

April 23, 2020

Via Email: <http://lq.wyomingdeq.commentinput.com>

Alan Edwards, Deputy Director
Department of Environmental Quality
Land Quality Division
200 W. 17th Street, Suite 10
Cheyenne, WY 82002

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

Dear Mr. Edwards:

As you know, we are landowners in close proximity to the proposed Brook Mine and have been a party to the legal proceedings concerning Brook Mine's previously submitted mine application. We received a copy of the public notice via certified mail regarding Brook Mining Co., LLC's revised permit application, and we thank you for the letter you sent to us with information on how to access the revised mine application for review and comment. We hereby submit our letter of objection and concern regarding the current version of the mine plan.

The location of this proposed mining operation is unlike any other similar operation in the State of Wyoming, and it deserves careful consideration due to that fact alone. As the largest perennial river in northeast Wyoming, Sheridan County's Tongue River Valley is the envy of many other neighboring towns and counties in Wyoming due to its pristine and verdant landscape, vital river resources, valuable agricultural commodities, and outdoor recreational opportunities. It has been the home and livelihood of countless families for many years, including generations of coal mining folks. The risks associated with approving a mine plan which still, in many respects, contains inadequate scientific study, incomplete data collection and monitoring, and negative impacts to countless landowners and members of the public should underscore the need for further consideration of the currently proposed plan.

The recent media blitz by Ramaco/Brook Mine representatives emphasized that they have worked long and hard for the last 8 years to obtain approval of a new coal mine. One can only wonder why it took so many years and an unprecedented 12 rounds of review, corrections, and scrutiny for them to get it right (and yet, significant questions remain about

the accuracy and completeness of the current plan). It has been a long and tedious 8 years for the landowners as well, **and after 8 years we are still waiting for Ramaco/Brook Mine to even once engage in public discourse with interested parties, even after repeated requests, for an opportunity to gain insight and have questions answered for those of us whose way of life in that valley will be impacted on a daily basis.** Refusing transparency or listening to concerns about their ever-changing proposed operation by simply labeling all who have questions or concerns as “activists” or “hippies” is not the manner in which reputable companies operate in Wyoming.

These are the facts, many of which were clearly established during the contested case hearing held in 2017 and in the 29-page findings from the Environmental Quality Council (EQC) outlining detailed serious deficiencies. These facts (and our concerns) apply to the currently proposed mine plan:

- There are over 100 landowners within ½ mile of the proposed mine;
- Over 350 domestic and stock water wells could be affected;
- Some of these wells (including ours) could sustain a 25' draw-down due to mining operations;
- On-going subsidence and sinkhole issues in that area are a critical component and further investigation and analysis need to be conducted. [We understand that the Land Quality Division is currently implementing mitigation work on 51 sinkholes in our area with more to follow.] According to information in the revised mine plan, consultant Agapito Associates, Inc. (AAI) was hired to investigate (on a minimal and limited scope) some of the potential mine subsidence issues but AAI itself issued a disclaimer concerning their conclusions, indicating that those conclusions were based on the limited data and scope of work “currently available”. As we understand it, the subsidence plan in the current mine plan only covers Phase I of the mine operation. (We have reviewed Dr. Marino’s detailed and thorough report concerning Brook Mine’s current mine plan relating to subsidence and defer to his expertise and conclusions as identified in that report.);
- Hydrology and impacts to the alluvial valley floor (AVF) are not adequately addressed in the current mine plan. The current plan reflects ongoing issues concerning inadequate data collection and monitoring, lack of sound scientific studies, and the use of old data in characterizing current baseline conditions. More thorough and scientifically complete studies and baseline monitoring are

needed in order to ensure that the mine operation will not cause subsidence or material damage to the hydrologic balance and the adjacent AVF. (We defer to a report which will be submitted by expert hydrologist Mike Wireman following his review and analysis of the current mine plan.);

