

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

FILED

SEP 10 2001

Terri A. Lorenzon, Director  
Environmental Quality Council

IN THE MATTER OF )  
TRITON COAL COMPANY, LLC, )  
BUCKSKIN MINE ) Docket No. 01-4602  
PERMIT NO. 500-T6, TFN 3 5/322 )

STIPULATION OF FACTS

BACKGROUND

At issue before the Council is whether 33.55 acres of land in an area known as the Hay Creek Tract in Campbell County, Wyoming constitute an alluvial valley floor ("AVF") as contemplated by the Wyoming Environmental Quality Act ("Act") and the Wyoming Coal Rules and Regulations.

The Act defines an AVF as: "the unconsolidated stream laid deposits holding streams where water availability is sufficient for subirrigation or flood irrigation agricultural activities[.]" WYO. REV. STAT. § 35-11-103(e)(xviii). Regulations adopted by the Land Quality Division ("LQD") to implement the provisions of the Act define "subirrigation or flood irrigation agricultural activities" as follows:

'Subirrigation or flood irrigation agricultural activities' means the past and present use of any tract of land for the successful production of animal or vegetable life, based on regional agricultural practices, where the use is enhanced or facilitated by subirrigation or flood irrigation. These uses include, but are not limited to, the pasturing, grazing, and the cropping, cultivation, or harvesting of agriculturally useful plants whose production is enhanced or facilitated by the availability of water from subirrigation or flood irrigation. These uses do not include agricultural practices which do not benefit from the availability of water from subirrigation or flood irrigation.

Wyoming Coal Rules and Regulations, Chap. 1, Section 2(co).

Pursuant to the Act and its implementing regulations, three conditions must exist before an area may be considered an AVF and subject to additional regulatory requirements. **First**, the streambed in question must overlie unconsolidated stream laid deposits. **Second**, there must be sufficient water to provide for flood irrigation or subirrigation. **Finally**, that flood irrigation or subirrigation enhances or facilitates past or present agricultural activities.

**STIPULATED FACTS**

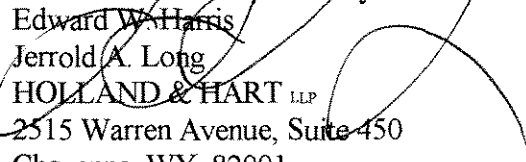
Triton and the Land Quality Division are in agreement as to the following facts:

1. The 33.55 acres in question contain unconsolidated stream laid deposits.
2. The 33.55 acres in question contain sufficient water for subirrigation or flood irrigation.

**REMAINING ISSUE FOR CONSIDERATION BY THE COUNCIL**

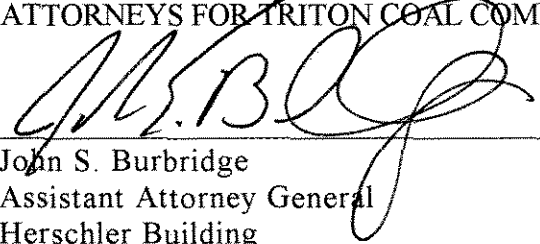
The only issue remaining for consideration by the Council is whether the subirrigation or flood irrigation that occurs in the 33.55 acres in question is sufficient to enhance or facilitate agricultural activities.

DATED September 10, 2001.



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Edward W. Harris  
Jerrold A. Long  
HOLLAND & HART LLP  
2515 Warren Avenue, Suite 450  
Cheyenne, WY 82001  
(307) 778-4200  
ATTORNEYS FOR TRITON COAL COMPANY, LLC



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John S. Burbridge  
Assistant Attorney General  
Herschler Building  
Cheyenne, WY 82002  
ATTORNEY FOR WYOMING  
DEPARTMENT OF ENVIRONMENTAL QUALITY  
LAND QUALITY DIVISION