

their objections in any hearing, the Fishers hereby demand that the EQC provide them with a contested case hearing before the Council as is required by Wyoming Statute §35-11-406(k).

3. The Fishers have objections to the proposed permit based on deficiencies, incompleteness, and other inadequacies and problems associated with the proposed mining and mine plan including, but not limited to, geotechnical and subsidence concerns, hydrological concerns, reclamation concerns and others. The Fishers set forth their objections and concerns in their letter to the DEQ which is attached hereto and incorporated by reference as Appendix 1¹. In addition, the Fishers adopt by reference the other concerns and objections raised by all other objectors as set forth in these parties' respective submissions to the DEQ as filed of record in EQC Docket No. 17-4801.
4. The Fisher lands are in close proximity to the proposed mining operations and within the zone of influenced property potentially impacted by the proposed mining. The Fishers are otherwise interested and effected residents of the State of Wyoming.
5. Brook Mining Company, LLC is a Wyoming limited liability company with its principal office located at 1101 Sugarview Drive, Ste. 201, Sheridan, WY 82801.
6. Brook Mine has submitted an application for a coal mining permit from the Wyoming Land Quality Division of the Department of Environmental Quality, DEQ File No. "TFN 6 2-025 (the "permit application").
7. According to the public notice, the coal mining permit area will be located in various Sections of Township 57N, Range 85W and various Sections of Township 57N, Range 84W Sheridan County, Wyoming (the "permit area").
8. Public Notice of the mine application was published by Brook Mining Co., LLC in the Sheridan Press in the form attached hereto as Appendix 2.
9. Pursuant to terms and instructions of the Public Notice published by Brook Mining Co., LLC, written objections to the proposed mining operation and application were to be delivered to and received by Kyle Wendtland, Administrator of the Land Quality Division, Department of Environmental Quality before the close of business on

¹ In Fishers' objections they raised a concern about a potential conflict of interest relative to Administrator Kyle Wendtland. Fishers have subsequently been informed that Kyle Wendtland has been fully recused from participation in this matter. Assuming this to be true, this topic will not be at issue in the contested case hearing. Fishers did not imply or intend to imply any impropriety by Kyle Wendtland or his brother Anthony Wendtland.

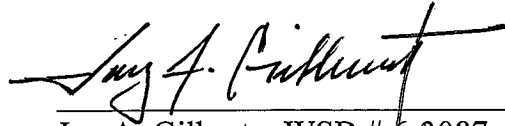
January 27, 2017. (See EQC Docket No. 17-4801.)

10. The Fishers along with several other objectors timely filed written objections to the proposed mining operation citing numerous concerns, and pursuant to the published notice from Brook Mine delivered those objections to the DEQ as directed. A copy of the Fishers' objections are incorporated by reference and attached hereto as Appendix 1.
11. The Fishers, together with other objectors, requested an informal public conference with the Director of DEQ, and that request was summarily denied.
12. In response to the objections filed by the Fishers and all the other Objectors, the DEQ referred the matter to the Environmental Quality Council ("EQC") which set a contested case hearing for February 13th and 14th, 2017 to be held in Cheyenne, Wyoming.
13. Prior to the established hearing date, the EQC invited briefing and held a hearing on the issue of whether the Objectors' complaints were properly before the Council as a result of the referral process used by the agency (the DEQ). Consequently, on February 7, 2017, the EQC issued an Order Vacating Contested Case Hearing And Setting Oral Argument on the issue for February 21, 2017.
14. The Oral Argument Hearing was held on February 21, 2017 and immediately afterward, the EQC dismissed Docket 17-4801. During its verbal pronouncements, the EQC indicated that each objector would be allowed to subsequently make a request for a contested case hearing before the EQC should any such objector wish to do so. An Order Of Dismissal was issued on February 22, 2017. (See Appendix 3 attached.)
15. Prior to the Oral Argument Hearing held on February 21, 2017, Objector Big Horn Coal filed a Petition For A Contested Case Hearing with EQC on February 15, 2017.
16. In light of the EQC's dismissal of Docket 17-4801, (which was done without the consent nor at the behest of the Fishers), the Fishers hereby demand a contested case hearing before the EQC at which their objections will be heard and addressed.

