

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

OCT 06 2011

Jim Ruby, Executive Secretary
Environmental Quality Council

In the Matter of:)
Kids vs. Global Warming) DOCKET NO. 11-1101
A Petition for Rulemaking)

ORDER

On the 6th day of June 2011, the above entitled matter came on for discussion before the council. After thorough review of the petition and its accompanying appendix, councilman David Searle moved to deny acceptance of the Petition for rulemaking. Councilman Tom Coverdale seconded the motion. After discussion, the question was called and the Council voted 5 in favor of the motion to deny, no one opposed and 2 absent. The motion prevailed and the Petition was denied.

The council's reasons for denial are as follows:

1. In 1999 the Wyoming Legislature enacted statute § 35-11-213. This statute placed restrictions on state regulations related to greenhouse gas emissions. The statute is set forth below (bold is for emphasis only).

35-11-213 (a) Effective March 31, 1999, **neither the department nor the council shall propose or promulgate** any new rule or regulation intended in whole or in part to reduce emissions as called for by the Kyoto Protocol, from the residential, commercial, industrial, electric utility, transportation, agricultural, energy or mining sectors.

(b) In the absence of a resolution or other act of the legislature approving same, the director of the department shall not submit to the United States environmental protection agency or to any other agency of the federal government any legally enforceable commitments related to the Kyoto Protocol.

(c) Nothing in this section shall be construed to limit or to impede state or private participation in any on-going voluntary initiatives to reduce emissions of greenhouse gases, including, but not limited to, the United States environmental protection agency's green lights program, the United States department of energy's climate challenge program and similar state and federal initiatives relying on voluntary participation.

(d) This section shall remain in effect until repealed by an act of the Wyoming legislature or until ratification of the Kyoto Protocol by the United States senate and enactment of federal legislation implementing the Kyoto Protocol.

The Wyoming Legislature has not repealed this act, the Kyoto Protocol has not been ratified by the United States Senate and there has been no enactment of federal legislation

implementing the Kyoto Protocol. Therefore, to the extent the Petitioner is calling on the Council to promulgate a rule intended to reduce emissions as called for by the Kyoto Protocol, the Wyoming legislature has specifically denied that authority to the council.


2. The Council finds that the State of Wyoming is currently operating under a Federal Implementation Plan governing greenhouse gases and as such the council does not believe that further action by the council would be beneficial and would likely result in greater confusion over the issue.

3. The federal government is actively engaged in the regulation of greenhouse gases and has been working on federal rules governing the standards applicable to greenhouse gases. The Council believes that because of the international scope associated with greenhouse gases that the federal government is in the best position to determine the level of regulation as it pertains to greenhouse gases. Further the federal government is the sole authority in the United States empowered to enter into treaties with foreign nations to cooperatively work on the international regulation of greenhouse gases.

4. Finally, the Council believes that any actions by the Council at this time would be duplicative, would result in needless expenditures of limited state funds and would likely result in confusion for the public and the regulated community as to what direction regulation of greenhouse gases will take because of the potential conflicting outcomes of the federal actions and a state action.

THEREFORE the Council DENIES the Petitioner's petition for rulemaking.

SO ORDERED THIS 5 DAY OF OCTOBER, 2011.



Tim Flitner, Chairman
Wyoming Environmental Quality Council

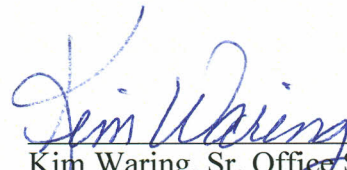
CERTIFICATE OF SERVICE

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 6th day of October, 2011, I served a copy of the foregoing **ORDER** by electronic mail to the following:

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