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**FILED**

OCT 18 2007

Terri A. Lorenzon, Director  
Environmental Quality Council

*Counsel for Pennaco Energy Inc.*

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

\_\_\_\_\_  
IN THE MATTER OF THE APPEAL )  
OF CLABAUGH RANCH, INC. FROM )  
WYPDES PERMIT NO. WY0048917 )  
\_\_\_\_\_ )

**Docket No. 07-3801**

**PENNACO ENERGY INC.'S RESPONSE TO CLABAUGH RANCH, INC.**

COMES NOW, Pennaco Energy Inc. ("Pennaco") by an through its undersigned counsel and pursuant to the Order of the Environmental Quality Council ("EQC") dated September 18, 2007, hereby submits its response to the Petition filed by Clabaugh Ranch, Inc. on June 26, 2007 ("Petition"). Pennaco is the permittee of WYPDES Permit No. WY0048917 ("Permit"), and was granted leave to intervene in this matter on September 17, 2007.

**I. ANSWER TO ALLEGATIONS IN THE APPEAL**

1. Upon information and belief, Pennaco admits the allegations contained in Paragraph 1 of the Petition.
2. Pennaco admits the allegations contained in Paragraph 2 of the Petition.
3. Statement of Facts.
  - a. Upon information and belief, Pennaco admits the allegations contained in Paragraph 3a of the Petition.
  - b. Pennaco admits the allegations contained in Paragraph 3b of the Petition.

- c. Pennaco admits that Wild Horse Creek is an eastern tributary of the Powder River. Pennaco neither admits nor denies Clabaugh's characterization of the Permit as the Permit speaks for itself. Insofar as Paragraph 3c is found to contain any other factual allegations, Pennaco denies the same.
- d. Pennaco admits that Pennaco holds Permit WY0048917 covering outfalls for produced water from coalbed natural gas ("CBNG") development that are located upstream from the Clabaugh Ranch. At this time, Pennaco does not have sufficient knowledge or information to form a belief as to whether the water discharged under the permit would reach the Clabaugh Ranch.
- e. Pennaco denies that Paragraph 3e of the Petition is a fair and accurate summary of the Permit. At this time, Pennaco does not have sufficient knowledge or information to form a belief as to whether the water discharged under the permit would cross the Clabaugh ranch for several miles.
- f. To the extent that Paragraph 3f seeks to characterize the importance of pastures or livestock on the Clabaugh ranch, it is vague and argumentative and no response is required. To the extent that Paragraph 3f seeks to allege facts, Pennaco does not have sufficient knowledge or information to form a belief as to whether water discharged under the permit will pass through the bottom lands on the Clabaugh ranch.
- g. Pennaco denies the allegations in Paragraph 3g of the Petition.
- h. Pennaco denies the allegations in Paragraph 3h of the Petition.
- i. Pennaco denies the allegations in Paragraph 3i of the Petition.
- j. Pennaco denies the allegations in Paragraph 3j of the Petition.

- k. Pennaco denies the allegations in Paragraph 3k of the Petition.
  - l. Pennaco denies the allegations in Paragraph 3l of the Petition.
  - m. Pennaco denies the allegations in Paragraph 3m of the Petition.
  - n. Pennaco denies the allegations in Paragraph 3n of the Petition.
  - o. Pennaco denies the allegations in Paragraph 3o of the Petition.
  - p. Pennaco denies the allegations in Paragraph 3p of the Petition.
  - q. Pennaco denies the allegations in Paragraph 3q of the Petition.
  - r. Pennaco denies the allegations in Paragraph 3r of the Petition.
  - s. Pennaco denies the allegations in Paragraph 3s of the Petition.
4. Pennaco admits Clabaugh has requested a hearing through the Petition. Pennaco denies that Clabaugh is entitled to the remaining relief requested in Paragraph 4 of the Petition.

## **II. GENERAL DENIAL**

To the extent the Petition raises any allegations beyond those specifically denied above, Pennaco denies all such allegations and reserves the right to fully address all allegations at appropriate stages of these proceedings.

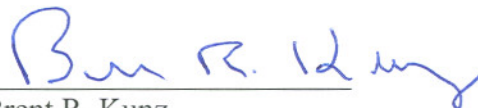
## **III. RESERVATION OF RIGHT TO SUPPLEMENT**

Pennaco does not attempt here to exhaustively present its position to each issue raised by the Petition. Such an effort will be made throughout this appeal and during the dispositive motion stage of these proceedings or at the hearing on the Petition. Pennaco reserves the right to supplement this response, or to clarify its position with respect to the leases, following discovery, or at any time prior to the hearing on this matter.

WHEREFORE, Pennaco respectfully requests that the EQC deny the relief requested by Clabaugh in this Petition.

Dated this 18th of October, 2007.

Respectfully submitted,



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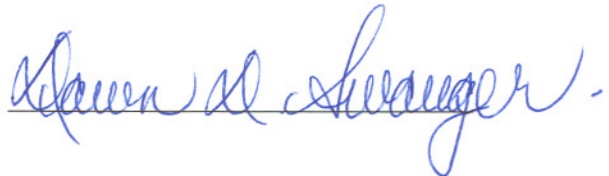
*Attorneys for Pennaco Energy, Inc.*

**CERTIFICATE OF SERVICE**

I hereby certify that copies of Pennaco Energy Inc.'s Response to the Petition filed by Clabaugh Ranch, Inc. were served by first class mail, postage prepaid this 18th day of October, 2007, on the following:

Director, Department of Environmental Quality  
122 West 25th Street  
Hershler Building, Room 174  
Cheyenne, WY 82002

Tom C. Toner  
319 W. Dow Street  
P.O. Box 6288  
Sheridan, WY 82801-1688

A handwritten signature in blue ink, reading "Dawn M. Shrago", written over a horizontal line.