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Terri A. Lorenzon, Adm Aide
Environmental Quality Council

**BEFORE THE
WYOMING ENVIRONMENTAL QUALITY COUNCIL**

In the Matter of Issuance of Air Quality)
Permit No. MD-64 to AMAX Coal Company,)
Belle Ayr Mine)

Docket No. 1905-87
W.A.
12.22.87

MOBIL COAL PRODUCING, INC.'S PETITION FOR HEARING

Pursuant to Chapter I, Section 3c of the Rules of Practice and Procedure of the Department of Environmental Quality ("DEQ"), Mobil Coal Producing, Inc. ("Mobil") appeals the January 27, 1987 final decision of the Air Quality Division ("AQD") which purports to grant AMAX Coal Company ("AMAX") a permit to modify operations at its Belle Ayr Mine. Mobil respectfully requests a hearing before the Environmental Quality Council ("Council") to determine the validity of that final decision.

In support of its request, Mobil states as follows:

1. The party making this request is Mobil Coal Producing, Inc., P.O. Box 17772, Denver, Colorado 80217. Mobil is represented by John A. Macleod, Crowell & Moring, 1001 Pennsylvania Avenue, N.W., Washington, D.C. 20004-2505, and by Brent R. Kunz, Hathaway, Speight & Kunz, P.O. Box 1208, Cheyenne, Wyoming 82003-1208, and by Ann L. Turner, Mobil Mining and Minerals Company, P.O. Box 26683, Richmond, Virginia 23261.

2. The AQD's final decision purporting to grant Permit No. MD-64 to AMAX, as set forth in a January 27, 1987 letter from Messrs. Collins and Wood to Mr. Dinsmoor, is the action and

decision upon which a hearing is requested and as to which objection is made.

3. Mobil makes this request and protest because the referenced final decision is substantively and procedurally defective and contains several errors of fact and law which, if allowed to stand, would seriously jeopardize Mobil's rights and operations at its Caballo Rojo Mine. Among those errors are the following:

(a) The AQD's decision is contrary to a stay agreement that was entered into by the AQD and AMAX, as well as other coal producers in the area, and approved by the Council on December 17, 1986.

(b) Mobil objects to the modeling and analysis which are offered by the AQD and AMAX as the basis for the permit application and permit issuance. Among other things, the modeling done by AMAX is of questionable validity and was not independently verified by the AQD.

(c) Despite requirements to the contrary, AMAX's permit application was not factually accurate and the AQD's permit based on that application is therefore without an accurate factual foundation. Among other things, AMAX's coal production estimate for each year between now and 2025 substantially exceeds the amount of coal reserves available to AMAX in the coal block identified in AMAX's sequencing plan for that year.

(d) AMAX has claimed air rights based on an estimated production rate that its identified coal reserves cannot possibly support and the AQD has granted those air rights despite the invalidity of the claim. In so doing, AMAX and the AQD have improperly and unnecessarily restricted the ability of Mobil to mine its reserves through the year 2025.

(e) The AQD made its decision without following its normal practices and procedures for considering permit applications. Specifically, the AQD knowingly and intentionally did not develop a full and informed administrative record on which to base its decision. It knew that the comments that were filed were only skeletal and protective in nature. It nonetheless proceeded to make its decision without exploring even those skeletal comments with the parties who had made them in the mistaken belief that the AQD would honor the stay agreement of December 17, 1986, and that a full elaboration of their grounds for objection to the proposed approval of the AMAX permit was unnecessary while the stay was in effect.

In so doing, the AQD acted without regard to fair play or to a balanced consideration of the interests of all the citizens of the State of Wyoming. In so doing, the AQD denied equal

protection of the law to Mobil and other parties similarly duped by the AQD's course of action.

(f) The AQD's decision of January 27, 1987 is contrary to applicable law, including the rules and regulations which bind the AQD.

(g) The AQD's decision of January 27, 1987 is contrary to past agency actions and procedures.

4. Mobil respectfully requests a hearing before the Council.

WHEREFORE, Mobil respectfully requests a hearing before the Council to determine the validity of the January 27, 1987 decision by the AQD purporting to issue Permit No. MD-64 to AMAX, and an order from the Council vacating that decision.

Respectfully submitted,



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Dated: March 20, 1987