

MAR 20 2008

Terri A. Lorenzon, Director
Environmental Quality Council

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

IN THE MATTER OF THE APPEAL OF)
PERMIT NO. WY0055158) Docket No. 07-3615
THE TERMO COMPANY)

JOINT STIPULATION FOR WITHDRAWAL AND DISMISSAL OF APPEAL

The Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD) issued WYPDES Permit No. WY0055158 on March 8, 2007, authorizing The Termo Company (Termo) to discharge water produced from its Homestead Draw II coal bed methane project into the Bitter Creek drainage, subject to specified conditions. On May 4, 2007, Termo filed a Petition for Review of Permit No. WY0055158 (the contested permit) before the Wyoming Environmental Quality Council (EQC) contesting the effluent limits in that permit. Termo and the DEQ are the only parties in this contested case before the EQC.

Termo has since submitted an application for a modification of Permit No. WY0055158 to provide for total containment of the discharged produced water from the permitted facilities plus freeboard to contain up to a 50-year / 24-hour storm event, subject to option 1B effluent limits. The DEQ has reviewed Termo's application and prepared a proposed permit modification based upon it.

On February 15, 2008 the DEQ put out for public comment a proposed modification of contested Permit No. WY0055158, based on Termo's application. The DEQ received no comments on the proposed modification of Permit No. WY0055158 during the public comment period, which closed on March 18, 2008.

Chapter I, Section 11(a) of the DEQ Rules of Practice & Procedure provides for disposition of contested cases by stipulation of the parties upon approval of the EQC. Termo and the DEQ now jointly stipulate to the following terms for disposition of this contested case prior to hearing:

1. Having received no comments, the DEQ will issue the modification of Permit No. WY0055158 in the form ("12-26-2007") which is attached hereto, when this Joint Stipulation has been signed on behalf of the parties and filed with the EQC.

2. Modified Permit No. WY0055158 shall become effective on the date of signature by the Director of the DEQ, and shall supersede and replace the contested permit.

3. Termo shall be bound by the terms of Modified Permit No. WY0055158 while it remains in effect.

4. Upon issuance of Modified Permit No. WY0055158, Termo's pending Petition for Review concerning the contested permit before the EQC shall be deemed withdrawn.

5. Termo and the DEQ agree that the stipulated withdrawal and dismissal of this contested case should not be considered an adjudicated determination on the merits of the issues raised in Termo's Petition for Review, and both parties reserve the right to assert their respective positions on such issues in a future proceeding before the EQC, if any.

6. The parties request that the EQC enter an Order dismissing Termo's pending Petition for Review of contested Permit No. WY0055158 based on this Joint Stipulation for Withdrawal and Dismissal of Appeal.

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7. Each party shall bear its own costs and attorney fees incurred through the EQC's entry of an Order dismissing Termo's pending Petition for Review.

DATED this 20 day of March, 2008.

COUNSEL FOR THE TERMO CO.

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