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**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING**

**IN RE BIG VALLEY AND CROSSED)
ARROWS IMPROVEMENT DISTRICT) EQC DOCKET NO. 16-3601**

**DEPARTMENT OF ENVIRONMENTAL QUALITY'S
OBJECTION TO BIG VALLEY AND CROSSED ARROW'S REQUEST FOR
CONTINUANCE**

The State of Wyoming, Department of Environmental Quality ("Department"), by and through its undersigned counsel, hereby objects to Big Valley and Crossed Arrows Improvement District's ("BVCA") Request for Continuance.

1. The Council issued an Order of Schedule after holding a pre-hearing scheduling conference on August 26, 2016. At that pre-hearing conference both parties agreed to all deadlines, including discovery deadlines. *See* Wyo. R. Civ. P. 33(b)(3), 34(b), 36(a) (permitting tribunal to adjust default discovery timelines). The Council's Order of Schedule required the parties to serve discovery requests by September 9, 2016 and serve discovery responses no later than September 20, 2016.

2. On September 8, 2016, the Department served its written discovery on BVCA. On September 19, 2016, one day before the discovery response deadline, BVCA requested a continuance until November 8, 2016 to respond to the Department's discovery, but at the same

time, also requested that the contested case hearing still be held on September 28, 2016. BCVA did not respond or otherwise object to the Department's requests for admission, meaning BCVA has admitted the allegations in the Department's requests. Wyo. R. Civ. P. 36(a) and (b) (conclusively establishing the admission of any matter that the respondent does not answer or object to in writing within the time allotted).

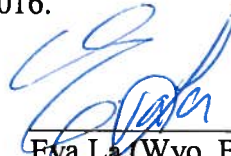
3. Finally, BVCA indicated it was in the process of dissolving the improvement district. The dissolution of an improvement district must be conducted pursuant to Wyo. Stat. Ann. §§ 22-29-401 through -408. This requires that a petition requesting dissolution be filed with the county commissioners and that the county commissioners enter a resolution recognizing the dissolution. Wyo. Stat. Ann. § 22-29-401(a)(iii). Prior to dissolution, any indebtedness must be paid and assets conveyed. Wyo. Stat. Ann. §§ 22-29-406 through -407.

4. The Department objects to BVCA's request for a continuance of the deadlines imposed in this case. The purpose of discovery is to provide parties the opportunity to learn all the facts, thus ensuring that the litigation can fairly establish the facts. *Yost v. Harpel Oil Co.*, 674 P.2d 712, 721 (Wyo. 1983). Although BVCA failed to comply with the Council's orders and respond to written discovery, continuing the discovery deadline until after the contested case hearing would serve no purpose. The Department has the documentation necessary to establish the facts of the case at the contested case hearing on September 28, 2016. Yet, further delay could prejudice the Department. BVCA has indicated that it may initiate the process for dissolution. Whether or not BCVA is attempting to dissolve in order to avoid its debts to the State of Wyoming, the Council should not permit BCVA to use this contested case process as a means to delay resolution of the Department's notice of violation. Therefore, the Department asks that the Council hear this matter on September 28, 2016.

WHEREFORE, the Department respectfully requests that the Council:

1. Proceed with the contested case hearing on September 28, 2016, as scheduled;
2. Deem the Department's request for admission admitted pursuant to Wyoming Rule of Civil Procedure 36; and
3. Require BVCA to respond to the Department's Interrogatories in writing or orally at the contested case hearing.

DATED this 27 day of September 2016.



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CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of September, 2016, a true and correct copy of the foregoing document was filed electronically with the Wyoming Environmental Quality Council's online docket system and served electronically through that system on the following:

Todd Parfitt
Director, DEQ
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Kevin Frederick
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This certifies that true and correct copies of the foregoing document was served via United States mail addressed as follows:

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