Members Present: Olin D. Sims, Chair  
Mark Gordon, Vice-Chair  
Jon E. Brady, Secretary  
Sara Flitner  
Wendy Hutchinson  
John Morris  
Richard C. Moore P.E.

Others Present: Terri A. Lorenzon, Director, Joe Girardin, Paralegal, Sandy Padilla, Executive Assistant, Environmental Quality Council; John Corra, Director, John Wagner, Administrator, Water Quality, Dan Olson, Tina Anderson, Air Quality, Roberta Hoy, Georgia Cash Hoenig, Steve Ingle, Land Quality, DEQ; Mike Barrash, Nancy Vehr, Attorney General’s Office; Matt Grant, Wyoming Mining Association; Richard Long, EPA Region 8; Steve Collings, Bill Kearney, Power Resources Inc.; Oscar Paulson, Kennecott Uranium Company; Donna Wichers, COGEMA Mining, Inc.; Bob Tarantola, Pacificorp; Ed Harris, Holland & Hart; Steve Jones, Wyoming Outdoor Council; Jennifer Franzen, Wyoming Tribune-Eagle; Kate Fox, Davis & Cannon; Justin Williams, Vic Gerber, Wyoming Department of Agriculture; Terry B. Jones, Wyoming Crop Improvement Association; Ken Hamilton, Jim Hefenider, Wyoming Farm Bureau; Kara Brighton, Hageman & Brighton; Don Britton, Wheatland Irrigation District; Susan Patterson, Deaver Irrigation District; Bryant Startin, Shoshone Irrigation District; Bert Hazer, Willwood Irrigation District; Donna Humphrey, Laramie County; Dolly Potter, Solvay Chemicals; Roy Liedtke, Cordero-Rojo Mine; and Vern Stalter, Wyoming Game & Fish.

NOTE: A full transcript of this meeting is available which includes the hearings.

1. Call to Order:

Chairman Sims called the meeting to order at approximately 9:02 a.m. at the Cheyenne City Council Chambers, Cheyenne, Wyoming. Chairman Sims introduced the Council and staff present and stated there was a quorum of members present.


Mr. Brady moved to approve the minutes as distributed and Ms. Hutchinson seconded the motion. There were a couple of typographical errors discussed. All were in favor of approving the minutes as amended.
3. Proposed Rulemaking to amend Chapter 10, Smoke Management of the Wyoming Air Quality Standards and Regulations - AQ

Mr. Moore took over the meeting sitting as the Hearing Examiner for the rulemaking hearing. After comments by Petitioners, DEQ, EPA and interested parties in attendance, the rule package was approved with amendments.

The council adjourned for lunch from 11:30 a.m. to 1:00 p.m. Chairman Sims resumed the meeting at 1:09 p.m. Discussion was held on the Statement of Principal Reasons being sufficiently broad enough to encompass the amendments to the rule package. It was determined the Statement would adequately cover the amendments. Ms. Hutchinson moved and Mr. Moore seconded to approve the Statement of Principal Reasons for the revisions to Chapter 10 of the Air Quality rules. All were in favor and the motion passed.

4. Decision on proposal to revise Chapters 7 and 11 of the Noncoal Rules and Sections 4(d)(vi) and 4(d)(viii)(B) of Chapter 8, “Quality Standards for Wyoming Groundwaters” and an update to Table I, Section 5 of Chapter 8 - LQ

Chairman Sims recessed the meeting at 1:11 p.m. Hearing Examiner Brady reconvened the rule making hearing on the proposal to revise Chapters 7 and 11 of the Noncoal Rules and certain sections of Chapter 8. Discussion was held regarding the proposed changes and presentations by the parties. The hearing was adjourned at 3:41 p.m., at which time Chairman Sims called the Council meeting back to order. After discussion was held on proposed amendments, Mr. Moore moved and Ms. Hutchinson seconded to approve the rule package with the proposed changes. All were in favor and the motion passed.

The meeting was adjourned until 9 a.m., February 18, 2005.

