

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

JUL 02 2009

IN THE MATTER OF:)
MEDICINE BOW FUEL & POWER, LLC)
AIR PERMIT CT-5873)

Docket 09-2801

SCHEDULING ORDER

**Jim Ruby, Executive Secretary
Environmental Quality Council**

ON THE 26th day of June, 2009, the Council through David Searle, the appointed presiding officer conducted a scheduling conference with the parties. Present at said hearing was the Petitioners, Sierra Club of Wyoming and The National Sierra Club, represented by Andrea Issod; the Department of Environmental Quality, represented by Nancy Vehr, Asst. Attorney General; Jeff O'Holleron and Kevin Walton externs with the Wyoming Attorney General Office; Medicine Bow Fuel & Power, LLC, represented by Mary Throne, Bob Moss and Jude Rolfes; Councilwoman Cathy Guschewsky; Jim Ruby, Exec. Secretary of the Council and Joe Girardin, paralegal for the Council.

The following schedule has been developed by the Presiding Officer through consultation and the parties are hereby ordered to comply with said schedule unless good cause is shown why the parties are unable to comply.

The following schedule is hereby Ordered:

- a. Discovery may begin July 1, 2009.

The administrative record as determined by the Department of Environmental Quality shall be transmitted to the parties by August 3, 2009. This record shall not include the modeling data prepared for the application. This data will be available for copying upon receipt by the Department of an external hard drive with the capacity of at least 150

gigabytes from the party wishing to have a copy of this data.

b. Any preliminary or procedural motions shall be filed on or before 12:00 noon August 3, 2009.

c. Responses to any motions filed pursuant to paragraph (b) shall be filed and on or before 12:00 noon August 17, 2009.

d. Hearings on any motions filed pursuant to paragraph (b) are set for September 1, 2009 in Cheyenne WY. The exact location and time shall be determined at a later date. The parties may appear by telephone for this hearing. Each party will have ten minutes for oral argument.

e. Petitioner's expert designations and reports shall be filed by 12:00 noon September 1, 2009.

f. The Respondent and Third Party Respondents' expert designations and reports shall be filed by 12:00 noon on September 15, 2009.

g. Petitioner's rebuttal expert designations and reports shall be filed by 12:00 noon on or before October 1, 2009.

h. All discovery, both written and oral, except for depositions of experts, shall be completed by 12:00 noon on or before October 30, 2009. Depositions of experts shall be concluded by 5:00 p.m. on November 13, 2009.

i. Dispositive motions shall be filed by 12:00 noon on or before November 16, 2009.

j. Responses to dispositive motions shall be filed by 12:00 noon on or before November 30, 2009.

k. Oral arguments on dispositive motions shall be held on the December 7, 2009

in Cheyenne WY. The exact location and time of the arguments will be determined at a later date. Each party will have ten minutes for oral argument. The proponent of any dispositive motion shall also have an additional five minutes for rebuttal argument.

l. Prehearing memorandums and three copies of all exhibits shall be filed with the Council by 12:00 noon on or before December 1, 2009. A copy of all exhibits shall also be served on the opposing parties. At a minimum the memorandum shall identify all contested issues and all uncontested issues, will-call and may-call witnesses, exhibits and any other matters the Parties need to have considered at the prehearing conference.

m. The prehearing conference shall be held on December 4, 2009. The exact location and time will be determined at a later date. The parties may appear by teleconference if personal attendance at the offices of the Council in Cheyenne Wy, is impractical. The purpose of the prehearing conference is to :

1. Identification of witnesses, their addresses, phone numbers, and the substance of their proposed testimony.
2. Clarification of the legal issues, both substantive and procedural, of all the parties, including the statutory provisions and regulations that form the basis of this appeal.
3. Stipulation to uncontested facts.
4. Examination and marking of proposed exhibits and entering into stipulations to the foundation and admissibility of the exhibits and testimony.

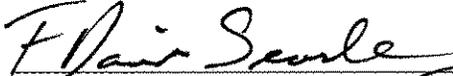
5. Pending motions.

n. Final hearing in this matter is scheduled for the week of December 7th through the 11th, 2009. The exact location and time of the hearing will be determined at a later date.

o. All documents shall be delivered no later than 12:00 noon on the above referenced dates. For the purpose of this order, deliver shall mean that the recipient has the pertinent documents in hand. Delivery does not mean that the documents were placed in the mail or with a delivery service. The parties may deliver documents via fax or e-mail, if prior arrangements have been made with the recipients and the original is mailed at the same time.

The parties shall have ten days from the date of receipt of this Order to file any objections to this Scheduling Order.

SO ORDERED this 2nd day of July, 2009.


F. David Searle, Presiding Officer
Environmental Quality Council
122 W. 25th, St. Rm 1714
Herschler Bldg.
Cheyenne WY 82002
Phone: 307-777-7170
Fax: 307-777-6134

CERTIFICATE OF SERVICE

I, Joe Girardin, certify that at Cheyenne, Wyoming, on the 18th day of June, 2009, I served a copy of the foregoing SCHEDULING ORDER by electronic mail to the following:

John Corra
Director, DEQ
jcorra@wyo.gov

Hadley A. Davis, Program Assistant
Sierra Club Environmental Law Program
Hadley.davis@sierraclub.org

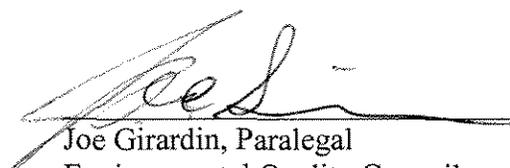
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