

5. DEQ admits that, at some time, Ken Tanner transferred Permit No. 624. DEQ denies the remainder of the allegations in paragraph 4 of the Petition. According to DEQ records, Brian Good is the named permittee for Permit No. 624. DEQ is without sufficient information to admit or deny the remaining allegations regarding the details of the alleged permit transfer, and therefore DEQ denies all of those allegations.

6. DEQ admits that annual reports have been submitted for Permit No. 624 in the past. DEQ is without sufficient information to admit or deny the remaining allegations in paragraph 6 of the Petition, and therefore denies all of those allegations. DEQ does not know exactly who actually conducted mining operations, nor the exact time periods in which they conducted them. DEQ records indicate that more than one license to mine was issued for Permit No. 624. DEQ also does not know whether the annual reports that were filed are accurately described as “appropriate,” because DEQ does not know exactly what Good Bentonite intended that term to mean.

7. DEQ admits the allegations in paragraph 7 of the Petition, with one exception. To the extent the allegations in paragraph 7 of the Petition claim that Good Bentonite is the permittee for Permit No. 624, DEQ denies those allegations.

8. DEQ admits that the annual report specified in paragraph 8 of the Petition stated that, in the previous year, there were 5 acres of new disturbance and 24.35 acres of old disturbance reclaimed. DEQ denies the remainder of the allegations in paragraph 8 of the Petition. DEQ is without information to know exactly how much property was actually reclaimed or disturbed during that time period. DEQ has reason to believe that less acres were actually reclaimed than the annual report alleges were reclaimed.

9. DEQ admits all of the allegations in paragraph 9 of the Petition, except for the statement, “Despite the reduction in disturbed areas on the mine site.” DEQ denies this allegation. DEQ has reason to believe that less acres were actually reclaimed than the applicable annual report

alleges were reclaimed, and thus is without sufficient knowledge to know whether there was an actual “reduction in disturbed areas on the mine site.”

10. DEQ admits the allegations in paragraph 10 of the Petition.

11. DEQ denies all of the allegations in paragraph 11 of the Petition. DEQ states that the inspection report did not require “covering the entire disturbed mine site, excepting the Prelaw disturbed area, (whether previously reclaimed or not) with 18” of topsoil.” DEQ’s statement is supported by, among other places in the inspection report (Exhibit B to the Petition), item (6) on the fourth page of the report, which notes that for the calculation of Soil Respread: “(6) Available topsoil and subsoil to cover disturbance, pit, and bentonite stockpile areas with 18” of suitable medium (top and sub soil), not within the PreLaw envelope.” Because DEQ denies the allegations in paragraph 11 of the Petition, DEQ further denies that those allegations could have been a “main item that differed” between the proposed bond estimate and the bond amount calculated in the inspection report.

12. DEQ denies all of the allegations in paragraph 12 of the Petition.

13. DEQ denies all of the allegations in paragraph 13 of the Petition.

14. DEQ denies all of the allegations in paragraph 14 of the Petition.

15. DEQ denies all of the allegations in paragraph 15 of the Petition.

16. DEQ admits that the table, entitled “2015 Bond Estimate for Permit 624” on the fourth page of the inspection report (Exhibit B to the Petition) states “Contingency Fee (30%)”, and that the statement, itself, does not identify a citation to “statutory or regulatory authority or industry standards.” DEQ denies any other allegations that are contained, or may be implied, in paragraph 16 of the Petition, including any allegation that a contingency fee applied by DEQ is contrary to law, arbitrary, capricious, or an abuse of DEQ’s discretion. To the extent such an allegation contains legal conclusions, DEQ asserts that no response to the allegation is required. But to the extent that a response is required, DEQ denies the allegation.

17. DEQ admits that the table, entitled “2015 Bond Estimate for Permit 624,” on the fourth page of the inspection report (Exhibit B to the Petition) states “Contingency Fee (30%)”, followed by a total of approximately \$50,656 (the exact amount is obscured in the Exhibit). To the extent that paragraph 17 of the Petition alleges something different or contains additional allegations, DEQ denies all of those allegations.

