

**FILED**

**JUN 20 2007**

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

Terri A. Lorenzon, Director  
Environmental Quality Council

IN THE MATTER OF THE APPEAL )  
OF WILLIAM P. MAYCOCK ) Docket No. 06-3818  
FROM WYPDES PERMIT NO. WY0050857 )

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**WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S  
PRE-HEARING MEMORANDUM**

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Respondent Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD), submits this Pre-hearing Memorandum, pursuant to the Wyoming Environmental Quality Council's (EQC or Council) June 13, 2007 Pre-hearing Order.

WITNESSES

1. Jason Thomas, WQD Supervisor for WYPDES/CBM Permitting; Herschler Building 4th Floor West; 122 W. 25th Street, Cheyenne, Wyoming 82002; 307-777-7781. Mr. Thomas will testify about the October, 2006 modification of WYPDES Permit No. WY0050857 (the South Prong permit), which is at issue in this contested case.
2. Bill DiRienzo, WQD WYPDES Program Manager; Herschler Building 4th Floor West; 122 W. 25th Street, Cheyenne, Wyoming 82002; 307-777-7781. Mr. DiRienzo will provide additional testimony about the October, 2006 modification of WYPDES Permit No. WY0050857, which is at issue in this contested case.
3. Any witnesses listed by the other parties.

4. Any other witnesses needed for purposes of rebuttal or impeachment.

#### CLARIFICATION OF ISSUES

Mr. Maycock's (Petitioner) Petition filed December 18, 2006 (Petition) has identified the DEQ's October, 2006 issuance of a major modification of original WYPDES Permit No. WY0050857 (and DEQ's failure to act on Petitioner's own request to modify or terminate that original permit) as the "Action Upon Which Hearing Is Requested." Petition, ¶ 2. Petitioner has requested that the Council reverse the DEQ's decision to grant the major modification of WYPDES Permit No. WY0050857 and either order DEQ to terminate that permit or modify it to protect "from the adverse impacts of the produced CBM effluent proposed to be discharged under the South Prong Permit." Petition, ¶ 4. Specifically, Petitioner has objected to the permitted effluent limits of 7500 for EC and no limit for SAR and the alleged inadequacy of measures required "to prevent downstream erosion that would be attributable to the discharge of produced water." Petition ¶¶ 3u-v, x-z. Based on the Petition, the particular issues for hearing appear to be the permitted effluent limits for EC and SAR and the adequacy of required measures for erosion control, and maybe some other objections alluded to generally. Petition, ¶¶ aa-cc.

The DEQ's Response to William P. Maycock's Motion for Expedited Hearing and Request for Pre-Hearing Conference (Response) requested that prior to setting this matter for an evidentiary hearing to determine issues of fact, expedited or otherwise, the Council convene a pre-hearing conference for the purpose of identifying what factual issues in this case, such as the adequacy of the permitted effluent limits for EC and SAR, have in effect

been decided by the Council's April, 2007 Findings and Conclusions in Docket No. 05-3803 (which were issued after the Petition in 06-3818 was filed), and what factual issues remain and require an evidentiary hearing. Response, ¶ 9.

The Council has already decided that effluent limits of 3,000 for EC and 18 for SAR for direct discharges into Barber Creek itself needed to be re-evaluated, and revoked the Barber Creek permit "based on concerns about the direct discharges into Barber Creek as well as concerns with the effluent standards." EQC's *Conclusions of Law* in Docket No. 05-3803, ¶¶ 8, 14. The Council also found that it could prohibit discharges directly into Barber Creek, but could modify its decision to allow discharges into containment reservoirs. EQC's *Findings of Fact* in Docket No. 05-3803, ¶ 58.

At this point, until clarified further, the identifiable issues in this case are:

1. what the permitted effluent limits for EC and SAR should be; and
2. what the downstream erosion control requirements should be.

#### PROPOSED STIPULATIONS OF FACT

1. In January, 2004, the DEQ/WQD originally issued new WYPDES Permit No. WY0050857 (South Prong permit), authorizing Williams Production RMT Company (Williams) to discharge CBM produced water to the South Prong of Barber Creek above its confluence with Barber Creek subject to terms and conditions, including end of pipe effluent limits of 7500 for EC and no limit for SAR.

2. In October, 2006, the DEQ/WQD issued Williams a major modification of original WYPDES Permit No. WY0050857, which did not change the end of pipe effluent

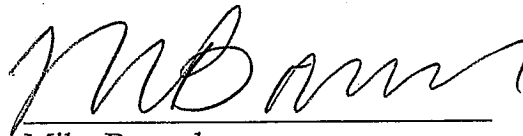
limits for EC and SAR, but did change certain other terms which are not specifically contested in the Petition.

3. Findings in the Council's April, 2007 "Findings of Fact" in Docket No. 05-3803, to the extent they are relevant and material to this case.

PROPOSED EXHIBITS

1. Original WYPDES Permit No. WY0050857.
2. The contested Major Modification of WYPDES Permit No. WY0050857.
3. Any other exhibits needed for purposes of rebuttal or impeachment.

DATED this 20th day of June, 2007.



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## CERTIFICATE OF SERVICE

The undersigned certifies that true and correct copies of the foregoing WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S PRE-HEARING MEMORANDUM were served by United States Mail, first class postage prepaid, and by facsimile transmission or e-mail this 20th day of June, 2007, addressed as follows:

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