

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

In the Matter of the Appeals of the)
June 2, 2008 and August 15, 2008)
Denial of Force Majeure Claims by)
Frontier Refining Inc.)

Docket No. 08-3804

JAN 13 2009

Jim Ruby, Executive Secretary
Environmental Quality Council

WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S
REPLY TO FRONTIER REFINING INC.'S
SUPPLEMENTAL MEMORANDUM

Respondent Wyoming Department of Environmental Quality (DEQ), replies as follows to Petitioner Frontier Refining Inc.'s (Frontier) January 12, 2009 "Supplemental Memorandum" (Fr. Supp. Memo.) in Docket No. 08-3804 before the Wyoming Environmental Quality Council's (EQC). This Reply addresses a factually inaccurate statement in Frontier's Supplemental Memorandum.

Frontier states that "[i]n its November 18, 2008 Reply to Frontier's Response, DEQ asserted a **new argument** for dismissal based on a revised schedule that DEQ issued on October 27, 2008—almost two weeks *after* DEQ filed its Motion to Dismiss" (emphasis in original quotation). Fr. Supp. Memo., p. 3. Frontier contends that "[a]ccordingly, DEQ's October 27, 2008 schedule should not be considered in evaluating the merits of DEQ's Motion to Dismiss." *Id.* As a matter of documented fact, Frontier itself initially raised that issue in its November 4, 2008 Response to DEQ's Motion, to which DEQ's November 18, 2008 Reply properly replied. See Frontier's Response, pp. 5-6 (EQC Doc. No. 08-3804). Frontier's own pleading put the October 27, 2008 revised schedule at issue to "be considered in evaluating the merits of DEQ's Motion to Dismiss" in this matter.

DATED this 13th day of January, 2009.



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CERTIFICATE OF SERVICE

This certifies that a true and correct copy of the foregoing WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S REPLY TO FRONTIER REFINING INC.'S SUPPLEMENTAL MEMORANDUM was served this 13th day of January, 2009 by United States mail, first class postage prepaid, addressed as follows:

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