

**BEFORE THE**  
**WYOMING ENVIRONMENTAL QUALITY COUNCIL**

|                                   |   |                    |
|-----------------------------------|---|--------------------|
| IN THE MATTER OF THE APPEAL AND   | ) | CONSOLIDATED:      |
| REVIEW OF THE ISSUANCE OF WYOMING | ) |                    |
| POLLUTANT DISCHARGE ELIMINATION   | ) | Docket No. 06-3815 |
| SYSTEM (WYPDES) GENERAL PERMITS:  | ) | Docket No. 06-3816 |
| WILLOW CREEK, PUMPKIN CREEK AND   | ) | Docket No. 06-3817 |
| FOUR MILE CREEK PLAN              | ) |                    |

**WYOMING OUTDOOR COUNCIL'S**  
**SUGGESTED CORRECTIONS TO PRE-HEARING CONFERENCE ORDER**

Comes now Wyoming Outdoor Council, pursuant to the Environmental Quality Council's Pre-Hearing Conference Order dated January 15, 2008, and hereby submits the following suggested corrections to the Conference Order, as follows:

1. There is an issue surrounding the Four Mile Creek Plan, which should be addressed as an issue to be resolved by the Environmental Quality Council (EQC) as part of the hearing in this matter. That issue was listed by Wyoming Outdoor Council (WOC) as Issue #5 in its Pre-Hearing Memorandum. That issue was stated as follows:

Is the Four Mile Creek Plan ripe for a decision at this time, or are the Petitioners (Marathon, Yates and Citation) required to wait until the issuance of an individual permit in the Four Mile Creek drainage before they can challenge the provisions of the plan?

2. This issue should continue to be listed as an issue to be resolved by the EQC, since it is important to determine whether a plan, which is not a general permit and not binding upon either the DEQ or the prospective permittees, can nevertheless be appealed to the EQC. WOC agrees with the DEQ that a plan is in the nature of a policy document, and is neither a rule nor a permit and as such it cannot be appealed and reviewed by the EQC.

3. The issue of the jurisdiction of the EQC over the Four Mile Creek Plan should remain listed as an issue to be resolved by the EQC as part of this hearing, despite the withdrawal of DEQ's Motion for Partial Summary Judgment in this matter, since it remains a legal issue that needs to be resolved by the EQC.

4. The wording of issue 2(f) should read as follows:

Are the erosion control protections set forth in the general permits adequate to protect the drainages from damage caused by erosion.

[The word from was left out of the sentence.]

5. The undersigned counsel does not recall that the Order of Proceeding that was agreed upon is as currently set forth in the Pre-Hearing Conference Order (Paragraph 5 of the Order). Rather the undersigned recalls the following order of presentation:

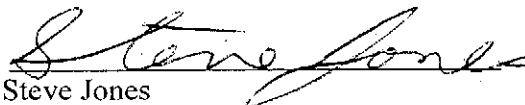
- a. DEQ
- b. Y/M/C
- c. WOC
- d. Rebuttal by all parties

6. The undersigned counsel does not recall any discussion about having the DEQ proceed first, but only as to "background information regarding the permits" and then having them go forward with their "presentation of case" after Y/M/C and WOC have presented their cases.

7. The approach regarding the order of proceeding set out in the Pre-Hearing Conference Order seems strange and inefficient. It will be hard to separate "background" from "presentation of case," and duplication will likely occur. WOC suggests that the order of presentations by the parties be as agreed to at the time of the Pre-Hearing Conference and that, in any event, DEQ be required to combine both background and presentation of case, so that they are completed at the same time.

Dated this 22nd day of January 2008.

Respectfully submitted,



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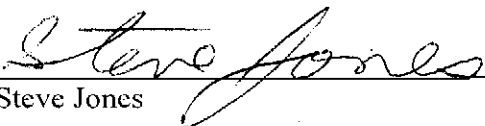
**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the foregoing WYOMING OUTDOOR COUNCIL'S SUGGESTED CORRECTIONS TO PRE-HEARING CONFERENCE ORDER, by placing a copy of the same in the U.S. mail, postage prepaid, on the 22nd day of January, 2008, and by forwarding to them an electronic version of the same, addressed to the following:

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