

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING**

**APR 22 2008**

Terri A. Lorenzon, Director  
Environmental Quality Council

IN THE MATTER OF THE APPEAL AND	)	
REVIEW OF THE ISSUANCE OF WYOMING	)	
POLLUTANT DISCHARGE ELIMINATION	)	DOCKET NOS. 06-3815,
SYSTEM (WYPDES) GENERAL PERMITS:	)	06- 3816, and 06-3817
WILLOW CREEK AND PUMPKIN CREEK	)	(Consolidated)
AND THE FOUR MILE CREEK WATERSHED	)	
PLAN	)	

**PREHEARING CONFERENCE ORDER**

**THIS ORDER** arises out of the prehearing conference conducted by telephone on April 21, 2008 by Mr. Dennis Boal, designated as the presiding officer for the Environmental Quality Council (EQC) in this matter. Participants in the conference included Mr. Steve Jones, counsel for petitioner Wyoming Outdoor Council (WOC); Mr. Matthew Joy, counsel for petitioners/permittees Yates Petroleum Corporation, Marathon Oil Company (Marathon), and Citation Oil & Gas Corp. (Citation) (collectively Y/M/C); and Mr. Michael Barrash, counsel for the Department of Environmental Quality (DEQ). Also attending the conference were Ms. Marion Yoder, from the Attorney General’s office, Ms. Deborah Baumer, Hearing Examiner from the Office of Administrative Hearings, Ms. Terri Lorenzon, Director and Attorney for the EQC, and Mr. Joe Girardin, paralegal for the EQC.

**1. Issues:**

- A. The parties agreed that items in the above consolidated cases pertaining to the Four Mile Creek General Plan are not presently at issue and that these issues may, instead, come before the EQC in the context of individual permits in due course but not in the present proceedings.
- B. The following were identified as issues remaining to be resolved in these proceedings:
  - (1) Are the effluent limits in the permits appropriate?
    - (a) Are the effluent limits applicable to Category IC discharges located above irrigation for EC and SAR appropriate?
    - (b) Do all the effluent limits in the general permits meet the requirements of Wyoming Water Quality Rules and Regulations Chapter 1,§ 20, by protecting all existing and potential agricultural uses?
  - (2) What is the appropriate point of compliance for effluent limits?
  - (3) Is the 50-year, 24-hour storm event containment requirement justifiable, if a permittee selects the Category II option?

- (4) Does the incorporation of the *Wyoming Powder River Assimilative Capacity Allocation and Control Process* in the permits provide fair notice concerning what requirements will be imposed on permittees?
- (5) Are the on-channel reservoirs authorized by the general permits “treatment works” as defined by WYO. STAT. ANN. § 35-11-103(c)(iv) and, if so, are separate permits to construct required for those reservoirs, as required by WYO. STAT. ANN. § 35-11-301(a)(iii)?
- (6) Are the erosion control protections set forth in the general permits adequate to protect the drainages from damage caused by erosion?
- (7) Are the requirements in the *Head Cut Monitoring and Mitigation* provision of the general permits appropriate?

2. **Witnesses:** The parties identified the following witnesses:

- A. DEQ will call Jason Thomas, Katy Shreve, and Bill DiRienzo. It may call John Wagner.
- B. Y/M/C will call Dr. Eric Kern, Hugh Lowham, P.E., and Bob Innes. It may call Bill DiRienzo, Jason Thomas, Todd Parfitt and Kathy Shreve.
- C. WOC will call Dr. Larry C. Munn, Dr. Ginger Paige and Bill DiRienzo.

3. **Exhibits:** The parties have agreed to eliminate duplicate exhibits and to promptly notify the EQC staff of any exhibits pertaining to the Four Mile Creek Plan they may have previously stipulated to, and which are no longer pertinent to this hearing. Admission of the following exhibits, excluding duplicates and those regarding the Four Mile Creek Plan, has been stipulated to and will be published to the EQC before the hearing:

- A. DEQ: Exhibits 1, 7, 8, 8(A), 9, 10, 11 and 14-17.
- B. Y/M/C: Exhibits 1-30 and 40-41.
- C. WOC: Exhibits 2, 3, 6, 13, 15, 16 and 18-20.

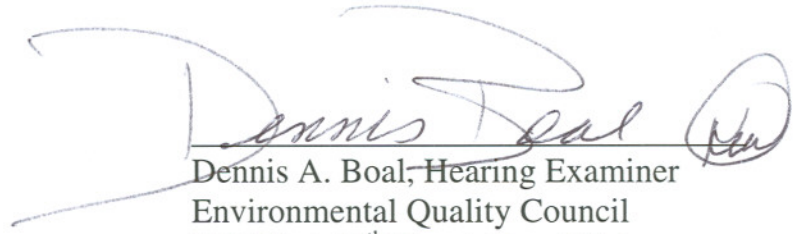
4. **Order of Proceeding:** Each party may have ten (10) minutes for opening statements. Following opening statements, the order of presentation of evidence will be:

- A. DEQ
- B. Y/M/C
- C. WOC
- D. Proper rebuttal will be considered.

5. **Date, Time and Location of Hearing:** The hearing is scheduled for five days, beginning April 28, 2008 and continuing through May 2, 2008. The hearing will begin each day 9:00 a.m. except on April 29, when it will begin at 1:00 p.m. The

hearing will be conducted in Room B-63 of the Herschler Building, 122 West 25<sup>th</sup> Street, Cheyenne, WY.

**SO ORDERED** this 22<sup>nd</sup> day of April, 2008.

A large, stylized handwritten signature in blue ink, appearing to read "Dennis A. Boal". To the right of the signature is a circular stamp or mark.

Dennis A. Boal, Hearing Examiner  
Environmental Quality Council  
122 West 25<sup>th</sup> Street, Rm. 1714  
Herschler Building  
Cheyenne, WY 82002



## CERTIFICATE OF SERVICE

I, Kim Waring, certify that on the 22<sup>nd</sup> day of April, 2008, I served a copy of the foregoing **PREHEARING CONFERENCE ORDER** to the following by electronic mail to the following:

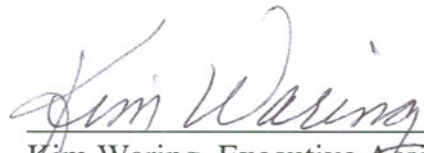
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