

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

IN THE MATTER OF THE APPEAL )  
OF PENNACO ENERGY, INC. FROM )  
CONDITIONS IN RENEWAL OF )  
WYPDES PERMIT NOS. WY0039721, )  
WY0039616, WY0048461, WY0052361, )  
WY00004823, WY0039632 )  
AND WY 0048631 )

Docket No. 07-3620  
(Consolidated)

**FILED**

**AUG 19 2008**

*Jim Ruby, Executive Secretary  
Environmental Quality Council*

**ORDER OF DISMISSAL**

**THIS ORDER** arises out of the scheduling conference conducted by telephone on August 15, 2008, by Mr. Dennis Boal, designated as the hearing examiner for the Environmental Quality Council in this matter. Participants in the conference included Mr. Duane Siler, counsel for appellant Pennaco Energy, Inc. (Pennaco), Mr. John Burbridge, counsel for the Department of Environmental Quality (DEQ), and Ms. Kate Fox, counsel for the Powder River Basin Resource Council. Also attending the conference were Ms. Marion Yoder, Senior Assistant Attorney General, Ms. Deborah Baumer, Office of Administrative Hearings, Ms. Terri A. Lorenzon, Director/Attorney for the EQC and Mr. Joe Girardin, Paralegal for the EQC.

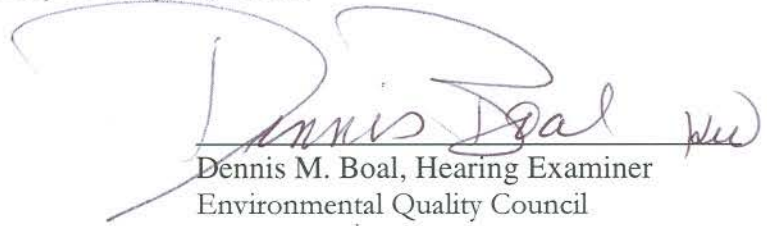
Pennaco's appeals of two of the above-referenced permits remained pending in this consolidated docket after Pennaco's appeals of five other WYPDES permits, previously consolidated in this docket, were resolved and dismissed with prejudice. The two pending appeals are WY0039616 ("Railroad") and WY0048461 ("Hay Creek"). Counsel for Pennaco reported that, in accordance with applications by Pennaco for modification of these two remaining renewal permits, DEQ issued a major modification of each of the two permits, effective upon signature of the Director of the Water Quality Administration on August 12, 2008.

In response to questioning of the parties by the hearing examiner, counsel for all parties agreed that the modified permits have superseded the two remaining renewal permits that were the subject of these appeals and have rendered the remaining appeals moot. Counsel for all parties agreed that the two remaining appeals should be dismissed as moot, although such agreement has no bearing on the status of a potential challenge to the modified permits issued August 12, 2008.

**IT IS THEREFORE ORDERED THAT** the appeals of WYPDES permit numbers WY0039616 ("Railroad") and WY0048461 ("Hay Creek") be and hereby are dismissed with prejudice;

FURTHER ORDERD THAT, all appeals in Consolidated Docket No. 07-3620 now having been dismissed, said docket be and hereby is closed.

SO ORDERED this 14<sup>th</sup> day of August, 2008.

A handwritten signature in black ink, reading "Dennis M. Boal" with a large, stylized flourish above the name and a small mark to the right.

Dennis M. Boal, Hearing Examiner  
Environmental Quality Council  
122 West 25<sup>th</sup> Street, Room 1714  
Herschler Building  
Cheyenne WY 82002

## CERTIFICATE OF SERVICE

I, Kim Waring, certify that at Cheyenne, Wyoming, on the 19<sup>th</sup> day of August, 2008, I served a copy of the foregoing **RESPONSE ORDER** by electronic mail to;

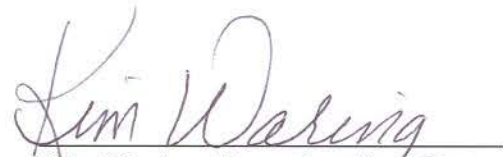
Brent R. Kunz  
Hathaway & Kunz, P.C.  
2515 Warren Avenue, Ste. 900  
Cheyenne, WY 82003  
[bkunz@hkwyolaw.com](mailto:bkunz@hkwyolaw.com)

John C. Martin  
Duane A. Siler  
Patton Boggs, LLP  
2550 M. Street NW  
Washington, D.C. 20037  
[dsiler@pattonboggs.com](mailto:dsiler@pattonboggs.com)

John Burbridge  
Office of Attorney General  
[jburbr@state.wy.us](mailto:jburbr@state.wy.us)

John Wagner, Administrator  
WDEQ  
[jwagne@wyo.gov](mailto:jwagne@wyo.gov)

John Corra  
Director, DEQ  
122 W. 25<sup>th</sup>, 4-W  
Herschler Bldg.  
Cheyenne, WY 82002  
[jcorra@wyo.gov](mailto:jcorra@wyo.gov)

  
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Kim Waring, Executive Assistant  
Environmental Quality Council  
122 W. 25<sup>th</sup>, Rm. 1714  
Herschler Bldg.  
Cheyenne, WY 82002  
Phone: 307-777-7170  
FAX: 307-777-6134