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*Counsel for Petitioner Pennaco Energy Inc.*

**FILED**

**MAY 23 2008**

**Terri A. Lorenzon, Director  
Environmental Quality Council**

**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**

**MOTION TO EXTEND STAY OF PROCEEDINGS  
PENDING SETTLEMENT DISCUSSIONS**

On June 26, 2007, Petitioner Clabaugh Ranch, Inc. (“Petitioner”) filed a Petition requesting review of the issuance of WYPDES Permit No. WY0048917. Pennaco Energy, Inc. (“Pennaco”) was granted leave to participate in this appeal as a full party, and on March 25, 2008, Hearing Examiner Dennis M. Boal entered an order staying the proceedings for a period of sixty (60) days pending settlement discussions. In anticipation of the expiration of the stay on May 27, 2008, Pennaco hereby moves for a stay of an addition forty-five (45) days to continue settlement discussions.

Since this appeal was filed in June 2007, the parties have engaged in informal discussions regarding the circumstances of this case. In the course of these discussions, the parties have discussed the potential for Pennaco to adopt a new water management plan whereby the discharge permitted under WY0048917 will be fully contained in a containment pit, fully contained in a reservoir, or reinjected. An agreement to contain all discharge permitted under

WY0048917 between Pennaco and Petitioner would obviate the need to litigate the pending appeal.

Pennaco is currently in the process of developing a new water management plan for the 20-mile Creek area. Pennaco has been in contact with landowners in the area on issues related to Pennaco's plan for containing and reinjecting produced water. At this juncture, Pennaco has not yet finalized its new plan, and is not yet in a position to negotiate a final settlement with Petitioner. Pennaco thus submits this motion for a stay of proceedings for forty-five (45) days to allow additional time for Pennaco to complete its water management plan and for the parties to enter into formal settlement negotiations. This stay will not harm Petitioner because Pennaco has not constructed any of the outfalls listed under the contested permit, and thus no produced water will be discharged under the terms of the contested permit during this period.

Pennaco respectfully requests that the Hearing Examiner extend the current stay for an additional forty-five (45) day period. If the parties are unable to reach an agreement during the forty-five (45) day period, the parties will convene for a scheduling conference and the Hearing Examiner can set a new hearing schedule at that time.

Pennaco contacted counsel for the Department of Environmental Quality ("DEQ") who indicated that DEQ does not oppose a stay of the proceedings. Pennaco attempted to contact counsel for Petitioner Tom Toner, but was informed that Mr. Toner will be out of the office and unreachable until May 28, 2008.

Dated: May 23, 2008

Respectfully submitted,

  
Brent R. Kunz

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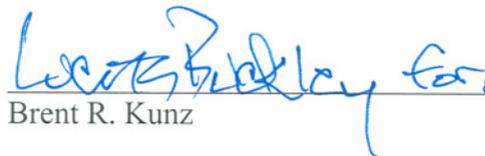
**CERTIFICATE OF SERVICE**

I hereby certify that on May 23, 2008 a copy of the foregoing Motion to Extend Stay Of Proceedings Pending Settlement Discussions, was served via first class mail, postage prepaid, on:

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