s assertions of error related to the real property collateral are without merit.

## **II. Notices of Violation**

12. Applications for a permit or a permit transfer must contain a wide range of information. Wyo. Stat. Ann. § 35-11-406. In particular, applications must contain “a schedule listing all notices of violation which resulted in enforcement action of [the Environmental Quality Act], and any law rule or regulation of the United States, or of any department or agency in the United States pertaining to air or water environmental protection incurred by the applicant in connection with any surface coal mining operation during the [preceding three years].” Wyo. Stat. Ann. § 35-11-406(a)(xiv). This requirement does not require a list of mine safety violations, as safety violations do not pertain to air or water environmental protection and they are the responsibility of other agencies.

13. An application for a surface coal mining permit must also identify the people and business entities that own or control the applicant including: any operators, if different from the applicant; the applicant’s partners, officers, members, major shareholders, and directors as applicable; and business entities in the applicant’s organization, including any ultimate parent entity and their presidents, chief executive officers, directors, and major shareholders, as applicable. Rules Wyo. Dept. of Env’tl. Quality, Land Quality Division-Coal, Chapter 2, § 2(a)(i)(B)-(E).

14. The list of notices of violation required by Wyoming Statute § 35-11-406(a)(xiv), must also include certain information about the violation notices issued to “the applicant or operator and any subsidiaries, affiliates, or persons owned or controlled by or under common control with the applicant or operator.” Rules Wyo. Dept. of Env’tl. Quality,

Land Quality Division-Coal, Chapter 2, § 2(a)(ii)(B). The AVS compliance history report contains all of the information required by Chapter 2, § 2(a)(ii)(B). Tr. 84; DEQ Ex. 11.

15. DEQ takes the ownership and control information submitted by the applicant and enters it into AVS. Rules Wyo. Dept. of Env'tl. Quality, Land Quality Division-Coal, Chapter 12, § 1(a)(ix). AVS generates a compliance history report on each person or entity indicating whether those individuals or entities have any violations anywhere in the United States and whether those violations are unabated or uncorrected. According to OSM,

Any violation in the AVS is listed as either Outstanding or Conditional. Outstanding means the violation is unabated or uncorrected. Conditional means that based upon an agreement or other circumstance, the violation may not cause the state with jurisdiction to immediately determine permit ineligibility.

DEQ Ex. 8 (*AVS Office User Assistance Liasons*, published by the Applicant/Violator System Office).

16. If the relevant regulatory authority considers a violation to be unabated or uncorrected an applicant is not eligible for a permit. The Surface Mining Reclamation and Control Act of 1977 provides that permits “shall not be issued until the applicant submits proof that such violation has been corrected or is in the process of being corrected to the satisfaction of the regulatory authority, department, or agency which has jurisdiction over such violation[.]” 30 U.S.C. § 1260(c). The Environmental Quality Act must be at least as stringent as this provision and, in fact, it contains the same limitation. Wyo. Stat. Ann. § 35-11-406(n)(vii); *see also* Rules Wyo. Dept. of Env'tl. Quality, Land Quality Division-Coal, Chapter 12, § 2(a)(x)(A). Accordingly, if an applicant’s compliance history report

reveals “Outstanding” violations, the applicant is not eligible to obtain a permit, but if the report only reveals “Conditional” violations, the applicant is eligible to obtain a permit.

17. Under federal law, a violation is considered to be abated or corrected if, among other reasons, the “violation is the subject of a good faith administrative or judicial appeal contesting the validity of the violation[.]” 30 C.F.R. § 773.14, *see also* Rules Wyo. Dept. of Env'tl. Quality, Land Quality Division-Coal, Chapter 12, § 1(a)(x)(D)(III). Accordingly, applicants are not precluded from obtaining a permit due to an ongoing dispute with another regulatory authority that could be resolved in favor of the applicant.

18. An applicant can correct and abate violations while a permit application is pending. Rules Wyo. Dept. of Env'tl. Quality, Land Quality Division-Coal, Chapter 12, § 2(a)(ix)(C); Tr. 74. And DEQ is required to obtain a final compliance history report from AVS no more than five business days before a permit is issued. Rules Wyo. Dept. of Env'tl. Quality, Land Quality Division-Coal, Chapter 12, § 1(a)(xii). Thus, the final compliance history report obtained by DEQ governs the eligibility determination. Tr. 75, 81.

19. Separate from ascertaining compliance through AVS, the director of DEQ or the Council can initiate proceedings against an applicant or operator effectively barring them from mining in Wyoming. The Environmental Quality Act provides:

No permit shall be issued to an applicant after a finding by the director or council, after opportunity for hearing, that the applicant or operator specified in the application controls or has controlled mining operations with a demonstrated pattern of willful violations of such nature and duration with such resulting irreparable harm to the environment as to indicate reckless, knowing or intentional conduct.

Wyo. Stat. Ann. 35-11-406(o). Mine safety violations cannot form the basis of an adverse finding under this provision. Any such violations are the responsibility of other agencies.

20. The transfer applications contain all of the required information related to Blackjewel's notices of violation and Blackjewel is eligible to receive these permits. All applicable notices of violation are listed in Table 1.10-2 in the Belle Ayr application, Table 1.10-1 in the Eagle Butte application, and the October 4, 2018 AVS compliance history report. That report shows the results for Blackjewel's affiliated entities and contains all of the information about the notices of violation required by the laws and rules set forth above. That report does not show any Outstanding violations. DEQ has historically relied on OSM to provide accurate information about notices of violation across the nation, and there is no provision of law that requires DEQ to do more to investigate an applicant. Moreover, neither DEQ nor the Council can disregard the determinations of their sister regulatory authorities as to the status of pending notices of violation. Thus, the October 4, 2018 AVS compliance history report showing only Conditional violations satisfies Blackjewel's burden of proof under Wyoming Statute § 35-11-406(n)(vii).

21. The Council did not receive any evidence of other notices of violation not present on the AVS compliance history report, and the Council cannot base its decision on the mere speculation that there might be other notices of violation out there. Accordingly, Blackjewel has met its burden to provide a complete list and its burden to prove that the notices of violations on that list are being resolved to the satisfaction of the regulatory authority with jurisdiction over the violation. Wyo. Stat. Ann. § 35-11-406(a)(xiv) and



(n)(vii); Rules Wyo. Dept. of Env'tl. Quality, Land Quality Division-Coal, Chapter 2, § 2(a)(ii)(B). PRBRC's assertions to the contrary are without merit.


22. Similarly, there was no evidence offered or admitted demonstrating a "pattern of willful violations of such nature and duration with such resulting irreparable harm to the environment as to indicate reckless, knowing or intentional conduct." Wyo. Stat. Ann. § 35-11-406(o). There was no evidence offered or admitted that any other state or agency anywhere in the country has determined that Blackjewel had even one willful violation let alone a pattern of willful violations. Instead, the evidence demonstrates that the people operating the Wyoming mines have a long history of responsible operations, and Blackjewel's eastern operations have taken the necessary steps to resolve notices of violation to the satisfaction of those regulatory authorities.

23. Any additional arguments raised by PRBRC not specifically addressed herein are without merit.

### CONCLUSION

24. The Council concludes that the permit transfer applications should be granted subject to the results of the final compliance history report from AVS.

DATED this 21st day of June, 2019.

  
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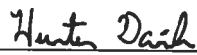
## CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the foregoing upon the persons below via e-mail and by depositing the same in the United States mail, first-class postage prepaid, this 21st day of June 2019, addressed as follows:

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