

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF A PETITION TO)
RECLASSIFY A PORTION OF BEAVER)
CREEK, LOCATED IN FREMONT COUNTY,)
WYOMING, FROM A CLASS 2 SURFACE)
WATER TO A CLASS 3 SURFACE WATER)

STATEMENT OF PRINCIPAL REASONS FOR ADOPTION

On January 23, 1992, Amoco Production Company, a Delaware Corporation (the Petitioner), petitioned the Environmental Quality Council (the Council) for a hearing concerning the determination of the Department of Environmental Quality, Water Quality Division (the DEQ) that Beaver Creek, located in Fremont County, Wyoming, is a Class 2 surface water. The Petitioner, asked the Council to reclassify the lower portion of Beaver Creek to a Class 3 surface water. Specifically, the Petitioner sought to reclassify that portion of Beaver Creek from its confluence with Little Sand Draw in the NE 1/4, S35, T33 N, R96W, Fremont County, Wyoming, downstream to the intersection with the Wind River Indian Reservation boundary located in the NE1/4, S19, T34N, R96W, Fremont County, Wyoming.

Chapter I, Section 4 of the Wyoming Water Quality Rules and Regulations defines Class 2 surface waters as, "those surface waters, other than those classified as Class 1, which are determined by the Wyoming Game & Fish Department (Game & Fish) to be presently supporting game fish or have the hydrologic or natural water quality potential to support game fish." Section § 35-11-112, W.S. 1977, as amended, states that it is the responsibility of the Council to promulgate rules and regulations necessary for the administration of the Environmental Quality Act. Therefore, the Council has the responsibility to review those classifications of surface waters in Chapter I of the Water Quality Rules and Regulations. The Council held a hearing on the Petition to Reclassify on August 26, 1992, at the Central Wyoming College, Dobler Room, Administration Building, 2660 Peck Avenue, Riverton, Wyoming. A notice of the hearing was published by the DEQ in newspapers of general circulation in Fremont County, Wyoming and in the State. In addition, a copy of the public notice was sent to all persons on a mailing list maintained by the DEQ. The public notice documentation is maintained in the Council's permanent record.

At the hearing held by the Council no opposition to the proposed reclassification was voiced. Evidence was presented by the Petitioner to support the proposed reclassification. The Game &

Fish reviewed the petition to reconsider the classification of Beaver Creek and conducted a survey of the pertinent portion of Beaver Creek. The Game & Fish concluded that the proposed reclassification from a Class 2 surface water to a Class 3 surface water is consistent with information collected by the Game & Fish field biologist in Fremont County. The Game & Fish did not object to the proposed reclassification.

The DEQ testified that it deferred to Game & Fish on the question of whether Beaver Creek has the ability to support game fish. As Game & Fish stated that the section of Beaver Creek of concern here cannot support game fish, and therefore cannot meet the requirements for a Class 2 stream, DEQ was satisfied that lowering the stream classification from Class 2 to Class 3 is a proper course of action.

Members of the Council considered the Petition to Reclassify at a regularly scheduled public meeting held on October 22, 1992. After discussion of the record the Council members voted unanimously to change the classification of that portion of Beaver Creek specified in the Petition from a Class 2 to a Class 3 surface water. The Council concluded that it would be fulfilling its responsibilities to protect, enhance, preserve, and plan the use of the water resources of the state in allowing the reclassification.

Subsequent to the decision of the Council, a Statement of Reasons setting forth the Council's decision on the reclassification was not prepared by the parties to the case or the Council. The Council did not detect the absence of the Statement of Reason until the fall of 1993. The Council then prepared a Statement of Reasons for the reclassification which was signed by the Council members and filed with the Secretary of State on December 27, 1993. Because of the delay in filing the Statement of Reasons, it was determined that the Council should reconsider the petition and ratify its decision to reclassify.

On April 5, 1994, a public notice was published in the Riverton Ranger, in the Casper Star-Tribune, and the Wyoming State Journal, newspapers of general circulation in the state of Wyoming. The notice informed the public that the Council opened the record in the matter of the reclassification of Beaver Creek for additional public comment. The notice stated that if sufficient general public interest was indicated, the Council would hold a public hearing, and if a hearing was held, public notice of the hearing time and location would be published in statewide newspapers. A deadline for comments was established on June 1, 1994.

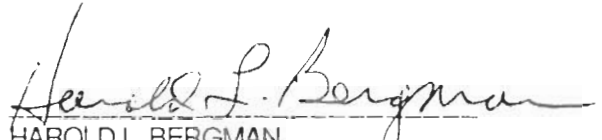
The Council did not receive additional comments on the reclassification of Beaver Creek. The Council members who had not previously participated in the Beaver Creek case reviewed the record, and the Beaver Creek reclassification was placed on the Council agenda for its meeting on June 24, 1994. The Council agenda was circulated to the Council's mailing list.

On June 24, 1994, the Council again voted unanimously to reclassify that portion of Beaver Creek located in Fremont County that is described in this statement. The classification shall be changed from Class 2 (capable of supporting cold water game fish) to Class 3 (capable of supporting non-game fish). The Council hereby ratifies its earlier decision that it is fulfilling


its responsibilities to protect, enhance, preserve, and plan the use of water resources of the state in making this reclassification.

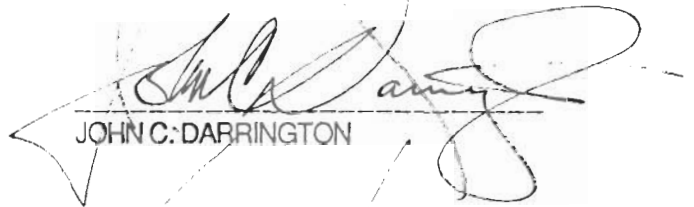
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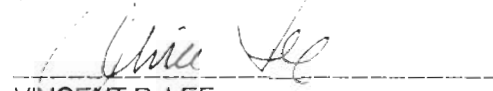
ENVIRONMENTAL QUALITY COUNCIL

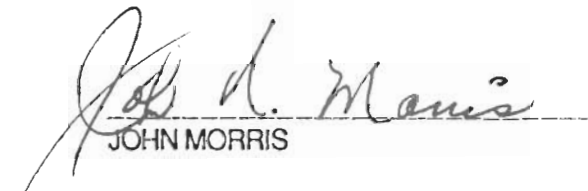

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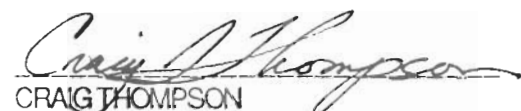

KIM D. CANNON


FRED CARR


JOHN C. DARRINGTON


VINCENT R. LEE


JOHN MORRIS


CRAIG THOMPSON