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MAY 09 2003

Terri A. Lorenzon, Director
Environmental Quality Council

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

IN THE MATTER OF)
THE APPEAL OF) Docket No. 02-3801
EDWARD SWARTZ et. al)

AMENDED ORDER TO CONSOLIDATE

The Environmental Quality Council (EQC) reviewed pending motions to consolidate from the Department of Environmental Quality, Water Quality Divisions (DEQ), Devon Energy, and Pennaco Energy at a public hearing, on February 13 & 14, 2003 . At the same hearing DEQ moved to withdraw the State's Motion to Consolidate. There were no objections from the parties. After reviewing the record and being advised in the premises the EQC:

HEREBY FINDS AND CONCLUDES:

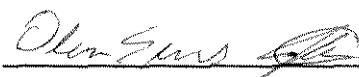
1. NPDES permit nos. WY0036188, WY0036285, WY0036293, WY0036323, WY0036331, WY0036358, WY0036366, WY0036374, WY0036382, WY0038148, WY0038491, WY0038504, WY0048224, WY0048232, WY0047384, WY0047376, WY0048852, WY0039951, WY0039969, and WY0039977 all discharge in to the Wildcat Creek Basin.
2. All of the above mentioned NPDES permits have been appealed to the EQC for review and final decision.
3. A final decision for some but not all of the above mentioned NPDES permit holders would inevitably affect the cases for the remaining permit holders.
4. Common issues to the NPDES permits should be argued before the EQC during a consolidated hearing.
5. Unique issues for individual permit holders can be separated and heard within the consolidated hearing.
6. All Wildcat Creek Basin NPDES permits that have not been issued by the DEQ as of February 14, 2003 should be stayed until the EQC issues a decision.

7. An operator, if prejudiced by this stay, can petition the EQC for relief or to intervene in this matter.

HEREBY ORDERS

1. All of the above mentioned cases, docket nos. 02-3801, 02-3804, 02-3600, 02-3602, 02-3603, 02-3604, 03-3600, 03-3601, and 03-3601 shall be consolidated under docket no. 02-2801.
2. Caption for the above mentioned cases as a consolidated case shall read "IN THE MATTER OF THE APPEAL OF EDWARD H. SWARTZ, et. al."
3. All Wildcat Creek Basin NPDES permits that have not been issued by the DEQ as of February 14, 2003 are stayed until the EQC issues a decision in this matter.
4. In the interest of fairness, any person affected by this order can petition the EQC for relief and to intervene as a party in this case.
5. A hearing in this matter shall be held on or before June 30, 2003.

DATED this 9th day of May, 2003.



Olin Sims, Hearing Examiner
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CERTIFICATE OF SERVICE

I, Joe F. Girardin, certify that at Cheyenne, Wyoming, on the 9th day of May, 2003, I served a copy of the foregoing AMENDED ORDER TO CONSOLIDATE by depositing copies of the same in the United States mail, postage prepaid, duly enveloped and addressed to:

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also to the following persons via interoffice mail:

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