

**FILED**

**APR 04 2006**

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

Terri A. Lorenzon, Director  
Environmental Quality Council

Wyoming Outdoor Council, )  
 )  
 Petitioner )  
 )  
 v. )  
 )  
 Wyoming Department of Environmental Quality, )  
 Respondent, )  
 )  
 and )  
 )  
 Bill Barrett Corporation, )  
 Intervenor. )

Docket No. 04-3802

**JOINT MOTION AND STIPULATION FOR  
WITHDRAWAL OF APPEAL**

Come now the Parties in this matter, Petitioner Wyoming Outdoor Council (WOC), Respondent Wyoming Department of Environmental Quality (DEQ), and Intervenor Bill Barrett Corporation (BBC), collectively referred to as "the Parties," and herewith present this Joint Motion And Stipulation For Withdrawal Of Appeal, and for such motion and stipulation, state the following:

1. BBC was granted two National Pollutant Discharge Elimination System (NPDES) permits, Nos. WY0051233 and WY0051217 (the Permits), by the Department of Environmental Quality, Water Quality Division (DEQ/WQD) on or about April 5, 2004.
2. WOC filed a Petition for Review, appealing the Permits, on June 4, 2004, to the Wyoming Environmental Quality Council (EQC).
3. Permit WY0051233 authorizes discharge into Porcupine Creek, Boss Draw and unnamed ephemeral tributaries, all tributary to Antelope Creek.
4. Permit WY0051217 authorizes discharges to Palm Tree Draw, Ninemile Creek, Simmons Draw, and unnamed ephemeral tributaries, all tributary to Antelope Creek.
5. This matter before the EQC concerns the terms and conditions of the Permits for the discharge of water produced in association with coalbed methane (CBM) into the Antelope Creek drainage in Campbell County.
6. The Parties agree that such proceedings are likely to be burdensome and expensive, and unlikely to lead to a mutually satisfactory resolution.

7. The Antelope Creek drainage is an ephemeral/intermittent watershed with distinctive topography, hydrology, soil, and vegetation conditions.

8. The Parties agree that resources presently spent on this litigation can be put to more productive use based upon a mutual agreement as set forth herein.

9. The Parties therefore stipulate and agree to the following:

A. Purpose and Object. The Parties stipulate to the following terms:

1) BBC will limit the Sodium Absorption Ratio for water discharged under the Permits to 8.5 and the electrical conductivity (EC) to 1500 micromhos/cm for any single discharge. BBC will further limit discharges under the Permits to an annual average Sodium Absorption Ratio (SAR) of 8.0 and an average electrical conductivity of 1200 micromhos/cm. BBC will limit discharges to 0.25 million gallons per permit per day. BBC does not concede that these terms and conditions are necessary or appropriate, but has agreed to them in the interest of settlement.

2) BBC will submit monthly monitoring reports for the months of January and April through September of each year, to Wyoming Outdoor Council (attn: Watershed Staff Attorney, 262 Lincoln Street, Lander, WY 82520), which shall include monitoring results for SAR and EC. Such monitoring reports shall be submitted to WOC at the same time that BBC submits those reports to the DEQ/WQD, as required under the Permits. BBC further agrees to submit a monthly monitoring report for the month of January, in addition to the months for which monitoring is required by the terms of the Permits.

3) The existing permits, which are the subject of this appeal, remain in effect.

B. Releases and Consideration. In consideration of this Joint Motion and Stipulation, the Parties further stipulate to the following:

1) WOC shall withdraw its appeal in EQC Docket No. 04-3802 upon execution of this Joint Motion and Stipulation and the entry of the relevant Order approving this Stipulation by the EQC.

2) WOC, on behalf of itself, its predecessors, assignors, successors and assignees, jointly and severally, hereby releases and forever discharges BBC from any and all claims, demands, losses, damages, actions and causes of action, related to discharge into the Antelope Creek drainage related to the Permits, known or unknown, discovered or undiscovered, which it now holds or has ever held against BBC, its predecessors or assignees, prior to and including the date of the execution of this Joint Motion and Stipulation.



3) WOC and BBC agree to cooperate in good faith in the implementation of this Joint Motion and Stipulation and to refrain from further administrative or civil judicial litigation against each other for BBC's activities in the Antelope Creek drainage prior to the date of this Joint Motion and Stipulation.

4) Nothing herein relieves BBC from its obligation to comply with applicable provisions of the federal Clean Water Act, the Wyoming Environmental Quality Act, and the Wyoming Water Quality Rules and Regulations and Permits.

5) Each Party agrees to bear its own costs and attorneys fees and expressly waives any claims for such fees or costs which may arise under any state or federal statute or regulation providing for the recovery of attorneys fees and/or costs by a prevailing party in this case (EQC Docket No. 04-3802) through the entry of an order by the EQC approving this Joint Motion and Stipulation.

6) Time is of the essence hereof with respect to each provision in this Joint Motion and Stipulation.

7) This Joint Motion and Stipulation contains the entire agreement between the Parties pertaining to the subject matter hereof and fully supersedes all prior agreements and understandings between the Parties pertaining to such subject matter. No change in or amendment to this Joint Motion and Stipulation shall be valid unless set forth in writing and signed by all of the Parties after the execution of this Joint Motion and Stipulation and approved by the EQC.

8) This Joint Motion and Stipulation shall be executed as a single original, to be filed with the EQC, with file-stamped copies for the parties.

9) The Parties stipulate that this Joint Motion and Stipulation, and any Order of the EQC approving the terms of this Joint Motion and Stipulation, shall apply to discharges under the two Permits at issue herein and discharges under any permits that are issued by DEQ/WQD to replace the existing Permits covering the same discharges, and that the Parties are bound by this Joint Motion and Stipulation.

10) The provisions of this Joint Motion and Stipulation shall be binding upon and inure to the benefit of the successors and assignees of the Parties hereto, to the extent allowed by law.

11) This Joint Motion and Stipulation does not constitute an adjudication or admission of any allegations in the pleadings in this matter, and each Party enters into this Joint Motion and Stipulation for the purpose of resolving this matter in an appropriate manner without the expense, burden, and uncertainties of litigation and administrative proceedings.

12) This Joint Motion and Stipulation shall apply only to discharges pursuant to the subject permits to discharge into the Antelope Creek or Porcupine Creek drainage

including any permits that may be issued to replace existing permits for such discharges.

13) All notices arising from the provisions of this Joint Motion and Stipulation shall be in writing and sent by regular mail, facsimile transmission or delivery in person.

NOW, THEREFORE, the Parties, WOC, BBC and DEQ, respectfully request that the Environmental Quality Council enter an Order under W. S. Sec. 16-3-107(n) and Chapter I, Section 11 of the DEQ Rules of Practice & Procedure approving, incorporating, and binding them to this Joint Motion and Stipulation, and deeming Petitioner WOC's appeal in this matter to be withdrawn and dismissed, in accordance herewith.

The signatories certify that they are authorized to bind their respective parties to this Joint Motion and Stipulation in EQC Docket No. 04-3802.

DATED THIS 21 day of April, 2006.

WYOMING OUTDOOR COUNCIL:

BILL BARRETT CORPORATION:

Steve Jones  
by: Steve Jones  
Watershed Staff Attorney  
Wyoming Outdoor Council

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by: Jack D. Palma, II  
Holland & Hart LLP

DEPARTMENT OF ENVIRONMENTAL  
QUALITY

APPROVED AS TO FORM FOR THE DEQ

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John Corra  
Director, Department of Environmental  
Quality

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by: Mike Barrash  
Wyoming Attorney General's Office

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John Wagner  
Administrator, Water Quality Division



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