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Jim Ruby, Executive Secretary
Environmental Quality Council

Attorney for the Wyoming Department of Environmental Quality

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF THE PROTEST)
OF THE ISSUANCE OF THE PERMIT)
TO CONSTRUCT NO. 11-008)

) EQC Docket No. 11-3801
)
)

DEQ'S RESPONSE TO THE PETITIONERS' NOTICE OF PROTEST

Respondent Wyoming Department of Environmental Quality, Water Quality Division (DEQ), pursuant to the Wyoming Environmental Quality Council's (EQC) July 5, 2011, Response Order, responds as follows to the Petitioners, Michael and Heidi Romsa's July 5, 2011, Notice of Protest contesting the issuance of Permit No. 11-008 to New Fashion Pork. DEQ responds to Petitioners' Notice of Protest as follows:

- A. DEQ is without information or knowledge sufficient to form a belief as to the truth of the statement regarding Petitioners' address.
- B. DEQ admits that it issued Permit No. 11-008 to New Fashion Pork.
- C. Statement of Facts

1. DEQ is without information or knowledge sufficient to form a belief as to the truth of the statement regarding Petitioners' residence.
2. DEQ is without information or knowledge sufficient to form a belief as to the truth of this statement, and therefore, denies the allegations.
3. DEQ is without information or knowledge sufficient to form a belief as to the truth of this statement, and therefore, denies the allegations.
4. DEQ is without information or knowledge sufficient to form a belief as to the truth of this statement, and therefore, denies the allegations.
5. DEQ denies that Permit No. 11-008 was issued without "sufficient specificity for both the number and location of monitoring wells," and therefore, denies these allegations.
6. DEQ admits that the Supply/Monitoring Well Installation and Ground-Water Flow Evaluation notes hydraulic connectivity between the two existing monitoring wells but denies that there has been insufficient study on the impacts of the project on water quality of the Romsa # 7 well. The State Engineer regulates water quantity; therefore, the issue of water supply is not an issue that can be considered by the EQC.

7. DEQ denies that there has been insufficient study on the impacts of the project on water quality of the Romsa # 7 well and the State Engineer regulates water quantity, therefore, the issue of water supply is not an issue that can be considered by the EQC.

8. DEQ denies the allegations of paragraph 8.

9. DEQ admits there is no requirement for “scentometry” testing or reporting in the permit. DEQ does not believe there are any requirements for such testing in the regulations. Furthermore, issues of odor are addressed by the DEQ Air Quality Division on a case-by-case basis and outside of DEQ Water Quality Division’s jurisdiction.

10. DEQ admits there is no requirement for “olfactometry” testing or reporting in the permit. DEQ does not believe there are any requirements for such testing in the regulations. Furthermore, issues of odor are addressed by the DEQ Air Quality Division on a case-by-case basis and outside of DEQ Water Quality Division’s jurisdiction.

11. DEQ admits that the permit establishes a Maximum Allowable Volatile Solid Loading Rate (VSLR) of 4.25 pounds/1000 cubic feet of primary lagoon water. DEQ denies that this rate provides an insufficient margin of error. DEQ also denies that the VSLR can be no greater than 3.50 pounds/1000 cubic feet for the

lagoon. DEQ is without information or knowledge sufficient to form a belief as to the truth of the remaining statements, and therefore, denies the remaining allegations of paragraph 11.

12. DEQ admits the permit does not contain a bonding requirement for New Fashion Pork. It is DEQ's understanding that the New Fashion Pork facility was constructed prior to February 28, 1997, and therefore, the requirements of Chapter 20, including bond requirements, do not apply to the New Fashion Pork facility.

13. DEQ admits the permit does not contain a bonding requirement for New Fashion Pork. It is DEQ's understanding that the New Fashion Pork facility was constructed prior to February 28, 1997, and therefore, the requirements of Chapter 20, including bond requirements, do not apply to the New Fashion Pork facility.

14. DEQ denies the allegations of paragraph 14.

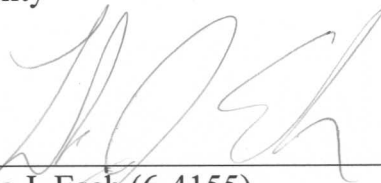
D. Petitioners' final averment is a request for a hearing which does not require responsive pleading.

E. Any allegation in Petitioners' Notice of Protest not specifically admitted above is hereby denied.

WHEREFORE, DEQ requests that the EQC approve the issuance of Permit to Construct 11-008 to New Fashion Pork.

DATED, this 2nd day of August, 2011.

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CERTIFICATE OF SERVICE

This certifies that true and correct copies of the foregoing DEQ's RESPONSE TO PETITIONERS' NOTICE OF PROTEST were served this 2nd day of August by United States mail and by email addressed as follows:

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