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April 12, 2007

E. E. LONABAUGH  
(1861-1938)

A. W. LONABAUGH  
(1896-1971)

RETIRED:  
E. E. LONABAUGH

**FILED**

APR 13 2007

Terri A. Lorenzon, Director  
Environmental Quality Council

**Kim McGee**  
Executive Assistant  
Environmental Quality Council  
122 West 25<sup>th</sup>  
Herschler Building, Room 1714  
Cheyenne, WY 82002

Re: **In The Matter of the Appeal of P&M Coal's Welch Permit No. 497-T4,  
Docket No. 07-4600, Before the Environmental Quality Council,  
State of Wyoming**

Dear Ms. McGee:

Enclosed please find two copies of the Appeal by John C. Willson to be filed in the above matter.

Mr. Wilson requests that the Appeal be scheduled for a hearing at the earliest date available on the EQC Docket.

Very truly yours,

LONABAUGH AND RIGGS, LLP

  
By: Dan B. Riggs

DBR:skb  
Enclosures  
cc: John C. Willson

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
OF THE STATE OF WYOMING

**FILED**

APR 13 2007

IN THE MATTER OF THE APPEAL OF )  
JOHN C. WILLSON FROM THE PITTSBURG )  
& MIDWAY COAL MINING COMPANY )  
WELCH MINE, PERMIT NO. 497-T4. )

Terri A. Lorenzon, Director  
Environmental Quality Council  
Docket No. 07-4600

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APPEAL

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**John C. Willson**, having previously given written notice of his appeal from a decision by the Director of the Wyoming Department of Environmental Quality, appeals to the Environmental Quality Council of the State of Wyoming as follows:

1. Name and Address of Protestant and Protestant's Attorney. The name and address of the Protestant is John C. Willson, P.O. Box 2244, Gillette, Wyoming 82717. The name and address of Protestant's attorneys are Lonabaugh and Riggs, LLP, Attention: Dan B. Riggs, P.O. Drawer 5059, Sheridan, Wyoming 82801.

2. Action Upon Which Hearing is Requested. This is an appeal from the lack of action by the Department of Environmental Quality concerning the Pittsburg & Midway Coal Mining Company Welch Mine Permit, Permit No. 497-T4.

3. Concise Statement of Issues.

a) John C. Willson ("Willson") is the owner of land in Sheridan County, Wyoming, covered, in part, by the Pittsburg & Midway Coal Mining Company ("P&M Coal") Welch Mine Permit No. 497-T4 (the "Welch Mine Permit"). The Welch Mine Permit was originally issued in 1979, and now, according to the Department of Environmental Quality ("WDEQ"), the earliest date for bond release for the minimal disturbance under the Welch Mine Permit will be 2017, some thirty-eight (38) years after the Welch Mine Permit was originally issued. The permitted mine was never developed and the surface disturbances made consisted of a short access/haul road, one waste rock stockpile and one topsoil stockpile associated with road construction in 1980. Of the twelve (12) acres disturbed under the Welch Mine permit a mere three (3) acres required reclamation. Because of the WDEQ's failure to require performance by P&M Coal, the Willson land will be tied up for approximately thirty-eight (38) years from the date of last disturbance.

b) The WDEQ has failed to effectively and timely administer its obligations under Title 35, Chapter 11 of the Wyoming Statutes in the following respects:

1. The WDEQ has not enforced Wyoming Statutes §§ 35-11-401, 402 and 406 by not requiring timely reclamation of the land subject to the Welch Mine Permit.

2. The WDEQ has not enforced Wyoming Statutes § 35-11-406 and 437 in that the WDEQ has issued renewals of the Welch Mine Permit when the Permittee did not have sufficient land control to complete its obligations under the Welch Mine Permit. When this deficiency was brought to the attention of the WDEQ, it did not issue a violation as required but instead allowed the Permittee over two and one-half (2.5) years to abate the violation.

3. The WDEQ has not enforced Wyoming Statutes § 35-11-406, 409 and 412 in that it has not revoked the Welch Mine Permit and P&M Coal's mining license as required by these statutes as a result of false sworn statements made by the Permittee in order to secure repeated extensions of the Welch Mine Permit. In addition to violating the identified Wyoming Statutes, the WDEQ has also violated the laws of the United States, namely 30 U.S.C. Section 1260 [Section 510.b] and 30 U.S.C. Section 1268 [Section 518.g].

c) The land subject to the Welch Permit was never developed or mined. The original permit issued in 1979 resulted in a total of twelve (12) acres being disturbed in 1980, of which only three (3) acres required reclamation. The Permittee has not yet completed reclamation and as a result, the earliest possible bond release date is now 2017. The WDEQ has been entrusted with timely administration of the laws of the State of Wyoming and has failed to perform its duties. Consequently, Protestant's land is and has been unreasonably and unnecessarily encumbered and restricted.

4. Relief Requested. The Protestant requests that the Welch Mine Permit be revoked and that the associated mining license of P&M Coal be revoked, and for such other relief as may appear appropriate under the circumstance or that is otherwise allowed by law.

5. Hearing. The Protestant has previously requested a hearing.

DATED this 18<sup>th</sup> day of April, 2007.

**LONABAUGH AND RIGGS, LLP**

By:   
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P.O. Drawer 5059  
Sheridan, WY 82801  
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Attorneys for John C. Willson

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that I served true and correct copies of the within and foregoing Appeal by mailing copies thereof this 19<sup>th</sup> day April, 2007, as follows:

Chairman - Wyoming Environmental Quality Council  
122 West 25<sup>th</sup> Street  
Herschler Building - Room 1714  
Cheyenne, WY 82002

Director - Wyoming Department of Environmental Quality  
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Dan B. Riggs