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Division of Financial & Technical Assistance

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MINERALS & MINING PROGRAM

STATE OF SOUTH DAKOTA

CIRCUIT COURT

PENNINGTON COUNTY

SEVENTH JUDICIAL CIRCUIT

IN RE: FINAL DECISION OF BOARD OF MINERALS AND ENVIRONMENT OF SOUTH DAKOTA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES TRANSFERRING EXPLORATION NOTICE OF INTENT EXNI-427 FROM MINERAL MOUNTAIN RESOURCES LTD. TO MINERAL MOUNTAIN RESOURCES (SD) INC.

CASE NO.
51CIV18-000304

**STATEMENT OF ISSUES
ON APPEAL**

A. GAY KINGMAN, STEVEN C. EMERY, AND ROBIN L. ZEPHIER,

Plaintiffs-Appellants,

vs.

MINERAL MOUNTAIN RESOURCES LTD.,
MINERAL MOUNTAIN RESOURCES (SD), INC.,

Defendants-Appellees.

COME NOW A. Gay Kingman, Steven C. Emery, and Robin L. Zephier, pursuant to S.D.C.L. § 1-26-31.4, and file this Statement of Issues on Appeal. Plaintiffs-Appellants intend to present the following issues on appeal:

1. Whether the Final Decision of the Board of Minerals and Environment of the South Dakota Department of Environment and Natural Resources (“DENR”) Transferring Exploration Notice of Intent EXNI-427 from Mineral Mountain Resources Ltd. to Mineral Mountain Resources (SD) Inc., dated January 18, 2018 (hereafter “Final Decision”), was arbitrary, capricious or contrary to law.

2. Whether the Final Decision was arbitrary, capricious or contrary to law in that the Exploration Notice of Intent EXNI-427 was void, invalid, and incapable of being transferred because:

a. It was issued to Mineral Mountain Resources Ltd., a foreign corporation organized and existing under the laws of British Columbia, Canada;

b. Mineral Mountain Resources Ltd. did not, and does not, have a certificate of authority from the Office of the Secretary of State to transact business in South Dakota, pursuant to S.D.C.L. § 47-1A-1501; and

c. Mineral Mountain Resources Ltd. was not, and is not, authorized or eligible to file a notice of intent to conduct a mineral exploration operation in South Dakota; and

d. Mineral Mountain Resources Ltd. was not, and is not, authorized or eligible to receive permission to conduct a mineral exploration operation or engage in exploratory mining in South Dakota;

e. Mineral Mountain Resources Ltd. was not, and is not, authorized or eligible to conduct a mineral exploration operation or engage in exploratory mining in South Dakota, under S.D.C.L. ch. 45-6C or otherwise; and

f. On information and belief, the Exploration Notice of Intent EXNI-427 was issued based on false information and the false premise submitted by Mineral Mountain Resources Ltd. that it had the authority to conduct an exploration operation on the lands described in the application.

3. Whether the Final Decision was arbitrary, capricious or contrary to law in that the Exploration Notice of Intent EXNI-427 was void, invalid, and incapable of being transferred because, on information and belief, the Exploration Notice of Intent did not and does not:

a. Comply with the requirements of S.D.C.L. ch. 45-6C, including but not limited to the requirements set forth in S.D.C.L. §§ 45-6C-6, 45-6C-7, 45-6C-8, and 45-6C-9;

b. Comply with the notice form requirements in S.D.C.L. § 45-6C-7;

c. Contain an adequate plan of reclamation pursuant to S.D.C.L. § 45-6C-8;

or

d. Contain an adequate map of the exploration area pursuant to S.D.C.L. § 45-6C-9.

4. Whether the Final Decision was arbitrary, capricious or contrary to law in that, on information and belief, the original operator, Mineral Mountain Resources Ltd., was not in compliance, or capable of being brought into compliance, with all applicable local, state, and federal laws pertaining to the operation before the purported transfer of the Exploration Notice of Intent EXNI-427 from Mineral Mountain Resources Ltd., to Mineral Mountain Resources (SD) Inc.

5. Whether the Final Decision was arbitrary, capricious or contrary to law in that, on information and belief, the successor operator, Mineral Mountain Resources (SD) Inc., was or is in violation of state statutes, rules, notice restrictions, mining permit conditions, or requirements with respect to any exploration or mining operation in the state.

6. Whether the Final Decision was arbitrary, capricious or contrary to law in that the Exploration Notice of Intent EXNI-427 was and is invalid for the reasons set forth herein and contrary to the public interest because the mineral exploration it authorizes will pollute or otherwise adversely affect the land, natural resources, and water in the Black Hills and will pollute or otherwise adversely affect the flow of water in Rapid Creek, which feeds Pactola Lake, which

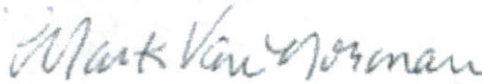
is the largest reservoir in the Black Hills and provides drinking water to residents and persons who visit Rapid City, South Dakota.

Dated: March 2, 2018

**A. GAY KINGMAN, STEVEN C. EMERY,
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CERTIFICATE OF SERVICE

I certify that on March 2, 2018, true and accurate copies of this Statement of Issues on Appeal were served, by U.S. mail, postage prepaid, facsimile, and electronic mail upon the following:

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