

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

**IN THE MATTER OF APPEAL OF:** )  
 )  
**LIMITED MINING OPERATION,** ) **DOCKET NO. 24-4801**  
**PEAK GRAVEL, ET0961, TFN 7 6/211** )

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**MOTION TO CORRECT CHARACTERIZATION OF  
LIMITED MINING OPERATION NOTIFICATION ET0961, TFN 7 6/211**

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THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY-LAND QUALITY DIVISION (hereinafter “DEQ-LQD”) hereby moves the Wyoming Environmental Quality Council to correct an improper characterization of Limited Mining Operation Notification ET0961, TFN 7 6/211, as follows:

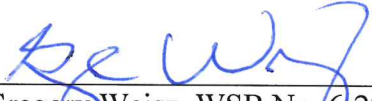
1. This case relates to an appeal of Limited Mining Operation Notification ET0961, TFN 7 6/211.
2. Peak Gravel, LLC submitted Limited Mining Operation Notification ET0961, TFN 7 6/211 to DEQ-LQD.
3. Petitioners David Schroeder and Bonnie Schroeder have filed an appeal related to Limited Mining Operation Notification ET0961, TFN 7 6/211.
4. When the Wyoming Environmental Quality Council issued its “Order Setting Scheduling Conference” in this matter on September 10, 2024, the scheduling conference order characterized Limited Mining Operation Notification ET0961, TFN 7 6/211 as “Limited Mining Operation Permit No. ET0961.”
5. The characterization of Limited Mining Operation Notification ET0961, TFN 7 6/211 as a “permit” is improper and wholly inconsistent with Wyoming law. The Wyoming Environmental Quality Act specifically defines a “mining permit” in Wyoming Statute § 35-11-

405. Under that statute, a “mining permit” is defined as a “certification that the tract of land described may be mined by an operator licensed to do so in conformance with an approved mining plan and reclamation plan.” For a limited mining operation, the operator is not required to submit a mining operation plan or a reclamation plan to DEQ-LQD. *See* Wyo. Stat. Ann. § 35-11-401(e)(vi), which contains no such provisions. Thus, a Limited Mining Operation submission is not a permit application, but is instead a notification.

6. In support of this motion, DEQ-LQD incorporates by reference the Affidavit of Kyle Wendtland of even date herewith, as if fully set forth herein.

7. For the reasons set forth in the Affidavit of Kyle Wendtland and this motion, DEQ-LQD moves the Wyoming Environmental Quality Council to issue an order correcting the improper characterization of Limited Mining Operation Notification ET0961, TFN 7 6/211 as a “permit.” To the extent it is necessary to characterize Limited Mining Operation Notification ET0961, TFN 7 6/211, it should be characterized as a “notification,” consistent with the express language of Wyoming Statute § 35-11-401(e)(vi) (which is the Limited Mining Operations statute in the Wyoming Environmental Quality Act) and the provisions of the DEQ-LQD rules, Chapter 10: Limited Mining Operations for Fifteen Acres or Less of Affected Land (which properly characterize the submission as a “notification”).

RESPECTFULLY SUBMITTED this 27<sup>th</sup> day of September, 2024.

  
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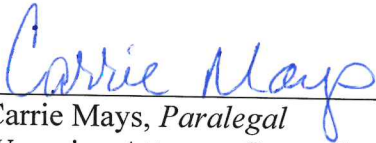
**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing document was served by email or mailing a true and correct copy, on the 27<sup>th</sup> day of September, 2024, addressed to the following:

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