

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL OF THE
STATE OF WYOMING

FILED

FEB 20 2008

Terri A. Lorenzon, Director
Environmental Quality Council

IN THE MATTER OF THE APPEAL)
OF PERMIT NO. CT-1352B) DOCKET NO. 07-2601
TWO ELK POWER PLANT)

ORDER TO SHOW CAUSE

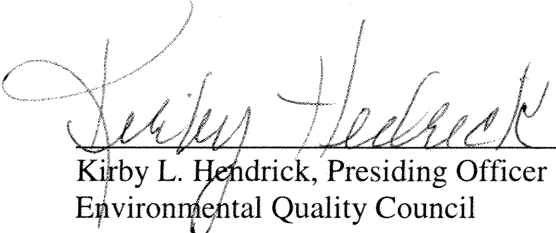
The Petitioners, Sierra Club and PRBRC, filed the Citizens' Motion to Intervene and Petition for Reconsideration and Vacation of EQC Order Regarding Discontinued Construction of Two Elk Plant on December 20, 2007. Prior to this filing, on the same day, the Petitioners filed a Petition for Review of Administrative Action with the District Court, First Judicial District. 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.

The Council may consider subject matter jurisdiction upon its own motion. The Wyoming Supreme Court has stated that "indeed, we have a duty to satisfy ourselves that we have jurisdiction to entertain an appeal". *Plymale v. Donnelly*, 2006 WY 3, ¶ 4, 125 P.3d 1022, 1023 (Wyo.2006). The Presiding Officer having reviewed the record, having reviewed the Rules of Appellate Procedure, and being fully advised in the premises orders as follows.

IT IS HEREBY ORDERED that the Parties show cause why the EQC should not dismiss this matter for lack of subject matter jurisdiction.

The Parties shall file briefs on or before 5:00 P.M. February 25, 2008 and arguments are scheduled for February 27, 2008 at the time and location scheduled for a hearing on the motions in this case. Each Party shall have ten minutes to present legal argument on this motion. The Council will decide this matter before hearing the arguments on the motion to intervene and petition for reconsideration.

DATED this 20th day of February, 2008


Kirby L. Hendrick, Presiding Officer
Environmental Quality Council

CERTIFICATE OF SERVICE

I, Joe Girardin, certify that at Cheyenne, Wyoming, on the 20th day of February, 2008 I served a copy of the foregoing **ORDER TO SHOW CAUSE** by email to the following persons:

Office of Attorney General

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Department of Environmental Quality

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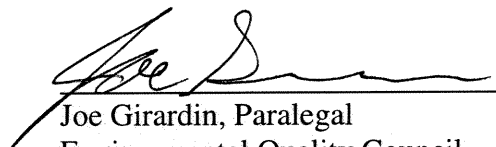
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