

STATE OF SOUTH DAKOTA )  
 )  
 ) :SS  
COUNTY OF HUGHES )

IN CIRCUIT COURT  
  
SIXTH JUDICIAL CIRCUIT

IN THE MATTER OF THE PREVENTION  
OF SIGNIFICANT DETERIORATION (PSD)  
AIR QUALITY PERMIT APPLICATION OF  
HYPERION ENERGYCENTER --  
HYPERION REFINING LLC  
Permit # 28.0701-PSD

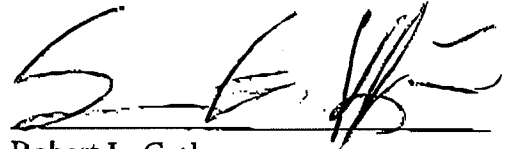
Civ. 09- 400

NOTICE OF APPEAL

TO: Charles D. McGuigan, Counsel for the Board of Minerals and Environment  
Roxanne Giedd, Counsel for the Department of Environment and Natural Resources  
Frederick W. Addison, III, and Todd Meierhenry, Counsel for Hyperion Resources, LLC

You will please take notice that the Intervenors, Save Union County, Citizens Opposed to Oil Pollution and Sierra Club, appeal to the Circuit Court of Hughes County from the final judgment of the Board of Minerals and Environment granting Permit # 28.0701-PSD, notice of which was served upon the parties on August 20, 2009.

Dated this 15<sup>th</sup> day of September, 2009.

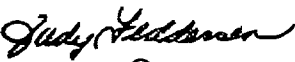



Robert L. Graham  
IL Bar No. 01030825  
Admitted *pro hac vice*  
Gabrielle Sigel  
IL Bar No. 6186108  
Admitted *pro hac vice*  
Allison A. Torrence  
IL Bar No. 6290669  
Admitted *pro hac vice*  
Jennifer L. Cassel  
IL Bar No. 6296047  
Admitted *pro hac vice*  
Jenner & Block  
330 North Wabash Avenue  
Chicago, IL 60611  
Tel: (312) 923-2785  
Fax: (312) 840-7785

STATE OF SOUTH DAKOTA  
CIRCUIT COURT, HUGHES CO.

**FILED**

SEP 17 2009

 Clerk  
By  Deputy

)

)

John H. Davidson  
S.D. Bar No. 1771  
31275 Saginaw Avenue  
Vermillion, SD 57069  
Tel: (605) 624-3629

Sam E. Khorooosi  
Khorooosi Law Office  
300 N. Dakota Ave., Ste. 204  
Sioux Falls, SD 57104

*Attorneys for Appellants*

**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that a true and correct copy of the foregoing NOTICE OF APPEAL in the above captioned matter was served upon the following via U.S. Mail, first class postage prepaid:

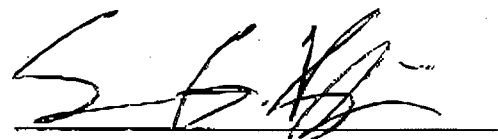
Todd Meierhenry  
Meierhenry & Sargent LLP  
315 S. Phillips Ave.  
Sioux Falls, SD 57104  
*Counsel for Hyperion Resources LLC*

Frederick W. Addison, III  
Munsch, Hardt, Koph & Harr, PC  
3800 Lincoln Plaza  
500 N. Akard Street  
Dallas, TX 75201-6659  
*Counsel for Hyperion Resources LLC*

Charles D. McGuigan  
Chief Deputy Attorney General  
State of South Dakota  
Office of the Attorney General  
1302 East Highway 14, Suite 1  
Pierre, SD 57501  
*Counsel for the Board of Minerals and Environment*

Roxanne Giedd  
Deputy Attorney General  
State of South Dakota  
Office of the Attorney General  
1302 East Highway 14, Suite 1  
Pierre, SD 57501  
*Counsel for Department of Environment and Natural Resources*

Dated this 15<sup>th</sup> day of September, 2009.

  
\_\_\_\_\_  
Sam E. Khorroosi