

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

FILED

IN THE MATTER OF CORDERO)
MINING COMPANY, SECTION 30)
OPERATING PERMIT NO. 30-091)

Docket No. 7902-97 NOV 28 1997

Not a Jurisdictional Matter
~~Administrative Review Council~~

PETITION FOR REVIEW

Cordero Mining Company ("Cordero") petitions the Wyoming Environmental Quality Council ("EQC") to review the decision of the Department of Environmental Quality Air Quality Division ("AQD") to impose Facility-Specific Permit Condition F9(b) and Compliance Certification Condition C1(b)(iii)(B) in the Section 30 Operating Permit, No. 30-091, issued by AQD to Cordero on October 7, 1997. Pursuant to Chapter I, Section 3(c), Department of Environmental Quality Rules of Practice and Procedure, Cordero sets forth the following in support of its petition for review:

1. The name and address of the person making the request is Cordero Mining Company, P.O. Box 1449, Gillette, WY 82717. The attorneys acting on behalf of Cordero are Holland & Hart, Edward W. Harris, 2020 Carey Avenue, Suite 500, Cheyenne, WY 82001.

2. The bases for review include the following:

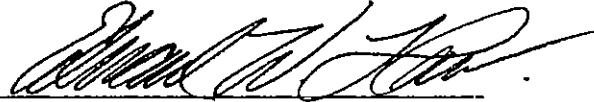
a. Conditions F9(b) and C1(b)(iii)(B) are contrary to the Wyoming Air Quality Standards and Regulations ("WAQSR") and the Wyoming Environmental Quality Act, Wyo. Stat. § 35-11-101 *et seq.*

b. The method of measuring opacity set forth in these conditions improperly varies from the applicable reference test method, commonly called Method 9 (See WAQSR Sections 14(g)(iv), 14(h)(iv), and 22 Appendix II; see also 40 C.F.R. Part 60, Appendix A, Method 9), in that the new test method specifies the use of maximum instantaneous opacity observations, not average opacity observations as required under Method 9. AQD has not demonstrated that the variation is necessary in order for test data to reflect actual emissions rates (see WAQSR Section 14(h)(iv)), nor has AQD made any effort to determine or establish the accuracy and reliability of this new test method.

c. AQD is attempting to impose this new test method generally on all surface mines through permit conditions, making these conditions, in effect, a rule or an amendment to a rule. Imposition of such rule or amended rule is improper unless AQD follows the rule-making procedures of the Wyoming Administrative Procedures Act, Wyo. Stat. § 16-3-101 *et seq.*, which it has not done.

3. Cordero requests a hearing before the EQC on this matter.

DATED this 26th day of November, 1997.



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CORDERO MINING COMPANY