



Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Matthew H. Mead, Governor



Todd Parfitt, Director

October 12, 2018

Powder River Basin Resource Council
 Attention: Ms. Shannon Anderson, Staff Attorney
 934 North Main St.
 Sheridan, Wyoming 82801



RE: Objections to the proposed Contura Coal West, LLC – PT0214 Permit Renewal Application

Dear Ms. Anderson,

The WDEQ would like to first thank you for your letter received on October 4, 2018, and respective comments. I have reviewed your comments and concerns regarding the renewal of the Belle Ayr mine permit PT0214 owned by Contura Coal West, LLC. In that correspondence, you voiced concerns regarding the permit renewal and requested an informal conference to discuss those concerns. Specifically, your concerns numbered one and two focused on the real property value and the Department's confidential treatment of the real property appraisal supporting a portion of Contura's reclamation bond. You also asked in item three several questions relating to the future plans of Contura and Blackjewel L.L.C., after the contemplated permit transfer that was sent to public notice on October 9, 2018. I will address each of these items in the order outlined above.

As an initial matter there is no statutory authority for an informal conference related to a surface coal mining permit renewal under Wyoming Statute § 35-11-405. The authority which you cited in your letter authorizes informal conferences only for new permits under Wyoming Statute § 35-11-406(k) or permit transfers under Wyoming Statute § 35-11-408. Section 406 lays out specific procedures for initial permit applications, and authorizes the director to hold an informal conference to consider objections to the permit application if one is requested by an interested person. *Id.* The Director also has the authority to hold an informal conference to consider objections to a permit transfer under Wyoming Statute § 35-11-408, which requires the transferee to "file with the administrator a statement of qualifications to hold a permit as though he were the original applicant for the permit[.]" By contrast, a valid surface mining permit is entitled to a right of successive renewal upon expiration as long as it meets certain threshold requirements, which include: that public notice has been given; that any additional revised or updated information has been provided; that the operation is in compliance with applicable laws and regulations, and that the renewal will not jeopardize the operator's responsibility on existing affected land. Wyo. Stat. Ann. § 35-11-405(e) Section 405 provides the entire process governing renewal applications and it does not authorize the Director to grant an informal conference. Therefore, your request for an informal conference cannot be granted.

Regarding your concern relating to the appraisal and valuation being utilized to support the real property collateral bond, Robert J. Brockman, ARA, and WY.CERT.Gen.153 appraiser, professionally appraised the land on July 7, 2017, and the appraisal was recertified by Mr. Brockman on July 18, 2018. I am satisfied that the appraisal adequately reflects the accurate value of the property. Blackjewel has

requested that the appraisal be kept confidential, and a copy of that request is attached for your convenience. Further, the appraisal itself states that it consists of trade secrets and commercial financial information, which is privileged, confidential and exempted from disclosure under the Freedom of Information Act. Therefore, I agree that the appraisal qualifies as confidential material under the Wyoming Public Records Act, which requires the custodian of records to deny inspection of any records which are “[t]rade secrets, privileged information and confidential commercial, financial, geological or geophysical data furnished by or obtained from any person.” Wyo. Stat. Ann. § 16-4-203(d)(v).

Finally, any questions or concerns that you have regarding how Blackjewel may satisfy its reclamation bond obligation once the permits are transferred would be better addressed during the public comment period for the permit transfer that went to publication on October 9, 2018. The application for the permit transfer is currently available to the public and those documents should answer any questions you have as to how Blackjewel will be bonded.

In response to your third question, regarding the future of Contura and Blackjewel, those inquiries would be better directed to the company as they are best situated to comment on their future plans. The Department can only base its decisions on the information provided to it in the current application and, therefore, any opinion from the Department on the future of Contura or Black Jewel would be conjecture and inappropriate.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Kyle J. Wendtland', with a long horizontal flourish extending to the right.

Kyle J. Wendtland,
Administrator, Land Quality Division

cc: Todd Parfitt, Director
James Kaste, Deputy Attorney General
Jeffrey Fleischman Casper Field Office Director OSMRE
David Berry, Western Regional Director OSMRE
Mark Thrall, Senior Environmental Manager Blackjewel LLC

BLACKJEWEL

5 October 2018

Kyle Wendtland, Administrator
Land Quality Division of the Department of Environmental Quality
200 W. 17th Street, Suite 10
Cheyenne, WY 82002

RE: Request that the Powder River Basin Resource Council's Objections be denied and that the appraisal report remain confidential.

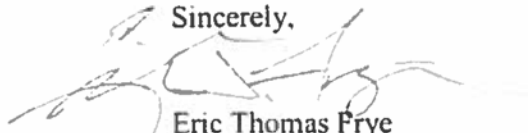
Dear Mr. Wendtland:

Blackjewel L.L.C. received a copy of the Powder River Basin Resource Council's ("PRBRC") objections the renewal of mining permit PT214 at the Belle Ayr Mine which we are currently operating. The confidentiality of the appraisal report is tantamount and vital to our continued viability and remaining competitive in the coal market. For reasons more fully outlined below, we are requesting that the Land Quality Division of the Department of Environmental Quality maintain the business secrets which were conveyed to it for the renewal of our mining permit.

The PRBRC's objections fail to take into consideration several important key factors. Coal mining and the coal market is highly competitive. Numerous competitors often seek to gain advantage over another by determining costs paid and values for certain parcels of land, reserves, or other items which may garner an edge in the market. Keeping appraisals of land secret and confidential is not only tantamount to current mining operations, but also important for valuation purposes in the event of future acquisitions and growth of the company. Simply stated, disclosing the appraisal would place us at a competitive disadvantage, not only now but into the foreseeable future. As a company working hard to provide good paying jobs for hundreds of citizens in Wyoming, we desperately need the confidentiality of the appraisal to remain that – confidential. We are currently confident in the future of the Belle Ayr mine and our stewardship with Wyoming to help ensure the Environmental Quality both during and after mining is complete.

The questions posed by the PRBRC seek information which should not be disclosed. You have done well and provided publicly needed information. We simply request now that you maintain the confidentiality of information which would place us precariously in a situation of competitive disadvantage.

Sincerely,



Eric Thomas Frye
General Counsel
Blackjewel L.L.C.