

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

APR 16 1999

IN THE MATTER OF)
CYPRUS SHOSHONE)
COAL CORPORATION)
PERMIT NO. 477-T4)

Docket No. 3073-99 Terri A. Lorenson, Attorney
Environmental Quality Council

PETITION FOR REVIEW

Cyprus Shoshone Coal Corporation ("CSCC") petitions the Wyoming Environmental Quality Council ("EQC") to review the decision of the Department of Environmental Quality ("DEQ") Land Quality Division ("LQD") to deny CSCC's request to remove a rail loop from the permit area for the CSCC mine. Pursuant to Chapter I, Section 3(c), Department of Environmental Quality Rules of Practice and procedure, CSCC sets forth the following in support of its petition for review:

1. The name and address of the person making the request is Cyprus Shoshone Coal Corporation, P.O. Box 8380, Hanna, WY 82327. Legal counsel for CSCC is Edward W. Harris, Holland & Hart, 2515 Warren Avenue, Suite 415, Cheyenne, WY 82001.

2. Chapter 4, Section 2(j)(i)(A) of LQD's Coal Rules and Regulations provides that "railroad spurs shall be included within the permit area from that point that they provide exclusive service and shall be covered by the reclamation bond." Thus, railroad spurs which do not provide exclusive service should not be included within the permit area and should not be covered by the reclamation bond.

3. The rail loop currently included within CSCC's permit area and covered by CSCC's reclamation bond does not provide exclusive service. The rail loop is used by Arch Coal Company and the Union Pacific Railroad Company in addition to CSCC. CSCC has provided LQD with evidence that the rail loop does not provide exclusive service.

4. On April 7, 1999, LQD denied CSCC's request to remove the rail loop from the permit area and reclamation plan. LQD has never addressed CSCC's evidence that the rail loop does not provide exclusive service, never responded to any of the

questions raised by CSCC, and never explained the reasons for its decision to deny CSCC's request.

5. Essentially the only response CSCC has received from LQD on this issue is that LQD believes CSCC must go through the regulatory procedures to change the post-mining land use for the rail spur. However, CSCC does not believe a post-mining land use change is necessary for land that should not be include within the permit area at all, and LQD has offered no justification for requiring CSCC to perform the burdensome task of changing the post mining land use.

6. LQD's decision in this matter is directly contrary to applicable rules and regulations and beyond LQD's authority under the Wyoming Environmental Quality Act.

4. CSCC requests a hearing before the EQC on this matter. However, CSCC will also ask the Director of the Department of Environmental Quality to hold an informal conference on this issue, and respectfully requests the EQC to stay proceedings on this matter pending the outcome of the informal conference.

DATED this 16th day of April, 1999.



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(307) 778-4200

ATTORNEYS FOR
CYPRUS SHOSHONE COAL COMPANY

CERTIFICATE OF SERVICE

The undersigned hereby certifies that, in accordance with the requirements of Chapter I, Section 3(b), this PETITION FOR REVIEW was served as follows:

Two copies were directed to and served upon the Chairman of the Environmental Quality Council, Herschler Building, Cheyenne, WY 82002, by registered mail, return receipt requested.

Two copies were directed to and served upon Dennis Hemmer, Director of the Department of Environmental Quality, Herschler Building, Cheyenne, WY 82002, by registered mail, return receipt requested.

Copies of the PETITION FOR REVIEW were also served by hand delivery to the following:

Environmental Quality Council
Herschler Building, 1st Floor West
Cheyenne, WY 82002

Thomas A. Roan
Assistant Attorney General, Air
Quality Division
Herschler Building
Cheyenne, WY 82002

Richard Chancellor
Administrator, Land Quality Division
Herschler Building
Cheyenne, WY 82002


