

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

SEP 23 2008

Jim Ruby, Executive Secretary
Environmental Quality Council

IN THE MATTER OF THE)
ADMINISTRATIVE ORDER)
ISSUED TO ARP & HAMMOND) DOCKET NO. 08-5201
HARDWARE CO. AND/OR OLD)
HORSE PASTURE, INC.)

JOINT STIPULATION FOR DISMISSAL WITHOUT PREJUDICE

Petitioners Arp & Hammond Hardware Co. (A&H) and Old Horse Pasture, Inc. (OHP) and Respondent Wyoming Department of Environmental Quality (DEQ), pursuant to Chapter I, Section 11 of the DEQ Rules of Practice & Procedure, jointly stipulate as follows to dismissal without prejudice of A&H / OHP's Petition for Review and Request for Hearing in the above-captioned matter before the Wyoming Environmental Quality Council (EQC):

1. DEQ issued an Administrative Order (DEQ Docket No. 4316-08) dated July 21, 2008 to A&H and/or OHP, ordering them to grant Frontier Refining Inc. (Frontier) and its contractors access to A&H / OHP's property adjacent to the southern and eastern boundary of Frontier's Cheyenne refinery as needed for Frontier to install the barrier wall boundary control system required by the DEQ's February 19, 2008 Final Decision letter to Frontier.

2. A&H / OHP filed a Petition for Review and Request for Hearing before the EQC on July 31, 2008 to contest the DEQ's Administrative Order, and simultaneously, by letter addressed to both DEQ and Frontier dated July 31, 2008,

A&H / OHP made a “proposal to Frontier to resolve the issues and facilitate the timely construction of the barrier wall.”

3. A&H / OHP’s Petition disputed the DEQ’s authority to issue the contested Administrative Order.

4. On August 12, 2008, the DEQ issued a Notice of Compliance to A&H / OHP, finding that, for the reasons explained therein, “Alternative 1” in A&H / OHP’s July 31, 2008 written offer of access to Frontier constituted compliance with the contested July 21, 2008 Administrative Order.

5. After filing a Petition for Leave to Intervene and Review of DEQ’s Notice of Compliance on August 14, 2008, Frontier filed a Withdrawal of Petition for Leave to Intervene and Review of DEQ’s Notice of Compliance on August 21, 2008.

6. Petitioners A&H / OHP and Respondent DEQ are the only parties in this contested case.

7. On September 8, 2008, Respondent DEQ filed a Motion to Dismiss A&H / OHP’s Petition for Review and Request for Hearing on the ground that DEQ’s issuance of the Notice of Compliance, finding that Petitioner’s July 31, 2008 written offer of access to Frontier constitutes compliance with the contested Administrative Order, makes A&H / OHP’s appeal of that Administrative Order moot.

8. This Joint Stipulation does not constitute an adjudicated determination on the merits of the issues raised in A&H / OHP’s Petition, nor does

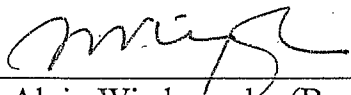
it constitute an admission or concession by A&H / OHP that the Administrative Order is valid. The parties reserve the right to assert their respective positions on those issues, or on any other directive to A&H / OHP from the DEQ, in a future proceeding before the EQC or any other tribunal, if necessary.

9. Each party shall bear its own costs and attorney fees through the EQC's action on this Joint Stipulation.

10. In order to avoid unnecessary costs of a hearing to contest a DEQ order with which Petitioners A&H / OHP is now in compliance, the parties jointly request that the EQC approve this Joint Stipulation and dismiss this case without prejudice.


DATED this 23 day of September, 2008.

FOR PETITIONERS A&H / OHP:



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