BEFORE THE ENVIRONMENTAL QUALITY COUNCIL STATE OF WYOMING

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AUG 1 4 2007
Terri A. Lorenzon, Director
) Environmental Quality Council
) Docket Numbers
06-3816 & 06-3817
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Order on Petitioner's Motion to Reconsider Intervention

THIS matter having come before the Environmental Quality Council upon PETITIONER'S MOTION TO RECONSIDER ORDER FOR LEAVE TO INTERVENE and after a hearing conducted by Dennis Boal, presiding officer, on August 1, 2007, and the Council being otherwise well advised in the premises finds as follows:

(1) Pursuant to Chapter II, Section 7 of the DEQ Rules of Practice and Procedure "any person interested in obtaining relief sought by a party or otherwise interested in the determination of a proceeding relating to other than surface coal mining operations pending before the Council may petition for leave to intervene in such proceeding prior to or at the date of hearing, but not thereafter except for good cause shown... Leave will not be granted unless Council shall determine that the party requesting to intervene is adversely affected by the action, has a legal right under the Environmental Quality Act or the Wyoming Administrative Procedure Act."

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- (2) After discussion with the parties and review of the issues and facts related to the intervention, specifically whether Intervenors timely filed for intervention and whether Intervenors' interests were adequately protected by the Department of Environmental Quality (DEQ), the hearing examiner finds that intervention is appropriate.
- (3) In further discussion, the parties agreed that Intervenors would not seek extension of the time deadlines established by the Amended Scheduling Order entered in this case. Additionally, because intervention may create more issues for Petitioner to respond to, Petitioner should have until August 22, 2007 to reply to DEQ's and Intervenor's responses to the Petitioner's motion for Summary judgment. Likewise, Intervenor's and DEQ would share the time allotted to the respondent at the hearing on the motion for summary judgment.

THEREFORE, IT IS HEREBY ORDERED:

- (1) PETITIONER'S MOTION TO RECONSIDER ORDER FOR LEAVE TO INTERVENE is denied:
- (2) Intervenors shall comply with all time deadlines set by the Amended Scheduling Conference Order issued June 13, 2007.
- (3) Petitioner shall have until August 22, 2007, to file and serve its reply to DEQ's and Intervenor's responses to Petitioner's motion for summary judgment.
- (4) DEQ and Intervenor will split, as they see fit, the half hour allotted to respondent for argument of Petitioner's Motion for Summary Judgment. If DEQ and Intervenors cannot agree to the split of time, they may request that the hearing examiner apportion the time. Petitioner will still have a full half hour for argument.

SO ORDERED this _day of August.

Dennis M. Boal, Presiding Officer Environmental Quality Council 122 W. 25th, Room 1714 Herschler Bldg.

Cheyenne, WY 82002 PHONE: 307-777-7170

FAX:

307-777-6134

CERTIFICATE OF SERVICE

I, Kim McGee, certify that at Cheyenne, Wyoming, on the 14th day of August, 2007, I served a copy of the foregoing **ORDER** by depositing copies of the same in the United States mail, postage prepaid, duly enveloped and addressed to;

Steve Jones Watershed Protection Program Attorney Wyoming Outdoor Council 262 Lincoln Street Lander, WY 82520 Jorden, Bischoff & Hiser, P.L.C. Eric L. Hiser Matthew Joy 7272 East Indian School Road, Ste. 360 Scottsdale, AZ 85251

also to the following persons via interoffice mail:

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John Corra Director, DEQ 122 W. 25th, 4-W Herschler Bldg. Cheyenne, WY 82002

> Kim McGee, Executive Assistant Environmental Quality Council

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John Wagner, Administrator

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