ISSUES ON APPEAL:

18. DEQ asserts that the allegations in paragraph 1 in the Petition (under the heading “Issues on Appeal”) contain legal conclusions to which no response is required. To the extent a response is required, DEQ denies the allegations.

19. DEQ asserts that the allegations in paragraph 2 in the Petition (under the heading “Issues on Appeal”) contain legal conclusions to which no response is required. To the extent a response is required, DEQ denies the allegations. DEQ also denies any allegations in that paragraph that do not contain legal conclusions.

20. DEQ asserts that at least some of the allegations in paragraph 3 in the Petition (under the heading “Issues on Appeal”) contain legal conclusions to which no response is required. To the extent a response is required, DEQ denies the allegations. DEQ also denies any allegations in that paragraph that do not contain legal conclusions.

21. DEQ admits that the table, entitled “2015 Bond Estimate for Permit 624” on the fourth page of the inspection report (Exhibit B to the Petition) states “Contingency Fee (30%)”, followed by a total of approximately \$50,656 (the exact amount is obscured in the Exhibit). To the extent that paragraph 4 of the Petition (under the heading “Issues on Appeal”) alleges something different or contains additional allegations, DEQ denies all of those allegations.

DEQ also asserts that at least some of the allegations in paragraph 4 in the Petition (under the heading “Issues on Appeal”) contain legal conclusions to which no response is required. To the extent a response is required, DEQ denies those allegations.

REQUEST FOR HEARING:

22. DEQ denies all of the allegations in paragraphs 1 through 5 in the Petition (under the heading “Request for Hearing”) and asserts that the relief sought and requested by Good Bentonite is inappropriate and improper and contrary to law and should therefore be denied.

Affirmative Defenses

1. DEQ states that the Environmental Quality Council (“Council”) does not have subject matter jurisdiction over an appeal of the setting of a mine reclamation bond amount. This lack of jurisdiction, alone, warrants dismissal of the Petition.

2. As a further and separate defense, DEQ states that Good Bentonite and the Petition have failed to state a claim upon which relief can be granted.

3. As a further and separate defense, DEQ states that Good Bentonite has failed to allege valid causes of action or meet the elements or standards required to establish a violation of United States or Wyoming constitutions.

4. As a further and separate defense, DEQ states that it and its staff did not, individually or collectively, act arbitrarily, capriciously, or in abuse their discretion in any actions they took regarding the required bond amount for the mine permit identified in the Petition (Permit No. 624), including but not limited to investigating, calculating, or setting the required bond amount, determining outstanding reclamation obligations, or notifying the permittee.

5. As a further and separate defense, DEQ states that it and its staff did not, individually or collectively, act contrary to or not in accordance with law in any actions they took regarding the required bond amount for the mine permit identified in the Petition (Permit No. 624), including but not limited to investigating, calculating, or setting the required bond amount, determining outstanding reclamation obligations, or notifying the permittee.

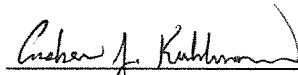
6. As a further and separate defense, DEQ states that the actions it and its staff took regarding the required bond amount are discretionary to the agency.

7. As a further and separate defense, Good Bentonite has waived the claims asserted in the Petition.

8. As a further and separate defense, DEQ reserves the right to assert additional affirmative defenses to Good Bentonite or the Petition's claims as further investigation and discovery warrant.

WHEREFORE, DEQ respectfully requests that Good Bentonite's Petition be dismissed.

DATED this 24th day of February, 2016.



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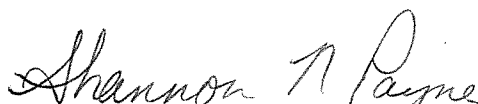
CERTIFICATE OF SERVICE

This certifies that true and correct copies of the foregoing *Response* was served this 24th day of February 2016 by email as follows:

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