

BEFORE THE  
ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

IN THE MATTER OF:	)	
STATE OF WYOMING GENERAL	)	
PERMIT FOR PRODUCED WATER	)	
DISCHARGES ASSOCIATED WITH	)	DOCKET NO. 3124-99
COALBED METHANE WELLS issued	)	
May 14, 1999 by the Wyoming	)	
Department of Environmental Quality	)	

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND O R D E R**

This matter having come before the Environmental Quality Council (Council) at the public meeting held on September 13, 1999, in Jackson, Wyoming. The Council members present at the meeting were Den Costantino (Chairman), Pat Hand, Nick J. Bettas, Wendy Hutchinson, Stephen E. Williams, John Morris, and Robert Rawlings. Terri A. Lorenzon, attorney for the Council, was also present at the meeting. The Council having reviewed the record and being fully advised finds and concludes as follows. Wendy Hutchinson declared a conflict of interest and abstained from the vote.

**FINDINGS OF FACT**

1. On May 14, 1999 the Department of Environmental Quality (DEQ) issued the NPDES General Permit for Produced Water Discharges Associated with Coalbed Methane Wells.
  
2. The Objector, the Powder River Basin Resource Council (PRBRC), filed an objection to the General Permit for Produced Water Discharges Associated With Coalbed Methane Wells on July 14, 1999. The PRBRC objection was received and filed sixty one (61) days from the date the general permit was issued.
  
3. Chapter I, Section 16(a) of the DEQ Rules of Practice and Procedure, 1993 sets the deadline

for filing this appeal to the EQC. It states: "Unless otherwise provided by these Rules or the Environmental Quality Act, all appeals to Council from final actions of the Administrators or Director shall be made within sixty (60) days of such action."

4. Chapter I sets forth the procedure for filing a petition with the EQC. Section 3.(d) of the DEQ Rules of Practice and Procedure states: "The filing of such petition shall constitute the commencement of the proceeding on the date filed."
5. On August 10, 1999, DEQ filed a motion to dismiss the PRBRC objection stating the Department of Environmental Quality Rules of Practice and Procedure, Chapter I, Section 16(a) requires that objections/appeals be filed within sixty (60) days of the final action of the DEQ, and that the objection was filed late;
6. On August 26, 1999, the PRBRC responded to the motion to dismiss stating that the objection was mailed on July 13, 1999 and the mailing should be considered as filing the petition. The PRBRC also argued that filing the objection on the sixty first day does not prejudice DEQ or the permittee;

#### **CONCLUSIONS OF LAW**

1. The Council is governed by **Sections 35-11-101 through 35-11-1507, W.S. 1999, as amended**, and the Department of Environmental Quality Rules of Practice and Procedure.
2. **A document is filed with the EQC when it is received in the office and stamped by the custodian of the records. The**

applicable rules require petitioners/objectors to file petitions on time and mailing a document is not the same as filing a document.

3. The PRBRC objection was received and filed on July 14, 1999 sixty one days after DEQ's final action issuing the permit and one day beyond the time allowed for said action;
4. The petition/objection is untimely and the EQC does not have jurisdiction to consider the merits of the petition. The petition/objection should be dismissed.
5. It is unnecessary for the Council to consider or decide any other issues raised in this proceeding.

**IT IS HEREBY ORDERED:**

That the Powder River Basin Resource Council objection to the NPDES General Permit for Produced Water Discharges Associated with Coalbed Methane Wells is hereby dismissed.

**DATED this 18<sup>th</sup> day of October, 1999**

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