

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
OF THE STATE OF WYOMING

Terri A. Lorenzon, Admin  
Environmental Quality Council

APR 29 1982

FILED

MARATHON OIL COMPANY, )  
 )  
 ) Petitioner, )  
 )  
 ) vs. )  
 )  
 ) ROBERT SUNDIN, DIRECTOR )  
 ) DEPARTMENT OF ENVIRONMENTAL )  
 ) QUALITY; and )  
 ) RANDOLPH WOOD, ADMINISTRATOR )  
 ) DEPARTMENT OF AIR QUALITY OF )  
 ) THE DEPARTMENT OF ENVIRONMENTAL )  
 ) QUALITY, )  
 )  
 ) Respondents. )

DOCKET NO.

PETITION FOR APPEAL TO CONTEST THE FINAL DECISION  
DENYING THE ISSUANCE OF A CONSTRUCTION PERMIT

HEARING REQUESTED

NOW COMES Petitioner, MARATHON OIL COMPANY, (MARATHON) by its attorneys, Morris Gray and Delvin Menge, pursuant to Wyoming Statutes 1977 §35-11-101 et.seq. [Wyoming Environmental Quality Act, (E.Q.A.)] and Chapter I of the Rules of Practice and Procedure (RPP) of the Wyoming Department of Environmental Quality, (DEQ) and, hereby files this Petition to Contest the Final Decision Denying Construction Permit by the DEQ, Administrator, Air Quality Division (AQD) entered in the following styled matter after a public hearing, pursuant to Chapter III of the DEQ's RPP, and after a Petition for Rehearing, which was filed pursuant to Chapter IV of the DEQ's RPP, was denied, and hereby alleges and states as follows:

1. The Final Decision Denying Construction Permit, which is the basis of this Appeal, was entered on March 2, 1982, in the following styled matter; viz:

BEFORE THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
OF THE STATE OF WYOMING

In the Matter of a Permit Appli- )  
cation by Marathon Oil Company, )  
for a Construction Permit for )  
a Proposed Gas Sweetening Plant )

DOCKET NO. 994-81

in Park County, Wyoming; Before )  
the Air Quality Division of the )  
Department of Environmental )  
Quality, State of Wyoming )

2. Petitioner's Application for a Construction Permit for a Proposed Gas Sweetening Plant in Park County, Wyoming was submitted to the Administrator, AQD of the DEQ by a transmittal letter of September 4, 1980 and, thereafter, was amended by letters dated March 4, 1981 and June 11, 1981, copies of which are attached hereto as Exhibits "A", "B" and "C", respectively, which are incorporated herein by this reference.
3. The Administrator, AQD of the DEQ gave Public Notice of intent to approve and issue the Construction Permit in this matter. This Public Notice was scheduled for publication in the July 29, 1981 issue of the Cody Enterprise. A copy of the Public Notice is attached hereto as Exhibit "D", which is incorporated herein by this reference.
4. Ralston Processing Associates, Inc. (RPA), by letters of August 28 and 31, 1981, advised the Administrator, AQD of the DEQ that it opposed the approval and issuance of the Construction Permit in this matter and requested a hearing in connection therewith. Copies of these letters are attached hereto as Exhibits "E" and "F", respectively, which are incorporated herein by this reference.
5. The Administrator, AQD of the DEQ gave public notice that a public hearing would be held in this matter at 7:00 P.M. on September 28, 1981, in the City Council Chambers in Cody, Wyoming. This public notice was scheduled to be published in the September 16, 1981 issue of the Cody Enterprise. A copy of this public notice is attached hereto as Exhibit "G", which is incorporated herein by this reference.

6. At the public hearing on this matter, RPA submitted written comments, a copy of the same is attached hereto as Exhibit "H", which is incorporated herein by the reference. Also, RPA and Petitioner gave oral testimony at this hearing as evidenced by the transcript of this hearing, a copy of the same being attached hereto as Exhibit "I", which is incorporated herein by this reference.
7. After the public hearing in this matter, which was conducted pursuant to Chapter III of the DEQ's RPP, the Administrator, AQD of the DEQ was required to "...render a written decision on the issues presented at the hearing" as soon as practicable after receipt of the transcript, all pursuant to Chapter III, Section 7 of the DEQ's RPP. (Emphasis added.)
8. The Administrator, AQD of the DEQ and the Director, DEQ, under date of November 5, 1981, entered written "Conclusions" versus "written decision", in this matter (notwithstanding the fact that Section 7 of Chapter III of the DEQ's RPP does not make any reference to the Director, DEQ having any authority as to the required "written decision"), which was not a final order as required by the E.Q.A. and the DEQ Rules and Regulations promulgated thereunder. A copy of this item is attached hereto as Exhibit "J", which is incorporated herein by this reference.
9. Pursuant to Chapter IV of the DEQ's RPP, Petitioner filed a Petition for Rehearing with the AQD of the DEQ on November 23, 1981, a copy of which is attached hereto as Exhibit "K", which is incorporated herein by this reference.
10. By letter from the Attorney Generals Office, dated December 1, 1981, Petitioner was requested to give the AQD "... a written statement specifying the new questions raised by the Administrator's decision as alleged in paragraph 2 of ..." the Petition for rehearing. A copy of this letter is attached hereto as Exhibit "L", which is incorporated herein by this reference.