- There are many residential homes and structures located within one-half mile of the permit boundary and blasting has the potential of being disruptive and bothersome to residents on a daily basis. There are also concerns about damage from vibrations associated with the blasting. Damage from blasting during previous mine operations in the area is well-documented, and the blasting plan described in the current mine plan is of concern especially considering the number of landowners, residences, structures and members of the public who will be residing or engaging in outdoor activities in close proximity to the mine. **We request a pre-blast survey prior to any blasting, including a down-hole review for our water well;**
- Doug Emme with the DEQ and Jeff Barron on behalf of Ramaco/Brook Mine testified at the EQC hearing that there is no provision in the mine plan to restrict or limit blasting during high wind or weather events. The revised mine plan does not include any such restrictions either and those should be imposed;
- Emme also testified that DEQ had implemented conditions on other mine permits regarding restrictions on blasting during inversions or high wind events. No such provisions or restrictions are included in the current mine plan;
- Emme testified that given the number of residential homes in such close proximity to the mine operation, it is possible to include restrictions on the blasting operation, specifically with respect to the hours and days of blasting. In its 29-page Findings of Fact, Conclusions of Law, and Order the EQC determined that it was not necessary to conduct blasting operations from sunrise to sunset 7 days per week, including holidays, and that “reasonable limits on the blasting schedule” should be imposed (§99). During the course of the hearing, it was determined that “reasonable” could be considered to include 5 days per week and a few hours later than sunrise with no blasting on holidays to help mitigate some safety concerns and adverse impacts on the many local residents in the area and members of the public who engage in outdoor activities. The current blasting plan provides for blasting operations “seven days per week between sunrise and one hour before sunset” with the exclusion of federal holidays (MP.14.10). This does not comply with

testimony at the contested case hearing from DEQ representatives and Ramaco/Brook Mine representative Barron.

- Neither Brook Mine nor DEQ presented any evidence at the contested case hearing to suggest why such restrictions on blasting were not appropriate or feasible at the proposed Brook Mine. **We request that DEQ impose additional restrictions on blasting as discussed above;**

By way of example, under this blasting schedule, on Saturday and Sunday of June 20th and 21st of this year, Ramaco could begin blasting at 05:20 in the morning and not stop until 8:00 p.m. on those nights. What justification or reason is there that Ramaco needs to be blasting on a weekend with hundreds of homes nearby at 5:20 in the morning on these days? *At a minimum, the DEQ should honor the direction of the EQC and impose by conditions a more limited blasting schedule in these unique circumstances. No justification or reason has been given for such a broad blasting schedule and allowing blasting in this nearly unrestrained fashion will have detrimental impact on the hundreds of homes and residents who live in close proximity to the mine.*

- During the course of the contested case hearing DEQ and Brook Mine agreed that it would be appropriate to include both registered and adjudicated wells in the mine plan. Upon review of the revised mine plan I am unclear if this condition has been implemented;
- At the hearing the DEQ also agreed to amend the mine plan to include additional monitoring stations upstream and downstream of the Tongue River. I believe this condition has been imposed but would like clarification on that.
- During the course of the contested case hearing, both DEQ and Brook Mine (through its engineer, Jeff Barron) repeatedly agreed to comply with conditions that the EQC deemed appropriate and reasonable. Mr. Barron specifically testified that conditions could be “useful information for the council” and conditions would be “welcome” and “accepted” (*Barron Testimony Vol. IV @ pgs. 779-780, 781-788*);
- Testimony from DEQ representatives at the contested case hearing acknowledged that seismograph monitoring would be conducted for any landowner who requests such monitoring. **We request that seismograph monitoring be conducted on our property prior to the mine’s blasting**

operation; and

- At the time of the contested case hearing in 2017 evidence was introduced that Brook Mining Company, LLC's assets were only \$250,000 or less. The 2019 report from the Wyoming Secretary of State's office reflects that Brook Mining Co., LLC's assets are currently at \$250,000 or less. That seems to be a rather significant issue in terms of reclamation costs.

