

FILED

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

NOV 21 2007

Terri A. Lorenzon, Director
Environmental Quality Council

IN THE MATTER OF THE APPEAL OF THE)
REVOCATION OF PERMIT NO. CT-1352B)
TWO ELK POWER PLANT)

Docket No. 07-2601

**JOINT MOTION FOR DISMISSAL OF APPEAL, APPROVAL OF
SETTLEMENT STIPULATION, AND REQUEST FOR SETTING OF HEARING**

Respondent Wyoming Department of Environmental Quality, Air Quality Division (“DEQ/AQD”) by and through the Office of Attorney General, and Petitioner Two Elk Generation Partners, Limited Partnership (“TEGP”), pursuant to WYO. STAT. ANN. § 16-3-107(n) and Chapter 1, § 11 of the DEQ Rules of Practice and Procedure, hereby stipulate and jointly move as follows:

1. WYO. STAT. ANN. § 16-3-107(n) and Chapter 1, § 11 of the DEQ Rules of Practice and Procedure provide for disposition of contested cases by stipulation of the parties upon approval by the Environmental Quality Council (“EQC”).

2. On August 22, 2007, the DEQ/AQD Administrator, Mr. David A. Finley issued TEGP a letter (“August 22 Letter”) concluding: “Because construction has been discontinued for a period of 24 months or more, DEQ/AQD Construction Permit No. CT-1352B has become invalid by operation of permit condition No. 4 and Chapter 6 Section 2(h) of the WAQSR.” TEGP disagreed with the DEQ/AQD’s conclusion and provided additional confidential business information and documentation for DEQ/AQD’s review and consideration.

3. On October 22, 2007, TEGP filed its Petition for Review and Request for Immediate Stay with the EQC contesting the DEQ/AQD action and requesting an immediate stay of the effectiveness of the August 22 Letter.

4. The DEQ/AQD and TEGP (hereinafter DEQ/AQD and TEGP are referred to collectively as "Parties") have conferred regarding the issues involved in this appeal and have reached agreement for withdrawal of TEGP's appeal.

5. A copy of the Parties' agreement is attached hereto as Exhibit A.

WHEREFORE, the Parties jointly request the EQC approve the Parties' agreement and dismiss TEGP's appeal on November 28, 2007 during the scheduled Stay hearing.

RESPECTFULLY SUBMITTED this 21st day of November, 2007.

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