

Shannon Anderson (Wyo. Bar # 6-4402)
Powder River Basin Resource Council
934 N. Main St., Sheridan, WY 82801
(307) 672-5809
sanderson@powderriverbasin.org

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING**

IN RE BROOK MINE APPLICATION)
TFN 6 2-025) DOCKET 17-4802

**POWDER RIVER BASIN RESOURCE COUNCIL’S MOTION TO STRIKE DEQ AND
BROOK MINE “COMMENTS” ON PERMIT CONDITIONS AND TERMS**

The Power River Basin Resource Council hereby moves to strike the Department of Environmental Quality (DEQ) “comments” filed with the EQC and Brook Mining Company, LLC’s (Brook) joinder to those comments.

The Fishers’ laid out a strong cause for a motion to strike, and for the sake of judicial efficiency we incorporate their arguments by reference here. The Resource Council finds it completely disingenuous for both Brook and DEQ to represent to the parties and the EQC that they would consider conditions from the EQC during the hearing and then act to prevent the EQC from weighing proposed conditions in its decision-making process.

Furthermore, it is also important to note that DEQ specifically asked the EQC for the opportunity to “comment” on the last day of the hearing. Tr. at 1561-62. At that time the EQC was noncommittal but said it would lay out the process in a briefing order. *Id.* That order – dated June 13, 2017 – did not provide an opportunity for the DEQ – or any other party – to provide “comments” on any other parties’ proposed findings or proposed permit terms and conditions.

Therefore, DEQ and Brook's pleadings are out of order, prejudicial to other parties, and should be stricken and not considered by the EQC in its decision today.

Respectfully submitted this 1st day of August, 2017.

/s/ Shannon Anderson
Shannon Anderson
Powder River Basin Resource Council
934 N. Main St., Sheridan, WY 82801
(307) 672-5809
sanderson@powderriverbasin.org

CERTIFICATE OF SERVICE

I hereby certify that on June 30, 2017, I served a copy of the foregoing **MOTION TO STRIKE** on the following parties by electronic mail, and through the EQC's electronic filing system, which will send a notice of electronic filing to all counsel and parties of record.

Andrew Kuhlmann
James LaRock
Wyoming Attorney General's Office
andrew.kuhlmann@wyo.gov
james.larock@wyo.gov
Attorneys for DEQ

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

Jeff Pope
Isaac Sutphin
Thomas Sansonetti
Holland and Hart, LLP
JSPope@hollandhart.com
INSutphin@hollandhart.com
TLSansonetti@hollandhart.com
Attorneys for Brook Mining Co., LLC

Lynne Boomgaarden,
Clayton Gregersen
Crowley Fleck PLLP
lboomgaarden@crowleyfleck.com
cgregersen@crowleyfleck.com
Attorneys for Big Horn Coal Co.

Jay Gilbertz
Yonkee & Toner, LLP
jgilbertz@yonkeetoner.com
Attorney for Mary Brezik-Fisher & David Fisher

/s/Shannon Anderson
Shannon Anderson