

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

FILED

DEC 28 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. )

**ORDER APPROVING JOINT STIPULATION FOR DISMISSAL  
WITHOUT PREJUDICE**

Petitioners Arp & Hammond Hardware Co. (A&H) and Old Horse Pasture, Inc. (OHP) filed a Petition for Review and Request for Hearing before the Wyoming Environmental Quality (EQC) on July 31, 2008 to contest Respondent Wyoming Department of Environmental Quality's (DEQ) issuance of an Administrative Order (No. 4316-08) dated July 21, 2008. On August 12, 2008, DEQ issued a Notice of Compliance to A&H / OHP, finding that, for the reasons explained therein, Petitioners' subsequent actions constituted compliance with the contested Administrative Order. After filing a Petition for Leave to Intervene and Review of DEQ's Notice of Compliance on August 14, 2008, Frontier Refining Inc. filed a Withdrawal of Petition for Leave to Intervene and Review of DEQ's Notice of Compliance on August 21, 2008. Petitioners A&H / OHP and Respondent DEQ are the only parties in this contested case.

On September 23, 2008, the parties filed a Joint Stipulation for Dismissal Without Prejudice. The parties stipulated that their 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 reserved 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. The parties agreed that each party shall bear its own costs and attorney fees through the EQC's action on their Joint Stipulation.

Chapter I, Section 11 of the DEQ Rules of Practice & Procedure provides for disposition of cases by stipulation of the parties, upon approval of the EQC. Having reviewed the parties' Joint Stipulation and being advised in the premises, IT IS ORDERED that:

1. The parties Joint Stipulation for Dismissal Without Prejudice is approved;
2. Petitioners' appeal in this case is dismissed without prejudice.

DATED this 2 day of <sup>December</sup>~~November~~, 2008.



Dennis Boal, Chairman  
Environmental Quality Council  
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## CERTIFICATE OF SERVICE

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 9<sup>th</sup> day of December, 2008, I served a copy of the foregoing **ORDER** by electronic mail to the following;


Alvin Wiederspahn, Wyoming Bar @5-1553  
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and by postage-paid mail to:

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