

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
OF THE STATE OF WYOMING

IN THE MATTER OF THE APPEAL)
OF CLABAUGH RANCH, INC. FROM)
WYPDES PERMIT NO. WY0049697)

DOCKET NO. 08-3402

FILED

AUG 19 2009

Ruby, Executive Secretary
Environmental Quality Council


ORDER

On the 31st day of July 2009, Mr. Pat Crank, counsel for the permittee, filed a Motion entitled LANCE OIL AND GAS COMPANY'S MOTION TO RETURN INADVERTENTLY PRODUCED ATTORNEY-CLIENT PRIVILEGED MATERIAL. The Presiding Officer, Tim Flitner, appointed Deb Baumer from the Office of Administrative Hearings as the Hearing Officer on this Motion. That Ms. Baumer review the referenced material, the facts leading up to the disclosure of the material and the law regarding waiver of privilege. Ms. Baumer provided to the Council a recommended Finding of Fact, Conclusion of Law and Order for the Council's consideration.

On the 18th day of August, 2009, the Council met in room B63 of the Herschler Building in Cheyenne Wyoming to consider the Permittee's Motion and the recommendation of the Hearing Officer. Ms. Guschewsky moved to accept the recommendations of the Hearing Officer. Dr. Ogden seconded the motion. The motion prevailed 6 to 0.

WHEREFORE, the Council Orders the Petitioner to return to the Permittee, the identified privileged material as well as any and all copies of said documents within five (5) days of receipt of this Order. Further the Council finds that the use of these privileged materials shall not be allowed in these proceedings unless there is a showing that the privilege has been waived.

SO ORDERED, this 19th day of August 2009.


Tim Flitner, Presiding Officer
Member of the EQC

CERTIFICATE OF SERVICE

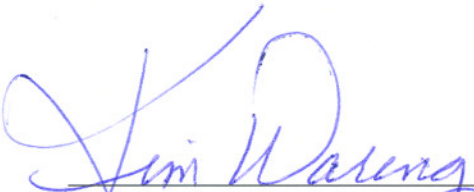
I, Kim Waring, certify that at Cheyenne, Wyoming, on the 19th day of August, 2009, I served a copy of the foregoing **ORDER** by electronic mail to the following;

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