Chairman Sims called the meeting to order at 9:02 a.m., February 18, 2005 and recessed the meeting to hear oral argument in EQC Docket No. 02-3803.


Hearing Examiner Richard Moore convened Oral Argument in EQC Docket No. 02-3803. Both Mr. Gordon and Ms. Hutchinson disclosed their personal connections to the case and stated they did not feel they had any conflicts. After oral arguments were presented by all three parties and Council’s questions were answered, the hearing was adjourned at 11:30 a.m.

Chairman Sims recessed the Council meeting until 1:00 p.m.

Chairman Sims reconvened the meeting at 1:05 p.m. Mr. Gordon moved to defer a decision on the arguments and to proceed to hearing. Ms. Flitner seconded the motion. Ms. Lorenzon advised
the Council on the procedure for proceeding to hearing. A vote was held on Mr. Gordon’s motion and the motion failed.

Mr. Moore then moved to grant Petitioner’s Summary Judgment motion, Item No. 1., and Ms. Hutchinson seconded. A vote was held and Mr. Moore’s motion failed. Mr. Moore then moved to grant Petitioner’s Summary Judgment motion, Item No. 2, and Mr. Gordon seconded. This motion also failed on vote. Mr. Moore then moved to defer a decision on Petitioner’s Summary Judgment motion, Item No. 3., and Mr. Gordon seconded. All were in favor of the motion and the motion passed. Ms. Lorenzon asked the parties to submit a proposed hearing schedule by Friday, February 25, 2005.

**Letter from Kennecott Energy**

The Council was asked by letter from Roy Liedtke of Kennecott Energy Company, Cordero Rojo Mine, to clarify a decision made at an EQC hearing held in Gillette on November 18 and 19, 2002. The hearing had involved an interpretation of the definitions of pastureland and grazing land in the Land Quality Division (LQD) Rules and Regulations. The Council’s decision had stated that an area “dominated” by an adapted domesticated forage plant was a pastureland according to the definitions. LQD had been interpreting the EQC’s use of the word “dominant” to mean “over 50%.” The Council clarified by agreeing with Mr. Liedtke that the definition of dominant in their decision should be interpreted as defined by the rules for dominant in Appendix A of the rules. That definition is “the species with the greatest density relative to all other species sampled.”

**Statement of Principal Reasons**

Mr. Morris moved to approve both Water Quality rule revision Statements of Principal Reasons and Ms. Flitner seconded. Ms. Hutchinson moved to amend page 3 and Mr. Gordon seconded the motion. All were in favor and the motion to amend passed. A vote was taken on Mr. Morris’ motion to approve and all were in favor to approve the amended Statements of Principal Reasons. Ms. Flitner moved to have the Hearing Examiner sign the Statements and Ms. Hutchinson seconded the motion. All were in favor and the motion passed.

Mr. Chancellor reviewed the changes to Land Quality’s Statement of Principal Reasons. After discussion, it was decided to have Mr. Chancellor provide the Council with slip sheets showing the changes made to the Statement. The Council will consider the revised Statement during a conference call on February 28, 2005, at 8:30 a.m.

Mr. Morris proposed electing officers. Discussion was held on when the Council normally elects officers. After the discussion, Mr. Morris moved and Ms. Flitner seconded to hold the election at the current meeting. All were in favor and the motion passed.

Chairman Sims nominated Mr. Gordon as Chairman and Ms. Flitner seconded the nomination. Mr. Gordon was elected by unanimous vote. Mr. Morris nominated Mr. Brady as Vice-Chairman and Mr. Moore as Secretary. Mr. Sims seconded the nomination and all were in favor. Mr. Brady and Mr. Moore were elected by unanimous vote.
6. **Schedule next meeting.**

The next meeting will be scheduled after the new Council members are appointed.

Ms. Flitner and Mr. Gordon thanked outgoing Chairman Sims for his leadership and everything he has done for the Council.

There being no further business to come before the Council, Chairman Gordon adjourned the meeting at 3:35 p.m.

RESPECTFULLY SUBMITTED,

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Richard C. Moore P.E., Secretary

Approved by:

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Mark Gordon, Chairman

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Date