

BEFORE THE
WYOMING ENVIRONMENTAL QUALITY COUNCIL

Wyoming Outdoor Council and)
Powder River Basin Resource Council,)
)
Petitioners,)
)
vs.)
)
Wyoming Department of Environmental)
Quality, Water Quality Division,)
)
Respondent.)

Docket No. 06-3804

PETITIONERS' MOTION FOR SUMMARY JUDGMENT

Comes now the Wyoming Outdoor Council and Powder River Basin Resource Council, and hereby move that the Wyoming Environmental Quality Council grant a summary judgment in favor of the Petitioners and against the Respondent, the Department of Environmental Quality, and for their Motion for Summary Judgment hereby present the following:

Wyoming Outdoor Council (WOC) and Powder River Basin Resource Council (PRBRC), the Petitioners, move that the Environmental Quality Council grant Summary Judgment in favor of WOC and PRBRC in this matter and find that the Reclassification of Three Drainages to Crazy Woman Creek (Kennedy Oil South Area Addition), Johnson County, Wyoming, issued by the Wyoming Department of Environmental Quality, Water Quality Division on Feb. 6, 2006, is invalid and violates Wyoming Water Quality Rules and Regulations, and Wyoming statutes, based upon the following:

- A. It is acknowledged and admitted by the Respondent that the three drainages contain aquatic life, and therefore support an aquatic life use.
- B. The Wyoming Department of Environmental Quality, Water Quality Division (DEQ/WQD) cannot lower a classification for an existing use. Wyoming Water Quality Rules and Regulations Chapter 1, Sec. 33 (b).

C. The DEQ/WQD has acted to lower a designated use, specifically aquatic life, which is a protected and designated use, for the three drainages despite the fact that the three drainages contain nine (9) acres of wetlands and impoundments which support, and will continue to support on a sustainable basis, aquatic life.

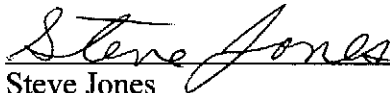
D. The said Reclassification of the Three Drainages does not comply with the requirements for reclassification as set forth in the Wyoming Water Quality Rules and Regulations, Chapter 1.

E. Petitioners have filed a Memorandum of Support of this Motion for Summary Judgment, with Exhibits, attached hereto, setting forth the legal and factual basis for its claims herein.

WHEREFORE, Petitioners move that the Environmental Quality Council grant this Motion for Summary Judgment and move that the EQC restore the classification of the three drainages to Crazy Woman Creek as Class 3B waters of the state, and further move that the EQC grant such other and further relief as the EQC may deem just and equitable.

Dated: July 20, 2007.

Respectfully submitted,



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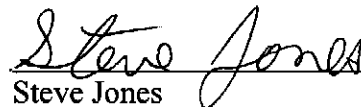
CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing Petitioners' Motion for Summary Judgment, together with the Memorandum in Support and the attached exhibits, by placing a copy of the same in the U.S. mail, postage prepaid, on the 20th day of July, 2007, addressed to the following:

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