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BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

In re Brook Mining Co., LLC coal mine)	
permit – PT0841)	
)	EQC Docket No. 20-4802
)	
)	

STATEMENT OF UNDISPUTED FACTS MATERIAL TO THE ISSUE OF STANDING

By and through its undersigned counsel, and pursuant to W.R.C.P. 56.1, the Powder River Basin Resource Council (“Resource Council”), hereby asserts that the following material facts are undisputed: provides its Statement of Undisputed Facts Material to the Issue of Standing.

1. The Resource Council has members. Brook Ex. C (various pages); Ex. D at 1-2.
2. The six individuals named in the Resource Council Petition for Hearing (collectively “Members”) are members of the Resource Council that financially contribute to the organization. Declaration of Gillian Malone (Ex. A) at ¶ 1; Declaration of Bill Bensel (Ex. B) at ¶ 2; Declaration of John Buyok (Ex. C) at ¶ 1; Declaration of Anton Bocek (Ex. D) at ¶ 1; and Declaration of Joanne Westbrook (Ex. E) at ¶ 1.
3. The Members and the Resource Council itself submitted objections to the Brook Mine permit application and participated as parties to the Informal Conference held by the DEQ Director on May 13, 2020. Brook Ex. H (transcript of the informal conference).

4. Brook was aware of the membership status of these six individuals and their associational connection to the Resource Council because the company held mine site tours for the Resource Council and its Members. Ex. F.
5. The Members either live within ½ mile of the Brook Mine permit area or use and/or recreate on lands within the permit boundary itself or adjacent areas. Ex. A at ¶¶ 11-14; Ex. B at ¶ 6; Ex. C at ¶ 4; Ex. D at ¶¶ 5, 8; Ex. E at ¶¶ 3-5.
6. John Buyok and Anton Bocek are landowners who live adjacent to the proposed Brook Mine. Mr. Bocek's family farm is one of the closest properties to the proposed strip mine, where the first area of mining will be. Ex. D at ¶ 8.
7. In addition to being in close proximity to the mine itself, Mr. Buyok's property neighbors the iCam facility, where coal from the Brook Mine will be transported to and processed. Ex. C at ¶ 7.
8. Members John Buyok, Anton Bocek, and Bill Bensel regularly travel on the state highway proposed to haul coal between the Brook Mine and the iCam coal processing facility, and they will be adversely affected by the increased truck traffic on the road. Ex. B at ¶ 7; Ex. C at ¶ 10; Ex. D at ¶¶ 9-10.
9. Member Joanne Westbrook travels to and from her family ranch via Slater Creek Road, a portion of which directly lies within the permit boundary. Ex. E at ¶¶ 3-5. Ms. Westbrook is injured from a lack of buffer between the permit and Slater Creek Road, as required by Wyoming coal mining regulations. *Id.* Alternatively, she will be further harmed if Brook chooses to move the road to avoid the buffer requirements. *Id.*
10. Members Gillian Malone and Bill Bensel use areas within and immediately adjacent to the mine site for recreation purposes. Ex. A at ¶¶ 11-14; Ex. B at ¶ 6. Coal mining

activities at the Brook Mine will adversely affect the recreational activities of Ms. Malone and Mr. Bensel. *Id.*

11. Members also allege injury from subsidence at the mine site, if not properly evaluated and controlled. Ex. C at ¶¶ 13-14; Ex. D at ¶ 16; Ex. E at ¶ 8.

12. Like the organization itself, the Members will experience procedural injury from DEQ's decision to restrict public comment on future permit revisions. The Members all express a desire to participate in such a comment process and support the Resource Council's claim to require public participation opportunities. Ex. A at ¶¶ 9-10, 15; Ex. B at ¶ 8; Ex. C at ¶ 15; Ex. D at ¶ 17; Ex. E at ¶¶ 8-10.

The Resource Council also disputes the claims and unsupported allegations contained in Brook's Rule 56.1 statement of material facts that conflict with any of the above facts.

Respectfully submitted this 16th day of October, 2020.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 16th day of October, 2020, the foregoing **STATEMENT OF UNDISPUTED FACTS MATERIAL TO THE ISSUE OF STANDING** was served on the following parties via the Environmental Quality Council's electronic docket system.

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