

**FILED**

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

NOV 04 2009

Jim Ruby, Executive Secretary  
Environmental Quality Council

IN THE MATTER OF THE APPEAL OF )  
JOHN D. KOLTISKA, AC RANCH, INC. )  
A Wyoming Corporation, PRARIE DOG )  
RANCH, INC., a Wyoming Statutory Close )  
Corporation, and PRARIE DOG WATER )  
SUPPLY COMPANY, FROM WYPDES )  
PERMIT NO. WY0054364 )

Docket No. 09-3805

**DEQ'S PRE-HEARING MEMORANDUM**

Respondent Wyoming Department of Environmental Quality (DEQ) files this Pre-Hearing Memorandum in the above-captioned matter.

**WITNESSES**

Respondent DEQ will call the following witnesses to testify at the evidentiary hearing in this matter:

1. Jason Thomas, c/o DEQ/WQD, Herschler Building, Fourth Floor West, 122 W. 25<sup>th</sup> Street, Cheyenne, WY 82002, 307-777-7781. Mr. Thomas is expected to testify regarding the process which resulted in the issuance of renewal WYPDES Permit No. WY0054364 issued on January 6, 2009 and modified WYPDES Permit No. WY0054364 issued on April 29, 2009, and the terms and conditions in those permits and related matters which are relevant to the issues in this contested case.

2. Kathy Shreve, c/o DEQ/WQD, Herschler Building, Fourth Floor West, 122 W. 25<sup>th</sup> Street, Cheyenne, WY 82002, 307-777-7781. Ms. Shreve is expected to testify regarding the process which resulted in the issuance of initial WYPDES Permit No. WY0054364 issued on January 29, 2007, and the terms and conditions in that permit to the extent relevant to the issues in this contested case.

3. Bill DiRienzo, c/o DEQ/WQD, Herschler Building, Fourth Floor West, 122 W. 25<sup>th</sup> Street, Cheyenne, WY 82002, 307-777-7781. Mr. DiRienzo is expected to provide supplemental testimony regarding the process which resulted in the issuance of renewal WYPDES Permit No. WY0054364 issued on January 6, 2009 and modified WYPDES Permit No. WY0054364 issued on April 29, 2009, and the terms and conditions in those permits and related matters which are relevant to the issues in this contested case.

Respondent DEQ may call the following witnesses to testify at the evidentiary hearing in this matter:

1. Any of the other parties' witnesses as may be needed for further examination.
2. Any other witnesses as may be needed for purposes of rebuttal or impeachment.

#### EXHIBITS

1. WYPDES Permit No. WY0054364 issued on January 29, 2007, including Statement of Basis.
2. WYPDES Permit No. WY0054364 issued on January 6, 2009, including Statement of Basis.
3. WYPDES Permit No. WY0054364 issued on April 29, 2009, including Statement of Basis.
4. USDA Crop Salt Tolerance Data as represented in *Agricultural Salinity and Drainage* (Table 2), Hanson, et al, 2006.
5. SAR chart (Figure 3) from *Agricultural Salinity and Drainage*, Hanson, et al, 2006.
6. Maps prepared by DEQ.
7. Petitioners' Responses to Respondents' Discovery Requests in EQC Doc. No. 09-3805.
8. Petitioners' Expert Designations in EQC Doc. No. 09-3805.
9. Petitioners' Expert Report by Mr. James O'Neill, II in EQC Doc. No. 09-3805.
10. Petitioners' Expert Report by Dr. George F. Vance in EQC Doc. No. 09-3805.
11. Hendrickx & Buchanan September 2009 Report to WDEQ.
12. Kathy Shreve Deposition Exhibits Nos. 16, 18, 21, 22.

13. Any documents filed by the parties in EQC Doc. No. 09-3805.
14. Any other exhibits needed for purposes of rebuttal or impeachment.

ISSUE

Whether the effluent limits and other conditions in contested WYPDES Permit No. WY0054364 issued on April 29, 2009 pertaining to discharges from outfalls 002 and 003 comply with Chapter 1, Section 20 of the Wyoming Water Quality Rules & Regulations for protection of water quality for irrigation use in Prairie Dog Creek and Wildcat Creek?

STATUTES & REGULATIONS

1. WYO. STAT. ANN. § 35-11-103(c)(vii).
2. WYO. STAT. ANN. § 35-11-301(a)(i)&(ii).
3. Wyoming Water Quality Rules & Regs., Chapter 1, Section 20.

DATED this 4th day of November, 2009.



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**CERTIFICATE OF SERVICE**

This certifies that true and correct copies of the foregoing DEQ'S PRE-HEARING MEMORANDUM was served this 4th day of November, 2009 by United States mail, postage prepaid, or by hand delivery, and also by email, addressed as follows:

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