WHEREFORE, the Fishers hereby demand that the EQC set and conduct a contested case hearing before the EQC to hear and address the Fishers' objections to the proposed coal mining permit sought by Brook Mining Company, LLC.

DATED this 23rd day of February, 2017.

YONKEE & TONER, LLP



Jay A. Gilbertz, WSB # 6-3087

Attorney for Objectors

Mary Brezik-Fisher and David Fisher

319 West Dow Street

P.O. Box 6288

Sheridan, WY 82801

Telephone: (307) 674-7451

Telefax: (307) 672-6250

CERTIFICATE OF SERVICE

I, Jay A. Gilbertz, hereby certify that on the 23rd day of February, 2017, I served a true and correct copy of the above and foregoing *via certified mail, return receipt requested*, duly addressed as follows:

David Bagley, Chairman
Environmental Quality Council
122 W. 25th Street
Herschler Bldg., Room 1714
Cheyenne, WY 82002

Thomas L. Sansonetti
Isaac N. Sutphin
Jeffrey Pope
2515 Warren Ave., Suite 450
Cheyenne, WY 82003-1347
Attorneys for Brook Mining, Co., LLC

Todd Parfitt, Director
Wyoming Department of Environmental
Quality
200 W. 17th Street
Cheyenne, WY 82002

I also hereby certify that on the 23rd day of February, 2017, I served a true and correct copy of the above and foregoing *via email transmission* to the following:

Andrew Kuhlmann
Asst. Attorney General
andrew.kuhlmann@wyo.gov

Todd Parfitt
Director, DEQ
Todd.Parfitt@wyo.gov

Alan Edwards
Deputy Director, DEQ
Alan.edwards@wyo.gov


Shannon Anderson
Powder River Basin Resource Council
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Jim Ruby
Executive Officer, EQC
jim.ruby@wyo.gov



Jay A. Gilbertz

Copy to KW
BJ
AK
AE

January 22, 2017

Via Federal Express (01/24/17)

Kyle Wendtland, Administrator
Department of Environmental Quality
Land Quality Division
200 W. 17th Street
Cheyenne, WY 82002

**RE: Ramaco, LLC/Brook Mine Permit
Sheridan County, Wyoming**

Dear Mr. Wendtland:

Our property in Sheridan County is in the group of potentially affected landowners to the proposed Brook Mine Permit, and we received the Public Notice regarding this action. We have resided in this historic valley since 1996 and have run livestock and haying operations on our property. The purpose of this letter is to issue a written objection to the proposed mine permit based on the following concerns:

1. **Substantially Incomplete Mine Plan.** The mine plan has changed or been revised numerous times. It has gone from an operation purportedly employing 200-400 workers to its current version employing approximately 18-20 workers with initial projections of mining up to ten million tons per year to a revised plan of mining only two million tons in the first few years. In simple terms, local landowners are not clear on exactly what the current mine operation will entail as the current mine plan does not adequately address specific issues (to name a few, as follows): Where will the load-out facility be located? Where will infrastructure facilities be located? What type of "mobile crusher" will be used? How will the coal be transported and where? How many trucks will be on the road, how often, and what route will they take? How often will blasting occur and what are the hours of operation? Who specifically will be conducting the mine operations and what experience do they have in this type of operation (We understand that Mr. Woodring will be merely a "consultant")? Does Ramaco have a buyer/market for its coal?
2. **Ramaco's lack of history in conducting mining operations in Wyoming.** Other coal companies conducting business in Wyoming have a history of operating their mines in cooperation with local landowners and in compliance with local, state, and federal rules, regulations, statutes and procedures. For some landowners in this area, Ramaco has already demonstrated a disregard

Appendix

for "the Wyoming way" of conducting business. In our particular case, folks employed by Ramaco were caught trespassing on our property and taking soil samples without authorization. In fact, they were so blatant about it that my husband and a neighbor were out working on a baler in our hay field one afternoon and noticed two people out in our field. Those folks made no effort to come forward and identify themselves. My husband went up to them and asked what they were doing on our property and they told him they had permission to be there on behalf of Ramaco. He responded that he was the owner of the property and had not given them permission. They took the soil samples anyway and then departed. That is just one incident of several we have heard about concerning Ramaco's lack of cooperation with local landowners which does not bode well with their future operations.

