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FILED

MAR 15 2010

**Jim Ruby, Executive Secretary
Environmental Quality Council**

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

IN THE MATTER OF:)
Mullinax Concrete Services Co.) Docket No. 10-4601
Limited Mining Operation Application)
TFN 5 4/117)

RESPONSE OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

The Department of Environmental Quality ("DEQ")/ Land Quality Division ("LQD") by and through its attorney, John S. Burbridge, Senior Assistant Attorney General, hereby responds to Mullinax Concrete Services Co., Inc's ("Mullinax") Supplemental Petition for Review/Request for Hearing ("Petition") and states to the Environmental Quality Council ("EQC") the following:

1. The DEQ/LQD admit the allegations contained in the first sentence of paragraph 1 of Millinax's Petition.
2. The DEQ/LQD admit the allegations contained in the first sentence of paragraph 2 of Mullinax's Petition.
- 3a. The DEQ/LQD admit the allegations contained in paragraph 3a of Mullinax's

Petition.

- 3b. The DEQ/LQD admit the allegation contained in the first sentence in paragraph 3b of Mullinax's Petition. The DEQ/LQD denies the allegations contained in the remainder of paragraph 3b of Mullinax's Petition.
- 3c. The DEQ/LQD denies the allegations contained in paragraph 3c of Mullinax's Petition.
4. Paragraphs 4a, 4b, 4c, 4d, 4e & 4f of Mullinax's Petition present issues that may be before the EQC and do not require a response. The DEQ/LQD denies any portion of the issues presented by Mullinax in paragraphs 4a, 4b, 4c, 4d & 4e that can be considered an allegation or to the extent any sort of a response could be deemed to be required.
5. Paragraph 5 of Mullinax's Petition is a request for hearing. Accordingly, no response is required. To the extent any sort of response could be deemed to be required, the DEQ denies any information in paragraph 5 that could be considered an allegation.
6. The DEQ denies each and every allegation not specifically admitted to in this response.

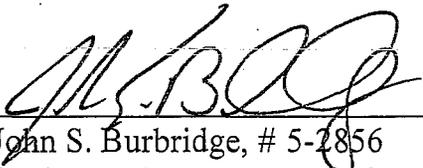
AFFIRMATIVE DEFENSES

1. Mullinax has failed to state a claim upon which relief can be granted.

WHEREFORE, the DEQ prays that the EQC enter an ORDER affirming the denial of TFN 5 4/117 by the Department of Environmental Quality/Land Quality Division.

Respectfully submitted this 15th day of March, 2010.

FOR THE DEPARTMENT OF
ENVIRONMENTAL QUALITY



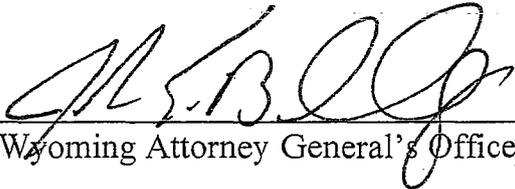
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CERTIFICATE OF SERVICE

I certify that the foregoing document was served by US. Mail, postage prepaid, and addressed correctly, to the following people on the 15th day of March, 2010:

Larry Ligocki
Mullinax Concrete Service Co., Inc.
P.O. Box 2044
Sheridan, Wyoming 82801

Anthony T. Wendtland
2161 Coffeen Avenue, Suite 301
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