

FILED

AUG 13 2009

Jim Ruby, Executive Secretary  
Environmental Quality Council

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Department of Environmental Quality

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

IN THE MATTER OF )  
MEDICINE BOW FUEL & POWER ) Docket No. 09-2801  
AIR PERMIT CT-5873 )

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STIPULATED MOTION BETWEEN THE DEQ AND THE SIERRA CLUB TO STAY  
DISCOVERY AS TO CLAIMS VII (PM<sub>2.5</sub>) AND VIII (CO<sub>2</sub>)

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The Sierra Club Wyoming Chapter and the Sierra Club National Headquarters (Protestants) and Respondent Wyoming Department of Environmental Quality (DEQ) respectfully stipulate to stay discovery on issues relating to Claims VII (PM<sub>2.5</sub>) and VIII (CO<sub>2</sub>) pending the outcome and resolution of DEQ's Motion to Dismiss. In support of this Motion the Protestants and DEQ state as follows:

1. The Sierra Club Wyoming Chapter and the Sierra Club National Headquarters ("Protestants") filed a Protest and Petition for Hearing ("Petition") in the above-captioned matter with the EQC on May 4, 2009.

2. On July 20, 2009, the DEQ received *Plaintiff's First Set of Discovery Requests to Wyoming Department of Environmental Quality*. Protestants' Discovery requests information related to Petition Claim VIII, specifically Request for Admission No. 7, Interrogatory No. 1 as it relates to Request for Admission No. 7, Interrogatory No.

4, and Request for Production No. 1 as it relates to Interrogatory Nos. 1 and 4. DEQ's deadline for responding to Protestants' First Set of Discovery is August 19, 2009.

3. On July 17, 2009, the DEQ's First Combined Discovery Request was served on Protestants. DEQ's Discovery requests information relating to Claim VII, specifically Interrogatories No. 9, 18, and 19; Requests for Production of Documents Nos. 9, 18, and 19; and Request for Admission No. 5. Protestants deadline for responding to DEQ's First Combined Discovery Request is August 17, 2009.

3. On August 3, 2009, DEQ moved for dismissal of Claims VII (PM<sub>2.5</sub>) and VIII (CO<sub>2</sub>).

4. DEQ and Protestants each agree to suspend their respective discovery requests as to Claims VII and VIII until after the Council rules on the DEQ's Motion to Dismiss.

5. DEQ agrees that if the Council denies the DEQ's Motion to Dismiss, the DEQ will respond to Protestants' First Set of Discovery as to Claim VIII within ten days after the Council's ruling. If the Council does not rule on the Motion to Dismiss by October 1, 2009, DEQ will respond by October 12th, 2009.

6. Protestants agree that if the Council denies the DEQ's Motion to Dismiss, Protestants will respond to DEQ's First Combined Discovery Request as to Claims VII and VIII within ten days after the Council's ruling. If the Council does not rule on the Motion to Dismiss by October 1, 2009, Sierra Club will respond by October 12th, 2009.

7. On August 7, 2009, Counsel for DEQ conferred with Counsel for Medicine Bow, Ms. Mary Throne, who represented that Medicine Bow did not object to a stay of discovery as to Claims VII and VIII.

DATED this 12<sup>th</sup> day of August, 2009.

FOR PROTESTANTS SIERRA CLUB:



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FOR RESPONDENT DEQ:



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Attorney and Staff for Sierra Club  
(representing the Club as full-time staff  
according to EQC rule 6(a))

Attorney for the State of Wyoming, DEQ

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of the foregoing STIPULATED MOTION BETWEEN THE DEQ AND THE SIERRA CLUB TO STAY DISCOVERY AS TO CLAIMS VII (PM<sub>2.5</sub>) AND VIII (CO<sub>2</sub>) through United States mail, postage prepaid on this 13<sup>th</sup> day of August, 2009 addressed to the following:

Patrick Gallagher  
Andrea Issod  
Sierra Club Environmental Law  
85 Second Street, 2d Floor  
San Francisco, CA 94105-3441

Mary A. Throne  
John A. Coppede  
Hickey & Evans, LLP  
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Cheyenne, WY 82001-0467

and via email addressed to the following:

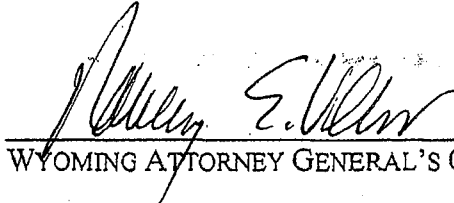
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