

FILED

FEB 09 2009

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

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

In the Matter of Frontier Refining Inc.'s Appeal of)
DEQ's October 27, 2008 Incorporation of the)
Barrier Wall Schedule into the AOC and) Docket No. 08-3808
November 7, 2008 Denial that Frontier has)
Achieved Boundary Control)

JOINT STIPULATION FOR DISPOSITION AND DISMISSAL OF APPEAL

Frontier Refining Inc. (Frontier) filed a Petition for Review and Request for Hearing (Petition) before the Wyoming Environmental Quality Council (EQC) in Docket No. 08-3808 on November 19, 2008. The Wyoming Department of Environmental Quality (DEQ) filed a Motion to Dismiss and Brief on January 2, 2009. Frontier filed a Response to DEQ's Motion to Dismiss on January 26, 2009. DEQ filed a Reply to Frontier's Response on January 30, 2009. By Order Setting Motion Hearing dated January 28, 2009, the EQC set the DEQ's motion for hearing on February 10, 2009.

WHEREAS, the only issues remaining in Frontier's appeal in Docket No. 08-3808 relate to the boundary control requirement.

WHEREAS, Chapter I, Section 11 of the DEQ Rules of Practice & Procedure provides for disposition of contested cases by stipulation of the parties upon approval of the EQC.

WHEREAS, Frontier and DEQ, the only parties in Docket No. 08-3808, now wish to resolve this appeal.

THEREFORE, Frontier and DEQ now jointly stipulate and agree to the following terms for disposition and dismissal of this contested case prior to hearing:

1. The parties stipulate and agree that the DEQ, Solid & Hazardous Waste Division Administrator's February 19, 2008 final Boundary Control decision letter is hereby modified by this joint stipulation to change only the alignment of the slurry bentonite barrier wall to conform to the alignment specified in the 1/29/09 Trihydro Corporation Figure: "Barrier Wall Alignment, Frontier Refining Inc., Cheyenne, Wyoming," **which is attached hereto and incorporated herein**. The parties further stipulate and agree that this joint stipulation does not modify any other terms of the Administrator's February 19, 2008 decision, and does not modify any terms of the Administrator's October 27, 2008 decision, the 1995 DEQ/Frontier Administrative Order



on Consent (AOC), or the 2006 DEQ/Frontier Joint Stipulation for Modification of Administrative Order on Consent.

2. DEQ's agreement to this stipulated modification of the barrier wall alignment does not relieve Frontier of its obligation to diligently apply for and obtain federal, state or local permits, authorizations or approvals, if any, required to install the barrier wall along the stipulated alignment.

3. Frontier agrees that it is responsible for timely making any arrangements relating to the third party concrete-lined irrigation ditch which crosses the property Frontier purchased from Old Horse Pasture, Inc. (OHP) in 2008 as necessary to install the barrier wall along the stipulated alignment, and Frontier further agrees that its inability to timely make such arrangements shall not constitute a force majeure under the AOC. In the event that Frontier is not able to timely make such arrangements, Frontier may proceed with installation of the barrier wall along the stipulated alignment, which shall then be modified only to the minimum extent needed to avoid the concrete-lined irrigation ditch and also remain on the north side of Crow Creek. The approximate path of the concrete-lined irrigation ditch is depicted in the second map **which is attached hereto and incorporated herein.**

4. The parties stipulate and agree that the EQC should enter an Order approving, incorporating and binding the parties to this joint stipulation and dismissing Frontier's appeal in Docket No. 08-3808.

5. The terms set forth above shall be null and void if the EQC disapproves this joint stipulation.

6. Each party shall bear its own costs and attorney fees through the filing of this joint stipulation.

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WHEREFORE Frontier and DEQ request that the EQC enter an Order approving, incorporating and binding the parties to this joint stipulation and dismissing Frontier's appeal in Docket No. 08-3808.

DATED this 09 day of February, 2009.

FOR FRONTIER REFINING INC.:

FOR WYOMING DEQ:


Gerald B. Faudel
Vice President, Governmental Relations
and Environmental Affairs


John Corra
Director, Wyoming Department of
Environmental Quality (DEQ)


LeRoy Feusner, Administrator
Solid & Hazardous Waste Division

APPROVED AS TO FORM:

APPROVED AS TO FORM:


Mark R. Ruppert (Bar No. 6-3593)
Holland & Hart, LLP
Attorney for Frontier Refining Inc.


Mike Barrash (Bar No. 5-2310)
Senior Assistant Attorney General
Attorney for DEQ

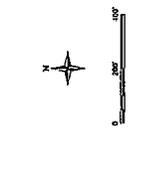


**SOLID AND HAZARDOUS
WASTE DIVISION**
JAN 30 2009

NOTE:
ALL LAND AND WATER RIGHTS ARE
SHOWN AS OWNED BY THE
PROPERTY OWNER.

LEGEND:

- APPROXIMATE PROPERTY BOUNDARIES
- APPROXIMATE 100-FEET BUFFER ZONE AROUND ALL STRUCTURES
- APPROXIMATE 100-FEET BUFFER ZONE AROUND ALL UTILITIES
- APPROXIMATE 100-FEET BUFFER ZONE AROUND ALL WATER BODIES
- APPROXIMATE 100-FEET BUFFER ZONE AROUND ALL POWER LINES
- APPROXIMATE 100-FEET BUFFER ZONE AROUND ALL TELEPHONE LINES
- APPROXIMATE 100-FEET BUFFER ZONE AROUND ALL FENCE LINES
- APPROXIMATE 100-FEET BUFFER ZONE AROUND ALL ROAD LINES
- APPROXIMATE 100-FEET BUFFER ZONE AROUND ALL RAILROAD LINES
- APPROXIMATE 100-FEET BUFFER ZONE AROUND ALL AIRCRAFT ROUTES
- APPROXIMATE 100-FEET BUFFER ZONE AROUND ALL OTHER SENSITIVE AREAS



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FIGURE 1 OF 1
BARRIER WALL ALIGNMENT

FRONTIER REFINING INC.
CHEYENNE, WYOMING

Drawn By: PC | Checked By: JS | Date: 1/28/09 | File: 0058WALLALIGN000901

