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*Counsel for Pennaco Energy Inc.*

**FILED**

JAN 18 2008

Terri A. Lorenzon, Director  
Environmental Quality Council

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

IN THE MATTER OF THE APPEAL )  
OF PENNACO ENERGY, INC. FROM )  
CONDITIONS IN RENEWAL OF )  
WYPDES PERMIT NOS. WY0039721, )  
WY0039616, WY0048461, WY0052361, )  
WY0048283, WY0039632 )

**Consolidated Docket No. 07-3620**

**PENNACO ENERGY INC.'S UNOPPOSED MOTION TO CONSOLIDATE APPEAL**

On January 10, 2008, Petitioner Pennaco Energy Inc. ("Pennaco") filed a Notice of Appeal and Petition for Hearing of conditions in renewal of Wyoming Pollutant Discharge Elimination System ("WYPDES") Permit No. WY0048631. The Petition regarding Permit WY0048631 involves common questions of law and fact with the Petitions filed by Pennaco in consolidated Docket No. 07-3620. Specifically, the Petition regarding Permit WY0048631 raises three issues that are identical to those issues raised in consolidated Docket No. 07-3620: (1) whether the Agricultural Use Policy is applicable to permit renewals for existing produced water discharges, absent a showing that existing discharges are harmful to humans or animals;

(2) whether DEQ can lawfully apply the requirements of the Agricultural Use Policy because the policy has not been adopted as a formal rule; and (3) whether it is irrational, arbitrary or capricious for DEQ to impose effluent limitations, premised on protection of downstream water quality, at the point of discharge into on-channel impoundments in lieu of the existing requirement for water quality compliance at downstream Irrigation Compliance Points. In addition to these common issues, the Petition regarding Permit WY0048631 questions whether DEQ may properly impose irrigation-based restrictions in the absence of man-made irrigation structures.

Under Chapter II, Section 14 of the DEQ Rules of Practice and Procedure and Rule 42(a) of the Wyoming Rules of Civil Procedure, the Council may consolidate actions involving common questions of law or fact to avoid unnecessary costs or delay. In the interest of judicial economy, Pennaco hereby moves to consolidate the appeal from the conditions of Permit WY0048631 with the appeals previously consolidated in Docket No. 07-3620.

Counsel for Pennaco has contacted counsel for Respondent Department of Environmental Quality. Respondent does not oppose this motion.

Dated: January 18, 2008

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

I hereby certify that on January 18, 2008 a copy of the foregoing Petitioners' Unopposed Motion to Consolidate Appeal was served by email and first class mail, upon:

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