

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL **FILED**
STATE OF WYOMING

APR 18 2007

IN THE MATTER OF THE APPEAL)
OF WILLIAM P. MAYCOCK)
FROM WYPDES PERMIT NO. WY0050857)

Terri A. Lorenzon, Director
Environmental Quality Council
Docket No. 06-3803

**WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S RESPONSE
TO WILLIAM P. MAYCOCK'S MOTION FOR EXPEDITED HEARING
AND REQUEST FOR PRE-HEARING CONFERENCE**

Respondent Wyoming Department of Environmental Quality (DEQ) hereby responds to Petitioner William P. Maycock's (Petitioner or Maycock) Motion for Expedited Hearing and requests a pre-hearing conference before this case is set for hearing.

1. On December 18, 2006, Petitioner filed a Petition requesting a hearing before the Environmental Quality Council (EQC or Council) to contest WYPDES Permit No. WY0050857 (South Prong permit) authorizing Williams Production RMT Company (Williams) to discharge CBM produced water to on-channel reservoirs in the South Prong of Barber Creek above its confluence with Barber Creek on the Maycock Ranch.

2. Petitioner contests certain terms and conditions of the South Prong permit, including management of potential discharges containing CBM water from those on-channel reservoirs, the effluent limit of 7500 for EC, and the absence of an effluent limit for SAR. Petition, ¶¶ f-i, k, u-v.

3. On April 3, 2007, the Council issued their "Findings of Fact, Conclusions of Law, and Order" in EQC Docket No. 05-3803, in which Maycock had contested Williams' Permit No. WY0053171 (Barber Creek permit) to discharge CBM produced water into Barber Creek above the Maycock Ranch based on certain terms and conditions of the Barber Creek permit, including management of discharge water and the effluent limits for EC and SAR of 3,000 and 18 respectively.

4. The Council's Findings, Conclusions and Order revoked the Barber Creek permit based upon, among other things, the Conclusions that the permit application was not complete with respect to critical parts of the water discharge plan, and the adequacy of the effluent limits for EC and SAR. Conclusions ## 8, 10-11, 14.

5. Petitioner's "Motion For Expedited Hearing" in EQC Docket No. 06-3818, dated April 2, 2007, reiterates the concerns about the effluent limits for EC and SAR in the South Prong permit that were identified in his Petition, and alleges recent events involving "an illegal discharge" by Williams into Barber Creek, resulting in damage to the Maycock Ranch, as indicative of possible damage from potential discharges from on-channel reservoirs under the South Prong permit. Motion ¶¶ 4-10.

6. Williams' Response to Maycock's Motion for Expedited Hearing disputes some of Maycock's factual allegations regarding the recent (March, 2007) discharge to Barber Creek, which Williams attributes to a pipeline break.

7. As Petitioner notes in his Motion, the Council has already decided that effluent limits of 3,000 for EC and 18 for SAR for direct discharges into Barber Creek are not protective, which may also be dispositive of issues involving the adequacy of limits of 7,500 for EC and no limit for SAR for discharges to on-channel reservoirs in South Prong. Motion ¶¶ 4-5, 9.

8. Chapter I, Section 9(a)(i) of the DEQ Rules of Practice & Procedure provides for a pre-hearing conference to consider implication of the issues.

9. DEQ requests that prior to setting this matter for an evidentiary hearing to determine issues of fact, expedited or otherwise, the Council convene a pre-hearing conference for the purpose of identifying what factual issues in this case, such as the adequacy of the permitted effluent limits for EC and SAR, have in effect be decided by the Council's Findings and Conclusions in Docket No. 05-3803 (which were issued after the Petition in 06-3818 was filed), and what factual issues remain and require an evidentiary hearing. The hearing in Docket No. 05-3803 involved extensive and expensive discovery and took four days for the hearing. To the extent the hearing on the Barber Creek permit decided issues in this case as well, a pre-hearing conference to define and narrow the scope of the hearing needed on the South Prong permit will serve the interests of all the parties.

DATED this 18 day of April, 2007.



Mike Barrash
Sr. Assistant Attorney General
123 Capitol Building
Cheyenne, Wyoming 82002
(307) 777-6946
(307) 777-3542 Fax

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 18 day of April, 2007, a true, full and correct copy of the foregoing WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S RESPONSE TO WILLIAM P. MAYCOCK'S MOTION FOR EXPEDITED HEARING AND REQUEST FOR PRE-HEARING CONFERENCE was served via United States Mail, first class postage prepaid, and by facsimile transmission and/or e-mail addressed as follows:

Tom C. Toner
Yonkee & Toner
319 W. Dow Street
P.O. Box 6288
Sheridan, Wyoming 82801-6288
Facsimile: (307) 672-6250
Attorney for William P. Maycock

Jack D. Palma II
Mark Ruppert
Holland & Hart
2515 Warren Ave., Suite 450
P.O. Box 1347
Cheyenne, WY 82003-1347
Facsimile: (307) 778-8175
jpalma@hollandhart.com
Attorney for Williams Production RMT Co.



Wyoming Attorney General's Office