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FILED

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Counsel for Proposed Intervenor Pennaco Energy Inc.

**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

PENNACO ENERGY INC.'S MOTION FOR LEAVE TO INTERVENE

Pursuant to the Wyoming Department of Environmental Quality ("DEQ") Rules of Practice and Procedure, Chapter 2, Section 7, Pennaco Energy Inc. ("Pennaco") hereby files this Motion for Leave to Intervene and respectfully requests that the EQC grant Pennaco intervenor status in the above-captioned matter and allow Pennaco to participate as a full party.

I. BACKGROUND

Pennaco, a subsidiary of Marathon Oil Company, is a coal bed natural gas ("CBNG") producer with operations in the Powder River Basin of Wyoming. Pennaco applied for and was subsequently issued a renewal of Wyoming Pollution Discharge Elimination System

("WYPDES") Permit No. WY0048917, authorizing Pennaco to discharge produced water from its CBNG operations into Wild Horse Creek, a tributary of the Powder River. The Administrator of the Water Quality Division of the Department of Environmental Quality ("DEQ") signed the permit on May 8, 2007, and the Director of the DEQ signed the permit on May 9, 2007.

On June 25, 2007, Clabaugh Ranch Inc. ("Clabaugh" or "Petitioner") filed a Petition requesting review of the issuance of WYPDES Permit No. WY0048917. Clabaugh is the owner of a ranch in Sheridan and Campbell Counties, Wyoming. *See* Petition at ¶ 3a. Petitioner alleges that the water Pennaco will discharge pursuant to this WYPDES permit will cross the Clabaugh ranch for several miles. *Id.* at ¶ 3e.

II. PENNACO IS AN INDISPENSABLE PARTY INTERESTED IN THE DETERMINATION OF THIS PROCEEDING.

The EQC's rules of practice and procedure state, in relevant part:

any person interested in obtaining relief the sought by a party *or otherwise interested in the determination of a proceeding . . .* pending before the Council may petition for leave to intervene in such proceeding prior to or at the date of hearing.

2 Rules of Practice & Procedure § 7(a) (emphasis added). Here, Pennaco is the holder of the permit being challenged by Clabaugh in this proceeding. According to the Petition, Clabaugh is asking the Council to "reverse the decision to grant the Permit and grant the Petitioner such relief as he is entitled to by law or regulation." Petition at ¶ 4.

Pennaco is clearly a party "otherwise interested in the determination" of this proceeding. If the Council upholds the permit, Pennaco will have a legal right thereunder to discharge water in accordance with the permit. If Petitioner prevails in this appeal and DEQ's decision to issue

the permit is reversed, Pennaco's rights will be adversely affected by the outcome of the proceeding. Pennaco therefore respectfully requests that its motion to intervene be granted.

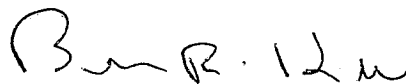
Moreover, Pennaco is an indispensable party to the above-captioned petition. Pennaco's interests will be directly and adversely affected by the outcome of this proceeding should EQC grant Clabaugh's sought-after relief. Thus, Pennaco's interests relating to the subject of this action are so situated that EQC's disposition of the action in absence of Pennaco would directly impair or impede Pennaco's ability to protect its interests. *Cf.* Wyoming Rules of Civil Procedure 19(a), 24(a).

III. CONCLUSION.

For the foregoing reasons, Pennaco respectfully requests that the EQC grant its Motion for Leave to Intervene. A proposed order is attached for the EQC's consideration.

Dated this 23 day of August, 2007.

Respectfully submitted,



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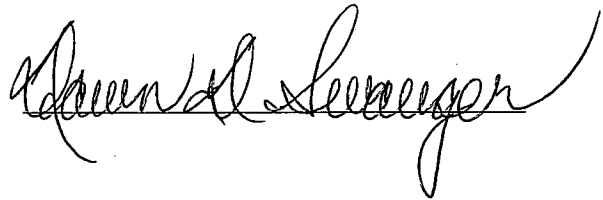
*Attorneys for Proposed Intervenors Pennaco
Energy, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that copies of Pennaco Energy Inc.'s Motion To Intervene were served by first class mail, postage prepaid this 13 day of August, 2007, on the following:

Director, Department of Environmental Quality
122 West 25th Street
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Cheyenne, WY 82002

Tom C. Toner
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A handwritten signature in black ink, appearing to read "Donald A. Leveque". The signature is written in a cursive style with a long, sweeping underline.

RECEIVED AUG 23 2007

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ORDER

The Environmental Quality Council finds that Pennaco Energy Inc. is a necessary party to the above-captioned case.

IT IS HEREBY ORDERED that Pennaco Energy Inc is a full participating party in this matter.

DATED this _____ day of _____, 2007,

Hearing Examiner
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