

FILED

MAY 14 2010

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

Jim Ruby, Executive Secretary  
Environmental Quality Council

IN THE MATTER OF THE PETITION  
TO DECLARE AN AREA  
COMMONLY KNOWN AS SAND  
CREEK, VERY RARE OR  
UNCOMMON

Docket No. 09-1103

MINERAL HILL, LP REPLY TO PETITIONER'S  
RESPONSE IN OPPOSITION TO  
MOTION TO STRIKE AND DISMISS

COMES NOW Mineral Hill, L.P., by and through its attorney, Daniel B. Frank of Frank Law Office, P.C. and files its Reply to the Petitioners' *Reply to Motion to Strike and Dismiss*.

On October 5, 2009, Mineral Hill, LP, by and through its General Partner, filed a *Motion to Strike and Dismiss* the Petition herein on the basis that the Petitioners' representatives were engaging in the unauthorized practice of law, as evidenced by the letter of September 21, 2009 from the Unauthorized Practice of Law Committee of the Wyoming State Bar.

On May 4, 2010, the Petitioners filed their *Reply* to which they attached the letter dated November 6, 2009 in which the Committee did not find that Erik Molvar was engaging in the unauthorized practice of law by preparing petitions to be submitted to the Environmental Quality Council (EQC) given that he is the executive director of the Biodiversity Conservation Alliance, but prohibiting him from representing any entity of

which he is not an officer or full-time employee:

The EQC Rules, a state administrative regulation, permits Molvar, the executive director, to represent Biodiversity Conservation Alliance in EQC proceedings. Pursuant to the exceptions of Rule 11.1(c), Molvar's representation is NOT the unauthorized practice of law. There is one caveat. If Molvar appears on behalf of other entities that he is no *[sic]* a corporate officer for or a full time employee he would be committing the unauthorized practice of law. Please let me know if you disagree or believe I have missed anything.

In the instant Petition, submitted August 12, 2009, the Petitioners are listed as:

Biodiversity Conservation Alliance  
Erik Molvar  
Jeff Kessler  
Wayne Prindle  
PO Box 1512  
Laramie, WY 82073

There is no indication on the Petition that the Biodiversity Conservation Alliance (BCA) is a corporate entity nor is there any explanation in the Petition of the status of BCA or the capacities in which Messrs. Molvar, Kessler and Prindle are acting with respect to the Petition. Furthermore, there is no indication in the Petition whether Messrs. Molvar, Kessler and Prindle are corporate officers or full-time employees of the BCA. In the absence of these specific representations in the Petition itself, the Petition is still a nullity for the reasons expressed in Mineral Hill, LP's *Motion to Strike and Dismiss*.

Moreover, the Petition provides on the first page that it is "endorsed" by several entities. However, there is no indication that these entities have actually endorsed the Petition due to lack of a signature from each of those entities proving their "endorsement" or what those entities mean by an "endorsement" versus being represented by Messrs.

Molvar, Kessler and Prindle in an illegal capacity. Thus, the “endorsements” are of questionable validity as is the Petition.

As an additional matter, the Petition contains no signature of any Petitioner or representative of a Petitioner. As a result, the Petition itself is null and void for lack of a signature and representative capacities of the named individuals and the EQC lacks jurisdiction to consider the Petition.

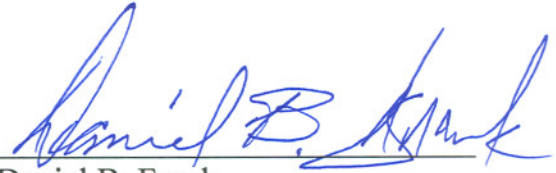
Although the EQC Rules at Chapter 7 do not specifically require a petitioner to sign a petition, the Unauthorized Practice of Law Committee noted that the EQC Rules, Chapter 2 § 6 allow an officer or full-time employee to represent a corporate entity before the EQC. The same EQC Rules at Chapter 2, § 14 also provide that the Wyoming Rules of Civil Procedure (WRCP) apply to proceedings before the EQC. In turn, WRCP 11(a) provides:

Every pleading, written motion, and other paper shall be signed by at least one attorney of record in the attorney's individual name, or, if the party is not represented by an attorney, shall be signed by the party. Each paper shall state the signer's address, telephone number, and attorney number, if any. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. An unsigned paper shall be stricken unless omission of the signature is corrected promptly after being called to the attention of the attorney or party.

The Petition in this case should never have been accepted for filing before the EQC due to the lack of signature(s). Furthermore, because Messrs. Molvar, Kessler and Prindle are not attorneys they cannot represent BCA unless they are full-time employees or officers of the corporation, which assertion is lacking in the Petition. The Petition is fatally defective and a nullity. Therefore, the EQC lacks jurisdiction over the Petition and it should be

dismissed.

RESPECTFULLY SUBMITTED this 11<sup>th</sup> day of May, 2010.



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Attorney for Mineral Hill, LP

#### CERTIFICATE OF SERVICE

I, the undersigned, certify that I served a true and correct copy of the foregoing by telefacsimile and placing same in the U.S. Mail, postage prepaid, on the 11 day of May, 2010 addressed to the following:

FAX: 307-742-7989

Erik Molvar

P.O. Box 1512

Laramie, WY 82073