3. **Soil Subsidence Issues and Sinkholes.** There have been geological surveys conducted in this area regarding the effects of coal mine subsidence in Sheridan County, specifically with respect to the area where Ramaco's mine operation will occur. Landowners are very concerned about subsidence, soil disturbance, and sinkhole issues considering how extensively this area has been mined. The mine plan does not adequately address these issues, including the possibility of re-igniting underground coal fires and measures to be taken for coal fire suppression. It is apparent that blasting within such close proximity to the old mines could further worsen the ongoing subsidence issues in this area.
4. **Damage to Water Wells and Foundations.** Affected landowners have substantial concerns that blasting operations may cause damage to the structural integrity of their water wells and foundations of homes and buildings on their property, including increasing drawdown in domestic wells. It is well-documented that previous mine operations in this same area caused damage to water wells and some were so extensive they had to be replaced. There are inadequate provisions in the current mine plan which protect landowners' ground and surface water.
5. **Air Quality, Noise and Light, and Other Health and Environmental Concerns.** The Tongue River Valley where many of the affected landowners live regularly sustains high winds in the area. The mine plan does not adequately address dust suppression measures and how mining operations will control the coal dust, dust from trucks and crushers, toxic fumes, emissions from increased truck traffic and potentially unhealthy air quality emissions due to mining operations. (Apparently no coal will be transported via rail...is that correct?) Will there be any restrictions on hours of operation, especially during high wind events? There is no provision in the mine plan for creating

a sound barrier to minimize the noise. There are concerns about coal dust blanketing the area leaving layers of dust and grime on homes, buildings, vehicles, ranch equipment, etc. Many local landowners/ranchers have livestock and horse farms which could be affected. In addition, there are health concerns regarding asthma and respiratory conditions which could arise due to mining operations. Light from the mine site will adversely affect the quality of life for residents in this area. The mine plan does not adequately address these health and safety issues.

6. **Proximity of Mine Operations to Interstate 90.** The mine operations are in very close proximity to Interstate 90, a major US highway. The mine plan does not address issues concerning potential damage to highway infrastructure and bridges, dust storms, effects of blasting, etc. on this heavily traveled major thoroughfare.
7. **Potential Pollution and Water Degradation to Tongue River and Adjacent Creeks.** The Wyoming Attorney General's Office has been involved in water law litigation with the State of Montana for well over 7 years which is finally reaching a conclusion. This involved irrigation rights and disputes between the two states regarding the Yellowstone River Compact, including the Tongue River. Given the close proximity of the Tongue River to Ramaco's mining operations, there are serious concerns about sediment runoff, wastewater issues, and potential pollution of waterways. If the Tongue River or adjacent creeks and tributaries are adversely affected by these mining operations, then the State of Wyoming could face further costly and protracted litigation over these issues. The current mine plan does not adequately address this.
8. **Inadequate Bonding and Reclamation Concerns.** It is our understanding that the bond for Ramaco's permit is only \$375,000. This seems wholly insufficient considering the potential for major impacts on air quality, pollution of Tongue River, creeks, irrigation, livestock waterway systems, etc. In addition, the bond as currently proposed does not take into account subsidence issues into the future and reclamation of the facilities and the pits. Considering the substantial increase in truck traffic, damages to county roads (including the Frontage Road) and other paved roads could be very costly to maintain and repair for the county. The approximately ten-mile long trenches associated with this mine plan could certainly require costly reclamation efforts and the current bond surely would not provide compensation to cover anywhere near those costs. Similarly, with the tremendous increase in truck traffic and other traffic from the mines on county roads, including the Frontage Road, and other paved roads in the area, safety concerns for local landowners and members of the public are huge. The potential of someone being injured

or killed as a result of the increased truck traffic is a high probability. Hwy. 345 (Frontage Road to Ranchester) recently was designated with a highway speed of 70 mph. With members of the public (including motorcyclists) traveling at that high rate of speed and slow-moving mine trucks and heavy equipment utilizing that two-lane road with great frequency, the possibility of highway accidents is imminent. The mine plan does not address these issues.

9. **Accidents or Environmental Harm.** Ramaco does not have a history of operating a highwall coal mine such as what is being proposed. How can adjacent landowners and members of the public be assured that Ramaco is capable of rectifying any potential serious accidents or harm that may occur as a result of its operations?

