

FILED

MAR 07 2008

**BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL OF THE
STATE OF WYOMING**

Terri A. Lorenzon, Director
Environmental Quality Council

**IN THE MATTER OF THE APPEAL
OF PERMIT NO. CT-1352B
TWO ELK POWER PLANT**

)
) **DOCKET NO. 07-2601**
)

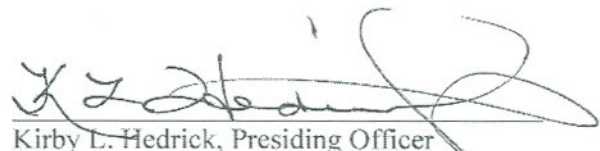
ORDER

This matter is before the Environmental Quality Council on the Council's Order to Show Cause. The Petitioners, Sierra Club and PRBRC, filed the Citizens' Motion to Intervene and Petition for Reconsideration and Vacation of EQC Order Regarding Discontinued Construction of Two Elk Plant on December 20, 2007. Together with the Motions that were filed, the Petitioners filed a copy of a Petition for Review of Administrative Action that had already been file-stamped by the District Court, First Judicial District and docketed as #171-041. The Petition for Review sought review of the EQC's final order in this case. Rule 6 Wyo.R.App.P. states that a court obtains jurisdiction over a case when it is docketed and Rule 12.03 of the Appellate Rules states that a judicial review of an agency action is initiated by filing of a petition.

On February 20, 2008 the EQC issued an order to show cause why Petitioners' Motions should not be dismissed for lack of subject matter jurisdiction. The parties submitted written responses to the Order to Show Cause and argued whether the jurisdiction over this case resides with the District Court at a public meeting on February 27, 2008.

The Council having reviewed the filings and heard arguments, and being fully advised in the premises, hereby finds that the District Court has jurisdiction over the subject matter of this case and therefore it is hereby ordered the above entitled matter is dismissed.

DATED this 6th day of March, 2008.



Kirby L. Hedrick, Presiding Officer
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CERTIFICATE OF SERVICE

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 7th day of March, 2008 I served a copy of the foregoing ORDER by email to the following persons:

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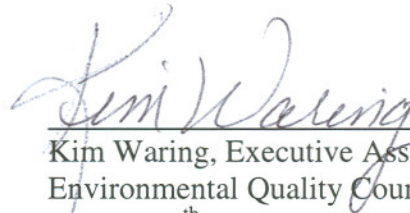
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