11. By letter from Petitioner dated February 5, 1982, it furnished the Attorney General with the requested information as to the "... new questions". A copy of this letter is attached hereto as Exhibit "M", which is incorporated herein by this reference.

12. By letter the Administrator, AQD of the DEQ, dated March 2, 1982, Petitioner was advised that its' petition for Rehearing was denied. A copy of this letter is attached hereto as Exhibit "N", which is incorporated herein by this reference.

13. Given the fact that the September 28, 1981 hearing in this matter was conducted pursuant to Chapter III of the DEQ's RPP, Petitioner was not allowed to cross examine under oath, RPA's written and oral testimony with regard to a number of items, which included, but were not limited to the following; viz:

a. The gas being processed by RPA at its existing facility is sour gas produced from the Oregon Basin Unit - North and South Embar-Tensleep Participating Areas (Unit) and it is processing the same without a contract between it and the owners of the sour gas produced from the Unit, which is Operated by Petitioner as one of the working interest owners therein, notwithstanding Petitioner's repeated attempts, over an extended period of time, to enter into an equitable contract with RPA for itself and the other working interest owners in this sour gas production from this Unit, which efforts have not been acceptable to RPA.

b. One of the adverse affects of the Final Decision being contested in this matter, effectively denies the working interest owners the right to construct their own processing facility for this sour gas production from this Unit, which is an untenable position, and effectively allows RPA to continue it's present operation, which to the best of Petitioner's knowledge amd belief, could not continue if

this sour gas was processed through Petitioner's proposed facility, i.e. Petitioner is not aware of any other source of sour gas that would be available to RPA for continuing it's processing operation at even a reduced rate much less such continued operation at its present rate.

C. Another of the adverse affects of the Final Decision being contested in this matter is that, by allowing RPA to continue this present operation without a contract, RPA is being allowed to sell the liquids, derived from this operation, to third parties for a profit without any of such income being distributed to the working interest owners of this sour gas production from this Unit, which allows and condones past, present and future unjust enrichment by RPA in this matter.

WHEREFORE, Petitioner, Marathon Oil Company, as Operator of the Oregon Basin Unit - North and South Embar-Tensleep Participating Areas and for itself and all working interest owners of the sour gas produced therefrom, prays for an order from the Environmental Quality Council granting Petitioner the Construction Permit and, thereafter, the necessary Operating Permit for the construction of a gas sweetening plant for the purpose of processing all sour gas production from the Oregon Basin Unit - North and South Participating Areas and for such other legal and equitable as may be proper in this matter.

Respectfully submitted

MARATHON OIL COMPANY

BY

  
One of its Attorneys

Morris G. Gray, Esq.  
Delvin Menge, Esq.  
Marathon Oil Company  
P. O. Box 120  
Casper, Wyoming 82602

Telephone: (307) 235-2511

STATE OF WYOMING )  
 ) SS.  
COUNTY OF NATRONA )

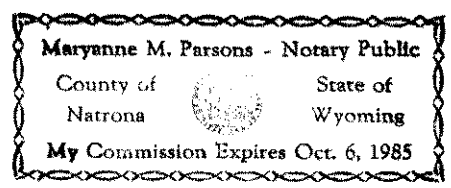
E. L. SPIELES, being first duly sworn upon oath, deposes and states that he has read the above and foregoing Petition for Appeal to Contest the Final Decision Denying the Issuance of a Construction Permit, has knowledge of the facts stated therein and states that the same are true to the best of his knowledge and belief.

*E. L. Spieles*  
\_\_\_\_\_  
E. L. SPIELES

Subscribed and sworn to before me this 28th day of April, 1982.

*Maryanne M. Parsons*  
\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_.



CERTIFICATE OF SERVICE

Delvin Menge, one of the attorneys for Petitioner herein, states that he has caused the foregoing Petition for Appeal of Final Decision Denying the Issuance of a Construction Permit to be served on the hereinafter stated legal entities by depositing the same in the U.S. mail, (Registered - Return Receipt Requested) addressed to the last known addresses of the same on April 28, 1982.

Signed original and four photocopies:

Chairman  
Wyoming Environmental Quality Council  
Emerson Building - Room 304  
2001 Capitol Avenue  
Cheyenne, Wyoming 82002

Two photocopies to:  
Robert Sundin, Director  
Wyoming Department of Environmental Quality  
Equality State Bank Building  
401 West 19th Street  
Cheyenne, Wyoming 82001

One photocopy to:  
Mr. Randolph Wood, Administrator  
Air Quality Division  
Wyoming Department of Environmental Quality  
Equality State Bank Building  
401 West 19th Street  
Cheyenne, Wyoming 82001

One photocopy to:  
Dennis Boal, Esq.  
Assistant Attorney General  
State of Wyoming  
State Capitol  
Cheyenne, Wyoming 82001

One photocopy to:  
Ralston Processing Associates, Inc.  
P. O. Box 18348  
Capitol Hill Station  
Denver, Colorado 80218

Delvin Menge  
One of its Attorneys