We understand that Ramaco faced stiff opposition to a similar plan of operation in Nottingham, Pennsylvania. Legislators, affected landowners, and members of the public (en masse) have been very vocal in expressing their concerns about deleterious effects the mining operation there could have on their quality of life, water and soil issues, and public health and safety.

10. **Impacts on Irrigation, Livestock, Wildlife, Hunting, Fishing, Recreational Activities.** The Tongue River Reservoir is located in close proximity to the mine operations and there is a very real potential that this area could be adversely affected which will have an impact on members of the public (from Wyoming and Montana) who recreate at the reservoir, including swimming, boating, fishing. A substantial number of ranchers in the area within close proximity to the mining operations have irrigation rights and conduct agricultural operations. If the waterways, ditches, drainages, reservoirs become polluted then the livelihood of a great many people in the area will be drastically affected, including impacts on livestock watering systems. In addition, the area has abundant wildlife which will also suffer.

11. **Black Diamond Trail Designation.** In addition to the prospect of the mining operations affecting the area valley designated as an alluvial valley floor, in September, 2012 the area along the frontage road between Sheridan and Ranchester (Hwy. 345) was designated as the Black Diamond Historic Mine Trail by the Sheridan Community Land Trust and the Wyoming Historic Preservation Work Group in conjunction with the Wyoming State Historic Preservation Office and Wyoming State Parks and Cultural Resources. Although not clearly defined in the mine plan, this area (Hwy 345) along the frontage road will sustain substantial truck traffic and will be impacted by dust, other air quality issues, road damage, etc. and may have an effect on this historic trail designation. There are no provisions in the current mine plan

addressing this historic designation to ensure its protection.

12. **Kleenburn Recreation Area.** This area which is in extremely close proximity to the mine operations (just east of the Acme exit off Interstate 90) is owned and operated by Sheridan County. The Wyoming Game and Fish is involved in stocking the ponds which provide members of the public the opportunity to fish for trout, largemouth bass, catfish and perch. Since its inception a few years ago, this recreation area has provided a countless number of folks, including tourists, with many hours of recreation, fishing, field trips for local school children, canoeing adventures, hiking, and many other forms of recreation. Potential pollution (air and water), noise, light, dust and truck traffic will greatly impact this area and pose adverse effects on the health and safety of not only local residents but members of the public at large. The mine plan does not adequately address this issue.
13. **Conflict of Interest.** The area landowners are concerned about a potential conflict of interest concerning Kyle Wendtland, Administrator for the Land Quality Division, whose brother, Tony Wendtland (Sheridan, Wyoming), is an attorney for Randall Atkins, CEO of Ramaco. Even if Kyle Wendtland recused himself from presiding over certain aspects of this mine plan, what assurances can be given to affected landowners that this process will be conducted, reviewed and monitored without bias or preference given to Ramaco's interests over the legitimate concerns of the public before, during, and after the mine operation? The very fact that landowners are required to submit objections to Kyle Wendtland is disconcerting. We have heard that Tony Wendtland may no longer be local counsel for Ramaco. Regardless of the current relationship between Attorney Wendtland and Ramaco, the fact is that Mr. Wendtland has provided legal representation to Ramaco throughout this critical mine permitting process.
14. **Adverse Effect On Property Values and Quality Of Life.** Local landowners are very worried about serious impacts on property values if the current mine plan is approved and they are equally concerned about threats to their quality of life. There are quite a number of landowners in this area whose property values could substantially diminish causing a significant reduction in the tax base for the county. Adverse effects from the mining operation will not only diminish property values but more importantly will endanger public health and safety and create a public nuisance.
15. **Viability of the Mine Operation.** Is the extraction of 10 million tons of coal per year even viable? Folks in this area are quite skeptical. Some who have worked in the coal mines here state that in the years of prime production, the

most that Big Horn Coal ever extracted was approximately 4 million tons. Given the potential for major detrimental impacts of Ramaco's proposed operation, is it really worth it?

CONCLUSION

We are not attempting to preclude Brook Mining Company from operating a coal mine in the proposed area, but we have legitimate concerns about the mining operation under its current plan causing permanent and irreparable harm to a pristine area rich in history which has been enjoyed by Wyoming families for generations. This area has such a documented history that a number of books and articles have been published in attempts to enlighten folks about its history and preserve the heritage of this region. Local historians and others have frequently conducted lectures and presentations highlighting the history of the area. In addition, the local museum in Sheridan has devoted specific exhibits and dioramas to exemplify the historical significance of this longstanding mining community.


