

FILED

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL OCT 29 2013
STATE OF WYOMING

Jim Ruby, Executive Secretary
Environmental Quality Council

IN RE LINC ENERGY OPERATIONS, Inc.)

DOCKET NO. 13-4804

BRIEFING ORDER

1. A short pre-hearing conference was held in this matter Monday October 28th, 2013 at 8:15 a.m. via telephone conference call. Presiding was Vice-Chair David Searle. Present were Shannon Anderson on behalf of Powder River Basin Resource Council (PRBRC), Jeremiah Williamson on behalf of the Department of Environmental Quality (DEQ) and Bruce Salzburg and Cole Hayduk on behalf of Linc Energy (Linc). Also present were Nancy Nuttbrock and Mark Rogaczewski from the Land Quality Division of the DEQ, James Ruby, Executive Secretary for the Council, John Knepper from the Attorney General's Office and Joe Girardin, the paralegal for the Council.
2. There were two issues raised by the pleadings filed by the Petitioner, PRBRC. The first issue is whether the aquifer reclassification by the Water Division of the DEQ should be granted. The second issue is whether the aquifer exemption should be granted.
3. A review of the pleadings raised the question by the hearing officer as to whether the Council has subject matter jurisdiction over the second issue regarding the aquifer exemption.
4. Each of the parties argued that the action taken by the Water Quality Division of the DEQ regarding the aquifer exemption is a final action appealable to the Council.
5. The presiding officer directed the parties to brief the issue of whether the council has subject matter jurisdiction over the issue of the aquifer exemption since the Water Quality Division of the DEQ does not have the final decision making authority over whether the exemption is granted or denied. The briefs should describe what the final action taken by the Water Quality Division of the DEQ that is the appealable final action.
6. The parties shall file their briefs with the Council no later than noon on November 12, 2013. Briefs shall be formatted consistent with the Rules of Appellate Procedure of the Wyoming Supreme Court. There is not a limit to the number of pages for the briefs.
7. Each party will be given 5 minutes for oral argument on the issue. The DEQ shall go first, PRBRC second and Linc third.

IT IS HEREBY ORDERED THAT:

1. All parties shall prepare a brief arguing whether the council has subject matter jurisdiction over the issue of the aquifer exemption and shall file such briefs no later than

noon on November 12, 2013. The briefs should describe the final action taken by the Water Quality Division of the DEQ that is the appealable action.

DATED this 29th day of October, 2013.



David Searle, Presiding Officer
Environmental Quality Council

CERTIFICATE OF SERVICE

I, Tyffanne Rowan, certify that at Cheyenne, Wyoming, on the 29th day of October, 2013, I served a copy of the foregoing **BRIEFING ORDER** by electronic mail to the following:

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