

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

FILED

DEC 06 2007

IN THE MATTER OF THE APPEAL OF)
PENNACO ENERGY, INC. OF)
CONDITIONS IN RENEWAL OF)
WYPDES PERMIT NOS. WY0039721,)
0039616, 0048461, 0052361 and)
0048283)

Terri A. Lorenzon, Director
Environmental Quality Council
Docket Nos. ~~07-3616~~
07-3617, 07-3618,
07-3819, and 07-3620

SCHEDULING CONFERENCE ORDER

THIS Order arises out of the scheduling conference conducted by Dennis Boal, hearing examiner for the Environmental Quality Council, on November 26, 2007.

1. Consolidation.

(a) The hearing examiner considered whether, in the interest of judicial economy, the above referenced cases should be consolidated.

(b) Pursuant to Chapter II, Section 14 of the DEQ Rules of Practice and Procedure and Rule 42(a) of the Wyoming Rules of Civil Procedure, the Council may consolidate actions involving common questions of law or fact to avoid unnecessary costs or delay.

(c) After discussion with the parties and review of the issues and facts related to all the Pennaco petitions, docket numbers 07-3616, 07-3617, 07-3618, 07-3619, and 07-3620, the hearing examiner finds that the petitions involve the same parties, common issues of law, common issues of fact, and the same requested relief with one exception.

(d) The hearing examiner finds that docket number 07-3619 contains an additional issue related to the SAR limit in the permit not common to the other petitions. However, all parties agreed and the hearing examiner finds that this issue can be addressed within the same proceeding as the other petitions.

(d) The hearing examiner also finds that consolidating the WOC petitions, docket numbers 07-3616, 07-3617, 07-3618, 07-3619, and 07-3620, will avoid unnecessary costs and delays by eliminating separate filings and separate hearings.

(e) Therefore, the hearing examiner orders that docket numbers 07-3616, 07-3617, 07-3618, 07-3619, and 07-3620 are consolidated and shall all be referred to as docket number 07-3620.

(f) The hearing examiner and the parties additionally discussed that another Pennaco petition to be filed in the near future may also be appropriate for consolidation with these petitions. The hearing examiner ordered the parties to take whatever steps they felt necessary to consolidate that petition with these if they deemed it appropriate to do so.

2. Scheduling.

(a) The following schedule is set in this matter:

- (1) All discovery, both written and oral, shall be completed by February 29, 2008.
- (2) Dispositive motions shall be filed and served on or before March 7, 2008.
- (3) Replies to dispositive motions shall be filed and served on or before March 20, 2008.
- (4) Oral argument on dispositive motions is set for April 4, 2008 at 10:00 a.m., location to be determined later. Each party will have ten minutes for oral argument.
- (5) Pre-hearing memorandums and three copies of all exhibits shall be filed with the Council and delivered to all parties on or before April 10, 2008.

(6) The Pre-hearing Conference is set for April 15, 2008 at 1:30 p.m. The location of the Pre-hearing Conference will be determined later. The purpose of the pre-hearing conference is to:

- a. Clarify the issues
- b. Stipulate to facts
- c. Examine and discuss the proposed exhibits and enter into stipulations to the foundation and admissibility of the exhibits.
- d. Identify witnesses and the substance of their proposed testimony.

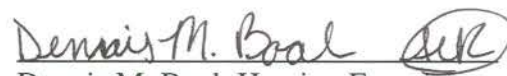
(7) Hearing is set for April 28 – May 2, 2007, commencing at 9:00 A.M. in Room B63, Herschler Building, 122 W. 25th St., Cheyenne, Wyoming.

(b) All documents shall be delivered no later than 4:00 p.m. on the above referenced date. For the purposes of this order, delivery shall mean that the recipient has the pertinent documents in hand. Delivery does not mean that the documents were placed in the mail or with a delivery service. The Parties may deliver documents via fax or e-mail, if prior arrangements have been made with the recipients and the original is mailed at the same time.

3. Objections to Scheduling Conference Order.

The parties shall have ten days from the date of service to serve and file any objections to this Scheduling Conference Order.

SO ORDERED this 19 day of December, 2007.


Dennis M. Boal, Hearing Examiner
Environmental Quality Council

CERTIFICATE OF SERVICE

I, Alyx Reed, certify that at Cheyenne, Wyoming, on the 6th day of December, 2007, I served a copy of the foregoing **SCHEDULING CONFERENCE ORDER** by depositing copies of the same in the United States mail, postage prepaid, duly enveloped and addressed to;

Brent R. Kunz
Hathaway & Kunz, P.C.
2515 Warren Avenue, Ste. 900
Cheyenne, WY 82003

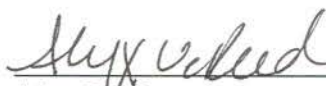
John C. Martin
Duane A. Siler
Patton Boggs, LLP
2550 M. Street NW
Washington, D.C. 20037

also to the following persons via interoffice mail:

John Burbridge
Office of Attorney General
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Cheyenne, WY 82002

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Cheyenne, WY 82002

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