

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.)

FILED

SEP 20 2007

Terri A. Lorenzon, Director
Environmental Quality Council

Docket No. 06-3804

PETITIONERS' SECOND AMENDED LIST OF WITNESSES

Comes now the Petitioners in this matter, Wyoming Outdoor Council and Powder River Basin Resource Council, by and through their attorney, Steve Jones, and hereby present their Amended List Of Witnesses as follows:

The Petitioners will call the following witnesses:

Bill DiRienzo
Supervisor, Wyoming Pollutant Discharge Elimination System
Department of Environmental Quality
Water Quality Division
122 W. 25th St.
4th Floor West
Cheyenne, WY 82002
307-777-7781

Priscilla Welles
P. O. Box 1037
Buffalo, WY 82834
307-758-4424

Jill Morrison
Powder River Basin Resource Council
928 Main St.
Sheridan, WY 82801
307-672-5809

Mr. DiRienzo reviewed the Kennedy Oil petition for a change of classification for the three tributaries, and reviewed the UAA prepared by RETEC, on behalf of Kennedy Oil. Mr. DiRienzo will be cross-examined regarding his knowledge and understanding of the Kennedy Oil petition, the UAA study, and whatever actions he took (or did not take) or additional investigation he made (or did not make) into the matter before concluding that the reclassification of the three tributaries was proper under state law.

Ms. Welles owns the land through which the three tributaries at issue in this matter flow. She has observed the three tributaries on many occasions over the last 5 to 10 years and will be able to testify about her observations and the presence or absence of aquatic life and vegetation in and around these three tributaries during various times of the year -- both wet and dry seasons.

Ms. Morrison personally toured the area of the three tributaries at issue in this matter on Sept. 10, 2007, and took photographs of the drainages and surroundings. Her testimony will deal with what she observed and witnessed on that day, including a discussion of photographs she took of the tributaries and reservoirs within those drainages.

The Petitioners may call the following witnesses:

Bill Turner
Herpetological Coordinator
Wyoming Game and Fish Dept.
528 So. Adams St.
Laramie, WY 82070

John Wagner
Administrator, Water Quality Division
Department of Environmental Quality
122 W. 25th St.
4th Floor West
Cheyenne, WY 82002
307-777-7781

Kimberly Dickerson
U.S. Fish and Wildlife Service
Ecological Services
4000 Airport Parkway
Cheyenne, WY 82001
(307) 772-2374 ext. 230

Brian T. Kelly
Field Supervisor, Wyoming State Office
U.S. Fish and Wildlife Service
Ecological Services
4000 Airport Parkway
Cheyenne, WY 82001
(307) 772-2374 ext. 234

Nikki Lohse
District Manager
Lake DeSmet Conservation District
760 W. Fetterman
Buffalo, WY 82834
(307) 684-2526 ext. 3

Dave Fraley
Lake DeSmet Conservation District
760 W. Fetterman
Buffalo, WY 82834
(307) 684-2526

Phillip Gonzales
National Resource Conservation Service
621 W. Fetterman
Buffalo, WY 82834
(307) 684-2526 ext. 106

John Amos
SkyTruth
P.O. Box 3283
Shepherdstown, WV 25443-3283
304-260-8886
John@skytruth.org

Mr. Turner is expected to testify concerning his study of amphibians in the Crazy Woman Creek drainage of the Powder River Basin. He will discuss what species are commonly found there, and what sort of habitat they depend upon during all or a part of their life cycle. He is also expected to discuss the importance of tributaries to Crazy Woman Creek to amphibians.

Mr. Wagner is the Administrator of the Water Quality Division and would be expected to testify concerning the rationale he employed in reaching a decision that 1) the Use Attainability Analysis (UAA) done in this case was adequate as a structured scientific study, and 2) the three tributaries at issue in this case were deserving of a class 4B classification, based upon the findings of that UAA study.

Ms. Dickerson and Mr. Kelly would be expected to testify, if called, about the information set forth in the comment letter of the U. S. Fish and Wildlife Service dated Dec. 12, 2005, concerning the reclassification of the three tributaries. More generally, they are expected to testify about the adequacy of the UAA to determine the presence or absence of aquatic life, and about whether these drainages are capable of supporting aquatic life.

Ms. Lohse is expected to testify, if called, about the information set forth in the comment letter of the Lake DeSmet Conservation District to DEQ/WQD dated Dec. 20, 2005, concerning the reclassification of the three tributaries. More generally, she is expected to testify about the adequacy of the UAA as a structured scientific study and whether adequate information was developed as part of that study, or whether more information is needed.

Mr. Fraley is expected to testify, if called, about the information set forth in the comment letter of the Lake DeSmet Conservation District to DEQ/WQD dated Dec. 20, 2005, concerning the reclassification of the three tributaries. More generally, he is expected to testify about the adequacy of the UAA as a structured scientific study about his concerns as a landowner with protecting the aquatic life values of tributaries to Crazy Woman Creek and the Powder River.

Mr. Gonzales is expected to testify, if called, about the adequacy of the UAA as a structured scientific study and whether adequate information was developed as part of that study, or whether more information is needed in the form of a survey, an inventory, on-site sampling, or other forms of information development and investigation. More generally he is expected to testify about the importance of protecting aquatic life values in the Powder River basin.

Mr. John Amos is an expert in remote sensing technology, aerial photography and remote mapping. He has a Bachelors of Science degree in Geological Sciences from Cornell University, and a Masters of Science degree in Geology and Geophysics from the University of Wyoming. He is expected to testify, if called, about aerial photographs which he has examined in the area of the three drainages and what it reveals in terms of

the presence or absence of aquatic life, and the need for a more detailed investigation of the area to determine the presence or absence of wetlands or other evidence of the ability of the 69 stream miles contained in three tributaries to support aquatic life.

Additionally, the Petitioners may call any witness listed by the DEQ/WQD, and may also call any witness that may be needed for rebuttal testimony, if allowed.

Dated this 20th day of September 2007.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that I served a copy of the foregoing Petitioners' Second Amended Witness List, by placing a copy of the same in the U.S. mail, postage prepaid, on the 20th day of Sept., 2007, and by forwarding to them an electronic version of the same, addressed to the following:

John Burbridge
Assistant Attorney General
Wyoming Attorney General's Office
123 Capitol Bldg.
Cheyenne, WY 82002
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Joe Girardin
Environmental Quality Council
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122 W. 25th St.
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