Initial projections gauging an economic boom to this community (and the State as a whole) as a result of the proposed Brook Mine have proven to be substantially distorted and misleading, and promises to provide an unrealistic number of jobs in an economically depressed area should not be the incentive for approving a mining operation which may result in devastation to this community and the State of Wyoming in the long run. Several of the issues and concerns identified above have not been addressed, and they represent a public nuisance to local property owners as well as significant threats to public health and safety.

We are hereby requesting an informal hearing with the director of DEQ on this matter.

Thank you for your attention.

Sincerely,


Mary Brezik-Fisher


David Fisher

(32 Slater Creek Lane, Ranchester, WY 82839)

cc: Steve Maier, Chairman
Sheridan County Board of Commissioners

Public Notice

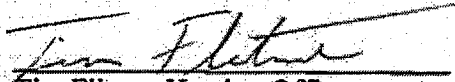
The Brook Mining Co., LLC of 1101 Sugarview Drive, Suite 201, Sheridan, WY 82801 has applied for a coal mining permit from the Land Quality Division of the Department of Environmental Quality for the State of Wyoming. The coal mining permit area will be located in: Sections 10, 11, 12, 13, 14 and 15 Township 57N, Range 85W, and Sections 7, 8, 9, 10, 15, 17, 18, 20, 21, 22 and 27 Township 57N, Range 84W Sheridan County, Wyoming. The Brook Mine is located approximately 6 miles Northwest of Sheridan, Wyoming. This area can be found on the Acme and Monarch USGS quadrangle maps. The proposed operation is scheduled to begin July 2017 and is estimated to continue until 2032. The land, after mining, will be returned to a grazing land use. Information regarding the proposed mining operation and reclamation procedures may be reviewed in the Office of the Land Quality Division of the Department of Environmental Quality in Cheyenne and Sheridan, Wyoming, the office of RAMACO in Sheridan, WY, or the Sheridan County Clerk's Office Sheridan, Wyoming. Written objections to the proposed mining operation must be received by the Administrator of the Land Quality Division, Department of Environmental Quality, 200 W. 17th Street, Cheyenne, WY 82002, before the close of business January 27, 2017. The Director may hold an informal conference if requested, hear the complaint and take action on the application in accordance with the Department's Rules of Practice and Procedure. The complainants shall have a right of appeal to the Environmental Quality Council where the complaint will be heard a second time. A conference shall be held if the Director determines that the nature of the complaint or the position of the complainants indicates that an attempt to informally resolve the disputes is preferable to a contested case proceeding. An informal conference or a public hearing shall be held within twenty (20) days after the final date for filing objections unless a different period is stipulated to by the parties. The Council or Director shall publish notice of the time, date and location of the hearing or conference in a newspaper of general circulation in the locality of the proposed operation once a week for two (2) consecutive weeks immediately prior to the hearing or conference. The hearing would be conducted as a contested case in accordance with the Wyoming Administrative Procedure Act (W.S. §16-3-101 through §16-3-115), and the right of judicial review would be afforded as provided in that act. All parties as given in W.S. §35-11-406(j) will be mailed a copy of this notice. The Wyoming Oil and Gas Commission will be mailed a copy of the application mine plan map as required by W.S. §35-11-406(j).

Appendix

Director of the Department of Environmental Quality referred this matter directly to the Council on January 30, 2017, for the Council's review and determination at a contested case matter. However, the Council may not exercise any authority over the Brook Mine permit application on a referral from the Director. Under Wyoming Statutes § 35-11-406(k) and (p) and the Department of Environmental Quality's rules of practice and procedure, the Council may only exercise jurisdiction over the Brook Mine permit application after an interested person has filed a petition for a contested case with the Council – something not done as part of this docket. The Council, in this docket, is without authority to accept jurisdiction over the Brook Mine permit application through the referral from the Director.

IT IS HEREBY ORDERED that this docket, in its entirety, is dismissed.

ENTERED this 22nd day of February, 2017.



Tim Flitner, Hearing Officer
Environmental Quality Council 