

Trey Patterson

From: Shannon Anderson <sanderson@powderriverbasin.org>
Sent: Friday, March 18, 2016 3:32 PM
To: 'Mistee Elliott'; 'Jill Morrison'; Trey Patterson; 'Hal Corbett'
Subject: RE: Ramaco files appeal to EQC on surface owner consent

Hi Mistee,

I just re-read SMCRA's federal requirements for surface owner consent and there is not an "order in lieu of consent" option in the law. 30 U.S.C. 1260(b)(6)(A)-(C). Specifically, the law provides "That nothing in this chapter shall be construed to authorize the regulatory authority to adjudicate property rights disputes." And that is exactly what Ramaco is asking the EQC to do, especially when they lost summary judgment against Big Horn Coal.

So, then the question turns to whether the state law governs over the federal law – for that, you might find some helpful authority with *M.L. Johnson Family Props., LLC v. Jewell*, 27 F.Supp.3d 767 (E.D.Ky. 2014) (and the cases it relies on) as it speaks to the issue of complying with federal minimum standards, although I'm not sure how DEQ will take to that line of reasoning and whether they will be willing to admit their statute does not meet those requirements. I have not talked to OSM about this yet – I have mentioned to staff that we were watching the permitting process, but they tend to focus more on the federal coal side of things. If you think it would be helpful I'm happy to introduce you to Art Kleven in the Regional Solicitor's Office or just give him an off the record phone call on this. I could also reach out to some SMCRA specializing attorneys I know, including Walt Morris, Mark Squillace, and Joe Childers to see if they have ideas here.

Also, not sure if Hal passed along that we are meeting with landowners at the Ranchester Town Hall on Monday evening at 6:00. You're more than welcome to attend.

Thanks, and good luck - Shannon

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From: Mistee Elliott [<mailto:Mistee@Lonabaugh.com>]
Sent: Friday, March 18, 2016 2:34 PM
To: Jill Morrison; trey@padlockranch.com; Hal Corbett
Cc: Shannon Anderson
Subject: RE: Ramaco files appeal to EQC on surface owner consent

Jill,

Thanks for sending.

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From: Jill Morrison [<mailto:jmorrison@powderriverbasin.org>]
Sent: Friday, March 18, 2016 2:24 PM
To: trey@padlockranch.com; Hal Corbett; Mistee Elliott
Cc: Shannon Anderson
Subject: Ramaco files appeal to EQC on surface owner consent

All, You have probably seen this – we just found it by accident on the Wyoming EQC dockets since it was just filed this week. Looks like a Ramaco attempt to run around the law. Hopefully it will be dismissed but let us know if we can support you in an intervention.

Jill Morrison
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