

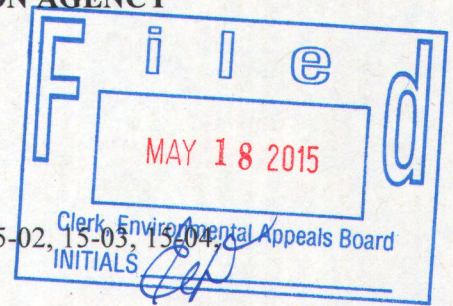
**BEFORE THE ENVIRONMENTAL APPEALS BOARD
UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C.**

In re:)
)
)

Wind River Oil & Gas Permits)

NPDES Permit Nos. WY-0020338,)
WY-0024945, WY-0024953, WY-0025232,)
WY-0025607)
_____)

NPDES Appeal Nos. 15-02, 15-03, 15-04,)
and 15-05)



ORDER MODIFYING BRIEFING SCHEDULE

On May 8, 2015, the Environmental Appeals Board issued an order consolidating four petitions for review of five National Pollutant Discharge Elimination System (“NPDES”) permits authorizing oil/gas production wastewater discharges on the Wind River Indian Reservation in Wyoming. The Board’s order also established a briefing schedule for these appeals. Supplemental petitions (if any) are presently due today, May 18, 2015, from all four petitioners, while EPA Region 8’s and the Northern Arapaho Tribe’s (“NAT”) responses to the petitions are presently due June 17, 2015.

On May 13, 2015, petitioner/permittee Wesco Operating, Inc. (“Wesco”) and permit issuer EPA Region 8 filed a “Joint Motion for Extension of Time” with the Board. This motion seeks a sixty-day extension of time for Wesco to file its supplemental petition for review in NPDES Appeal No. 15-02. Two days later, on May 15, 2015, petitioner/permittee Phoenix Production Co. (“Phoenix”) filed an “Unopposed Motion for Extension of Time” with the Board. This motion seeks a thirty-day extension of time for all petitioners to supplement their petitions, along with a thirty-day extension of time for Region 8 and NAT to file their responses to the petitions. Counsel submitting the Phoenix motion state that they “requested the position of all of the parties regarding this request and none oppose.” Phoenix Motion at 2. Both pending motions seek additional time so that the parties may pursue settlement negotiations, with the hope and intent of narrowing or eliminating issues requiring adjudication by the Board and thus conserving scarce administrative resources and minimizing litigation costs.

The Phoenix motion does not explicitly state that it supersedes the Wesco motion as to NPDES Appeal No. 15-02, so a conflict exists between the pending motions. Petitioner Natural Resources Defense Council ("NRDC") this afternoon filed a motion opposing the Wesco/Region 8 joint motion as "substantially prejudicial" to its interests. NRDC contends that the Region's explanations for prior and current extension requests are inconsistent, with the Region's April 29, 2015 extension request stating that all "claims by necessity arise out of the same basic facts and law," whereas the present request asserts that Wesco's issues are so different from NRDC's and other parties that those parties can be excluded from settlement discussions. The Board agrees that these justifications are inconsistent and may adversely affect NRDC's interests. The Board further agrees that deconsolidating this just-consolidated case would not, at this early stage of the case, serve the interests of administrative economy and efficiency.

Accordingly, the Board hereby **DENIES** the Wesco/Region 8 joint motion. The Board hereby **GRANTS** the Phoenix motion and thus modifies the briefing schedule as requested by Phoenix with the assent of all other parties. Petitioners Wesco, Phoenix, NRDC, and Public Employees for Environmental Responsibility ("PEER") now must file supplements to their petitions for review (if any) by **Wednesday, June 17, 2015**, and EPA Region 8 and NAT must file responses to the petitions and supplements (if any, for NAT) by **Friday, July 17, 2015**. All other deadlines in the May 8, 2015 briefing schedule remain unchanged.

So ordered.

ENVIRONMENTAL APPEALS BOARD

Dated: May 18, 2015

By: Kathie A. Stein
Kathie A. Stein
Environmental Appeals Judge

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Order Modifying Briefing Schedule** in the matter of *Wind River Oil & Gas Permits*, NPDES Appeal Nos. 15-02 to -05, were sent to the following persons in the manner indicated:

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MAY 18 2015
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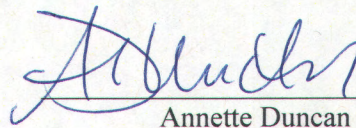
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