

FILED

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**Jim Ruby, Executive Secretary
Environmental Quality Council**

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

In the Matter of the Appeal of JOHN)
D. KOLTISKA, AC RANCH, INC., a)
Wyoming Corporation, PRAIRIE)
DOG RANCH, INC., a Wyoming) Docket No. 09-3805
Statutory Close Corporation, and)
PRAIRIE DOG WATER SUPPLY)
COMPANY from WYPDES Permit)
No. WY0054364)

PENNACO'S OBJECTIONS TO PRE-HEARING CONFERENCE ORDER

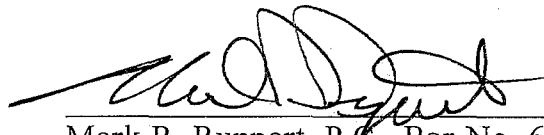
Pennaco Energy, Inc. (Pennaco) respectfully requests corrections to the Pre-Hearing Conference Order filed November 10, 2009, as follows:

1. Pennaco objects to Issue 2(b) to the extent it identifies the issue as only a Pennaco issue – it is an issue and claim raised by the Petitioners in their Petition, and DEQ and Pennaco have responded throughout the case to this issue framed by Petitioners. Pennaco further requests the Order delete identification of the parties raising the only two Issues in this matter, unless there is some significance in terms of who has the burden of proof on the issue, in which case Pennaco requests the Council identify which party has what burden for both issues. Pennaco contends that Petitioners as the proponent of an order reversing the Permit have the burden of proof on both issues, and the Order should so specify.

2. Pennaco objects to Issue 2(a) to the extent it identifies pumpkins and requests the words "pumpkins" be deleted from the Issue. Protection of pumpkins is not and has never been an issue in this matter. Petitioners did not reference pumpkins in their Petition – only alfalfa. Also, Petitioners do not grow pumpkins – only alfalfa.

3. Pennaco objects to that portion of the Witnesses section (c) that identifies John Koltiska as a will call witness for Pennaco. Pennaco identified Robert Koltiska as a may call witness during the pre-hearing conference and in its pre-hearing memorandum.

Respectfully submitted November 12, 2009.



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CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2009, I served the foregoing document to the following by:

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