

**FILED**

**JAN 14 2008**

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

Terri A. Lorenzon, Director  
Environmental Quality Council

IN THE MATTER OF THE APPEAL OF )  
THE PUMPKIN CREEK AND THE )  
WILLOW CREEK WYPDES WATERSHED )  
GENERAL PERMITS AND THE )  
FOURMILE CREEK WATERSHED PLAN )

Dockets No. 06-3815, 06-3816  
06-3817 (Consolidated)

DEQ'S WITHDRAWAL OF MOTION FOR PARTIAL SUMMARY JUDGMENT &  
REQUEST TO RETAIN MEMORANDUM ON ISSUES RESERVED FOR HEARING

Petitioners Yates Petroleum Corporation (Yates), Marathon Oil Company (Marathon) and Citation Oil & Gas Corp. (Citation), collectively Y/M/C, filed a Petition with the Wyoming Environmental Quality Council (EQC) appealing the Wyoming Department of Environmental Quality's (DEQ) issuance of the Pumpkin Creek Watershed General Permit and the Willow Creek Watershed General Permit (the General Permits), and also the Fourmile Creek Watershed General Plan. One of the four stated bases for Y/M/C's Petition ("D") alleges that incorporation of an incomplete assimilative capacity allocation process violates due process considerations.

On December 14, 2007, Respondent DEQ filed a *combined* Motion and Memorandum for Partial Summary Judgment on two issues raised by claims in Y/M/C's Petition involving the ripeness for review on the merits in this proceeding of the Fourmile Creek General Plan and references in the General Permits and Plan to an assimilative capacity allocation process. Petitioners Y/M/C filed a Response to the DEQ's Motion for Partial Summary Judgment.

Full evidentiary hearing on all issues in this consolidated case is set for five days beginning January 28, 2008. Under the circumstances, to avoid further straining an already tight schedule between now and the start of the full hearing, Respondent DEQ hereby withdraws its Motion for Partial Summary Judgment on those two issues in reliance on the

understanding that those two issues are reserved for consideration and determination in the full hearing. The DEQ also requests that its Memorandum discussing those issues, which was filed with the Motion as a single, combined document, be retained in the EQC file to serve as a brief on those issues for the hearing.

DATED this 14th day of January, 2008.



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### CERTIFICATE OF SERVICE

This certifies that true and correct copies of the foregoing DEQ'S WITHDRAWAL OF MOTION FOR PARTIAL SUMMARY JUDGMENT & REQUEST TO RETAIN MEMORANDUM ON ISSUES RESERVED FOR HEARING were served this 14th day of January, 2008 by United States Mail, first class postage prepaid, and by e-mail, addressed as follows:

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