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**FILED**

OCT 15 1993

Terri A. Lorenza, Attorney  
Environmental Quality Council

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

IN THE MATTER OF A MINING PERMIT )  
APPLICATION OF RISSLER & MCMURRY, INC. ) Docket No. 2373-92  
TFN 2 6/247 )

**FORMAL OBJECTION AND EXCEPTION TO PROPOSED ACTION OF THE  
ENVIRONMENTAL QUALITY COUNCIL**

COMES NOW, Rissler & McMurry Co., by and through counsel, and for the record hereby formally objects to the proposed action of the Environmental Quality Council (EQC) of September 17, 1993, in staying the current mine permit application of Rissler & McMurry Co. in order to allow for the redesignation of Bessemer Mountain as "rare and uncommon".

1. The proposed action of the EQC in further staying the mine permit application of Rissler & McMurry Co., is arbitrary, capricious and an abuse of discretion. There is no provision in Wyoming law for the EQC to stay a pending mine permit application in order to allow it to designate lands as "rare and uncommon". Said action is violative of W.S. §35-11-406(k). Rissler & McMurry objects to the proposed action and demands a hearing on the present permit application as it stands, that is, without the designation of Bessemer Mountain as "rare and uncommon".

2. Said agency action is violative of Applicant's constitutional rights. Applicant is being denied substantive and procedural due process rights. The EQC is intending to apply its new rules, designating "rare and uncommon" retroactively to the pending mine permit application of Rissler & McMurry Co. Furthermore, Applicant believes the EQC fully intends to use the redesignation of Bessemer Mountain as "rare and uncommon" in order to curtail or severely limit the proposed mining at Bessemer Mountain.

3. The proposed actions of the EQC are in excess of their statutory jurisdiction, authority or limitations. At present,

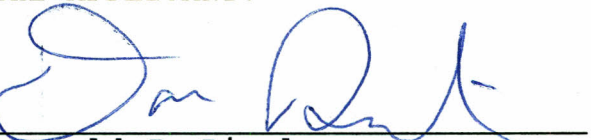
Bessemer Mountain is not "rare and uncommon" due to the Wyoming Supreme Court's decision of July 15, 1993. There is no provision in the Wyoming statutes to allow the EQC to stay pending mine permit applications in order to allow it time to promulgate rules.

4. The actions of the EQC in staying the mine permit application are being done without observance of procedures and amount to an intentional disregard of Applicant's substantive and procedural due process rights created by the Wyoming Constitution, Federal Constitution and State law.

DATED this 14 day of October, 1993.

FOR THE APPLICANT:

BY:



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### CERTIFICATE OF SERVICE

I hereby certify that on the 14 day of October, 1993, I served the foregoing on the following by mailing a true and correct copy of same by United States mail, first class, postage prepaid and addressed as follows:

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