Other Concerns:

- Upon reviewing the CHIA, we noted that the current mine plan states that it will be using 304,200 gallons of water daily during its mine operation (111 million gallons per year). It also states that 87% of the water will come from surface water rights which Brook Mine has not yet secured. (Pgs. 159-160) How can the mine permit be deemed accurate and complete when such an important and vital component has not been solidified? Shouldn't documentation of these water rights be required before the permit is deemed complete? If Ramaco cannot get its supposed surface water rights will it then turn to pumping the water from the ground, further impacting domestic water wells like ours and our neighbors' wells which are in the vicinity?
- The subsidence plan only addresses the first phase of the mine plan. It is premature, then, to deem the entire mine plan as accurate and complete. After reviewing and assessing comments and concerns raised by experts, landowners, and members of the public, before DEQ makes a final decision it is strongly suggested that if/when they approve the current version of the mine plan, they deem only Phase 1 accurate and complete and revisit these issues and potential adverse impacts of the mining operation before approving the next phase.
- Regarding blasting, the current mine plan states that the mine "may" hire a contractor to conduct seismographic monitoring within the permit area at certain structures. Given the location of the proposed mine surrounded by active and abandoned underground mines, we believe that the provision in MP.14.7 should state that the mine "will" hire a contractor to conduct seismographic monitoring and DEQ should make this a condition of the permit if it approves the application.
- MP.14.11 Traffic Control Plan. The mine plan acknowledges that the blasting operations could potentially affect public roads and could result in road

blockages and/or road closures. Will this include potential closure or blockage of the frontage road to/from Ranchester and Interstate 90, a main artery of travel? If so, this would cause a major disruption in travel to countless travelers both local and nationwide.

- Road Use and Damage. The current mine plan does not include a detailed transportation plan. We still do not know how the coal will be transported, where, and what impact this will have to the scores of landowners who utilize the frontage road and other county roads on a daily basis. In addition, transportation of coal trucks on the frontage road will be a major concern, given the fact that we have slow-moving heavy agricultural equipment and machinery utilizing the frontage road on a frequent basis, as well as motorcyclists, bicycle riders, and runners on that road. In addition, there are no provisions in the current mine plan for damage assessment of roads utilized in the mine operations or designation of who will be responsible for maintaining those roads.
- Kleenburn Recreation Area and Impacts on Other Recreational Use. There are numerous walk-in areas, hiking, fishing, hunting, bird watching and other recreational activities in close proximity to the proposed coal mine. There are very real safety concerns for landowners and members of the public who engage in these recreational activities, especially during the proposed “7-day all day” proposed blasting schedule. 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. There are plans being implemented for further recreational development in that area with the renovation of the old Acme Power Plant and upon completion of that project, even more people will be invited to participate in recreation in that area. The mine plan does not adequately address safety issues and other impacts pertaining to the substantial recreational use and development of that area which is within such close proximity to a mine operation.
- Impacts on Irrigation. A substantial number of ranchers in the area (and into Montana along the Tongue River) within close proximity to the mining operation have irrigation rights and conduct agricultural operations. If the waterways, ditches, drainages, reservoirs and river become polluted or experience draw down, then the livelihood of a great many people in the area will be drastically affected, including impacts on livestock watering systems. The current mine plan does not provide adequate safeguards for the river and adjacent waterways.

- Potential Pollution and Water Degradation to Tongue River and Adjacent Creeks. The Wyoming Attorney General's Office had been involved in water law litigation with the State of Montana for well over 7 years which finally reached 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, draw down 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, including renewed litigation with the State of Montana. The current mine plan does not adequately address this.
- Coal Storage. Where will the load-out facility be located? Where will infrastructure facilities be located?
- Viability of a new coal mine in the Tongue River Valley. As stated above, this is a unique and treasured area to scores of landowners and members of the public. A serious and comprehensive assessment should be given to such a proposal considering the risks of permanent and costly damage which in many ways will be irreparable to the environment and Wyoming's natural resources. Layoffs, bankruptcies and closures continue at Wyoming coal mines (just recently more layoffs at Peabody), the coal industry is in dire straits, and there is no information provided in the mine plan on the marketability or viability of Brook Mine's coal operation.

We are hereby submitting our request to the director of DEQ for an informal hearing and a tour of the mine site regarding the revised Brook Mine permit.

Thank you for the opportunity to respond.

Sincerely,


Mary Brezik-Fisher and David Fisher

MBF

cc: Todd Parfitt, Director of DEQ
Sheridan County Commissioners
Jay A. Gilbertz, Yonkee & Toner, LLP
Senator Dave Kinskey, Wyoming Senate District 22