

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

AUG 25 2011

*Jim Ruby, Executive Secretary
Environmental Quality Council*

In the Matter of the Appeal of Notice of)
Violation and Order #4824-11 Issued to)
Envirotank, Inc. (51.031)) Docket No. 11-5208A
P.O. Box 302)
Ft. Lupton, CO 80621)

SCHEDULING ORDER

On the 11th day of August, 2011 at 1:30 p.m. the above-captioned matter came on for scheduling conference before the Presiding Officer for the Environmental Quality Council (Council), Dennis Boal. Present or participating by conference call were Mary A. Throne, counsel for Petitioner Envirotank, Inc., Mike Barrash, from the Attorney General's Office, counsel for Respondent Wyoming Department of Environmental Quality (DEQ), and Heather A. Jacobson, counsel for Intervenors Sandra Kay Lange, Mildred Rae Broyles, and Peggy A. Sullivan (the Landowners). Also present or participating by conference call were L. J. Weatherwax on behalf of Petitioner Envirotank, Inc. and James Ruby, Executive Secretary for the Council and Joe Girardin, the Council's paralegal.

Discussion was held by the Parties and the Presiding Officer and the following was agreed to by the Parties and is hereby made the Order of the Council:

1. Respondent DEQ and Intervenor Landowners shall file their respective Expert Designations (if any) and Reports by September 23, 2011. Expert Reports shall state the credentials and opinions of each expert and contain a detailed summary of the facts and analysis that support each opinion.
2. Petitioner Envirotank, Inc. shall file its Expert Designation (if any) and Report by October 14, 2011. The Expert Report shall state the Expert's credentials and opinions and contain a detailed summary of the facts and analysis that support each opinion.

3. All discovery, both non-expert and expert, including depositions and responses to written discovery requests, shall be completed by December 30, 2011. Written discovery requests will have to be served by November 30, 2011 to allow 30 days for responses to be served by December 30, 2011.

4. Any Dispositive Motions shall be filed by January 16, 2012.

5. Responses to Dispositive Motions shall be filed by February 6, 2012.

6. Replies to Responses to Dispositive Motions shall be filed by February 21, 2012.

7. Each Party shall file a Prehearing Memorandum and submit its proposed Exhibits by February 28, 2012. Each Party shall provide copies of its proposed Exhibits to the other Parties and submit three (3) paper and electronic copies of each Exhibit to the Council. Proposed Exhibits shall be labeled as follows:

- Petitioner's proposed Exhibits labeled "Envirotank Exhibit #1, #2, #3 . . ."
- Respondent's proposed Exhibits labeled "DEQ Exhibit #1, #2, #3 . . ."
- Intervenors' proposed Exhibits labeled "Lange Exhibit #1, #2, #3 . . ."

Each Party's Prehearing Memorandum shall include:

- identification of will-call and may-call Witnesses and summaries of their proposed testimony;
- a list of all proposed Exhibits;
- identification of issues for the hearing, both substantive and procedural;
- proposed list of uncontested facts.

8. A final pre-hearing conference will be held on March 2, 2012 to:

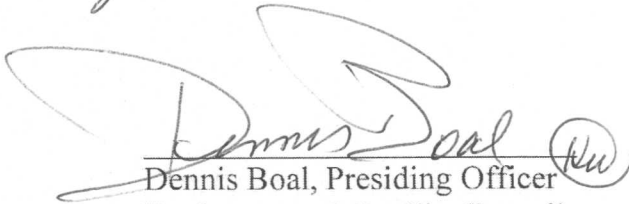
- consider possible stipulation of uncontested facts;
- consider possible stipulation as to foundation / admission of exhibits;
- discuss the order for presentation of evidence and closing argument;
- discuss other matters to facilitate the hearing.

9. The final hearing in this contested case will be held in Cheyenne beginning at 9:00 a.m. on Thursday, March 8, 2012. The final hearing is expected to be completed in one day, but may continue into Friday, March 9, 2012 if necessary.

Oral argument on any Dispositive Motions will be held at the beginning of the final hearing on March 8, 2012.

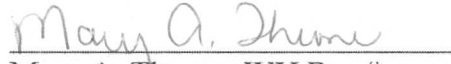
10. All filings and submittals with the Council under this Order shall be made not later than 4:00 p.m. on the dates set forth above.

SO ORDERED this 25th day of August, 2011.



Dennis Boal, Presiding Officer
Environmental Quality Council

APPROVED AS TO FORM:

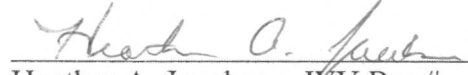
COUNSEL FOR PETITIONER
ENVIROTANK, INC.:


Mary A. Throne, WY Bar #
Throne Law Office

COUNSEL FOR RESPONDENT
WYOMING DEPARTMENT OF
ENVIRONMENTAL QUALITY:


Mike Barrash, WY Bar # 5-2310
Sr. Assistant Attorney General

COUNSEL FOR INTERVENORS
LANGE, BROYLES & SULLIVAN:


Heather A. Jacobson, WY Bar #
Jacobson Law Office

CERTIFICATE OF SERVICE

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 25th day of August, 2011, I served a copy of the foregoing **SCHEDULING ORDER** by electronic mail to the following:

John Corra
Director, DEQ
john.corra@wyo.gov

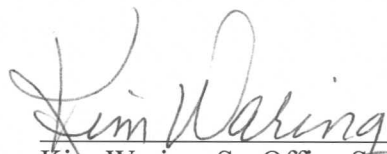
Carl Anderson, Administrator
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Mary Throne
Throne Law Office
mthrone@thronelaw.com

Asst. Attorney General
Mike Barrash
mbarra@state.wy.us

also by depositing the same in the United States mail addressed to:

Heather A. Jacobson
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Douglas, WY 82633



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