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Terri A. Lorenzo, Adm. Aide
Environmental Quality Council

Ardelle M. Kissler, Clerk
Environmental Quality Council

BEFORE THE WYOMING ENVIRONMENTAL QUALITY COUNCIL

IN THE MATTER OF MINING PERMIT)
REQUIREMENTS FOR THE PROPOSED)
ETSI PIPELINE PROJECT)

PETITION AND REQUEST FOR HEARING

Pursuant to W.S. 35-11-112 and Chapter I, Section 3, Department of Environmental Quality Rules of Practice and Procedure, ETSI Pipeline Project (ETSI) hereby petitions the EQC to conduct a hearing and reverse the decision by the Administrator of Land Quality Division (LQD) that a surface coal mining permit is required for its proposed coal slurry preparation plants to be constructed in Campbell County, Wyoming. As grounds for this petition and request for hearing ETSI states and alleges as follows:

1. ETSI proposes to construct and operate a coal slurry pipeline to transport coal from various mines in Campbell County to several southern states. In conjunction with this project, ETSI will construct one or more coal slurry preparation plants where coal is reduced in size and mixed with water to form a slurry.

2. ETSI has conducted numerous discussions with the Department of Environmental Quality (DEQ) concerning the

permits required for this project. It has received all required air quality permits and is in the process of determining any requirements for water quality permits.

3. On December 31, 1980, Ed Herschler, Governor of Wyoming, transmitted comments by state agencies, including the Department of Environmental Quality (DEQ), on the draft Environmental Impact Statement prepared by the United States Bureau of Land Management on the ETSI Pipeline Project. The comments included identification of required state permits. No comments submitted by Wyoming agencies, including DEQ, suggested the need for surface mining permits for any of the ETSI facilities.

4. On February 24, 1983, ETSI was informed by Nancy Freudenthal, Acting Administrator of the LQD, that the silos, conveyor system transporting coal from Arco and Kerr McGee mines, and preparation plant facilities in the opinion of LQD, constitute activities incidental to a surface coal mining operation pursuant to W.S. 35-11-103(e)(xx), and that a mining permit would be required for these facilities.

5. ETSI requested LQD to reconsider this decision and was informed on March 28, 1983, that, after reconsideration, the decision remained unchanged.

6. W.S. 35-11-103(e)(xx) requires a surface mining permit for all activities "in connection with" a surface coal mine as provided in Section 516 of P.L. 95-87 (30 U.S.C. §1266).

7. The ETSI project will not be conducted "in connection with" a surface coal mine, but instead will serve solely as a transporter of coal in interstate commerce. ETSI has submitted transportation services agreements to certain electrical utilities for transportation of coal via slurry pipeline from Wyoming mines to their generation stations. ETSI has no ownership interest in the coal nor any of the supplying mines. The coal slurry preparation plants will consist of a series of silos, conveyors, mills, slurry storage tanks, slurry ponds, which will reduce the coal in size, mix it with water and transfer it into the slurry pipeline. It is anticipated that some coal slurry preparation plants will also receive coal slurry from other coal preparation plants.

8. The coal slurry project, including the coal preparation plants, is engaged in interstate commerce by the interstate transportation of coal, and is, therefore, beyond the jurisdiction of LQD.

NOW THEREFORE, ETSI requests that the Council grant ETSI a hearing and review the decision of LQD to require a surface coal mining permit for the coal slurry preparation plants and determine that such a permit is not required.

Respectfully submitted this 28th day of April, 1983.



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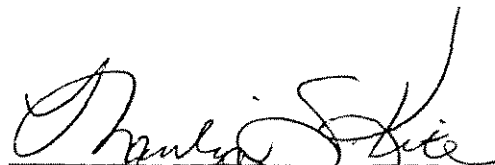
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing Notice of Petition and Request for Hearing was forwarded this 28th day of April, 1983, by certified mail to the following:

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