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ENVIR. APPEALS BOARD



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 8**

**999 18<sup>TH</sup> STREET- SUITE 200**

**DENVER, CO 80202-2466**

**Phone 800-227-8917**

**<http://www.epa.gov/region08>**

Ref: 8RC

Ms. Eurika Durr, Clerk of the Board  
U.S. Environmental Protection Agency  
Environmental Appeals Board  
(MC 1103B)  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460-0001  
FAX: (202) 233-0121  
By FAX and U.S. Mail:

RE: Pioneer Oil & Gas Permit Number: WY-0025607  
NPDES Appeal Number: NPDES 05-16

Dear Ms. Durr:

Enclosed for filing with the Environmental Appeals Board please find a faxed copy of the Joint Motion to Substitute Wesco Operating, Inc. for Pioneer Oil and Gas as Petitioner and Joint Motion for Extension of Time for EPA to File Response to the petition for review of a National Pollutant Discharge Elimination System (NPDES) permit in the above-captioned case. An original and five copies will be sent today via U.S. Mail.

Thank you very much for your attention to this matter.

Sincerely,

Erin Perkins, Esq.  
Office of Regional Counsel  
U.S. EPA, Region 8

Enclosures

cc: Greg Colton, Pioneer Oil & Gas Co.  
Robert Kirkwood, Wesco Operating, Inc.  
Kimi Matsumoto, Assistant Regional Counsel

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
BEFORE THE ENVIRONMENTAL APPEALS BOARD

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ENVIR. APPEALS BOARD

In re:

Pioneer Oil & Gas

NPDES Permit No. WY-0035607

NPDES Appeal No. 05-16

JOINT MOTION TO SUBSTITUTE WESCO OPERATING, INC. FOR  
PIONEER OIL AND GAS AS PETITIONER AND  
JOINT MOTION FOR EXTENSION OF TIME FOR EPA TO FILE RESPONSE

1. On October 25, 2005, Pioneer Oil & Gas Company (Petitioner) appealed to the Environmental Appeals Board (EAB) Petitioner's National Pollutant Discharge Elimination System (NPDES) permit issued by the United States Environmental Protection Agency Region 8 (Region) for produced water discharges associated with oil development on the Wind River Indian Reservation, Wyoming. Pursuant to 40 C.F.R. section 124.16(a)(1), the permit is stayed pending final agency action on this appeal.
2. On December 6, 2005, in an unopposed motion, the Region requested additional time to file its response to the Petition in order continue discussions with the Eastern Shoshone and Northern Arapahoe Tribes of the Wind River Reservation regarding the Tribes' potential concerns about the permit appeal.

3. On December 12, 2005, the EAB granted the Region's request for extension of time to file a response. The current due date for the Region's response is February 20, 2006.
4. On January 1, 2006, Petitioner assigned its interest in the production facilities to Kirkwood Oil and Gas LLC, P.O. Box 3439, Casper, Wyoming 82601 subject to the NPDES permit EPA issued to Petitioner. Wesco Operating, Inc. (Wesco) is a wholly-owned Kirkwood Company and operator of Kirkwood-owned properties, including the facilities at issue in this appeal.
5. On January 30, 2006 Wesco provided EPA with a Statement of Acceptance explaining that as of January 1, 2006, Wesco Operating, Inc. accepted responsibility, coverage and liability of the NPDES permit and permit appeal. Pioneer Oil and Gas Company has been removed from the NPDES permit and replaced with Wesco as the operator of the facilities subject to the NPDES permit which is currently pending review before the Environmental Appeals Board.
6. As the new operator of the facilities and current holder of the Permit, Wesco has the same responsibility, coverage and liability with regard to the permit that Pioneer Oil and Gas Company had at the time it filed the Petition.
7. Wesco Operating, Inc. is now the proper Petitioner in the above-referenced action.
8. Pioneer Oil and Gas Company and Wesco both assent to the proposed

substitution of Petitioner in this permit appeal.

9. The U.S. Environmental Protection Agency does not oppose substitution of the Petitioner in this permit appeal.
10. The Parties therefore jointly request the EAB substitute Wesco Operating, Inc. for Pioneer Oil and Gas Company as Petitioner in this matter.
11. The Eastern Shoshone and Northern Arapahoe Tribes of the Wind River Indian Reservation may have environmental, economic or other interests in the resolution of the permit appeal. In consideration of the Tribes' potential interest, and the federal government's trust relationship with the Tribes, EPA has initiated discussions with the Tribes. However, in light of the new Petitioner, additional time is needed to continue this process and to further consider all options, including possible settlement options, available to EPA and the Petitioner with regard to the issues raised by the appeal.
12. The Environmental Appeals Board has the authority to grant the requested extension of time pursuant to 40 C.F.R. § 22.07(b). Under that subsection, a motion for extension can be granted for good cause, after consideration of the prejudice to other parties. The parties submit that in light of the new Petitioner, ongoing discussions between EPA, the new Petitioner, and the Tribes constitutes good cause for the requested extension. The parties therefore respectfully request an extension of 90 days, until May 22, 2006, for EPA to file its response.

9. The U.S. Environmental Protection Agency does not oppose substitution of the Petitioner in this permit appeal.
10. The Parties therefore jointly request the EAB substitute Wesco Operating, Inc. for Pioneer Oil and Gas Company as Petitioner in this matter.
11. The Eastern Shoshone and Northern Arapahoe Tribes of the Wind River Indian Reservation may have environmental, economic or other interests in the resolution of the permit appeal. In consideration of the Tribes' potential interest, and the federal government's trust relationship with the Tribes, EPA has initiated discussions with the Tribes. However, in light of the new Petitioner, additional time is needed to continue this process and to further consider all options, including possible settlement options, available to EPA and the Petitioner with regard to the issues raised by the appeal.
12. The Environmental Appeals Board has the authority to grant the requested extension of time pursuant to 40 C.F.R. § 22.07(b). Under that subsection, a motion for extension can be granted for good cause, after consideration of the prejudice to other parties. The parties submit that in light of the new Petitioner, ongoing discussions between EPA, the new Petitioner, and the Tribes constitutes good cause for the requested extension. The parties therefore respectfully request an extension of 90 days, until May 22, 2006, for EPA to file its response.

substitution of Petitioner in this permit appeal.

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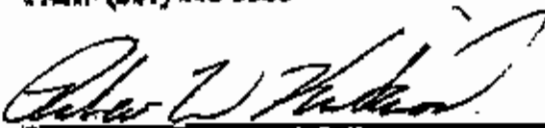
PIONEER OIL  
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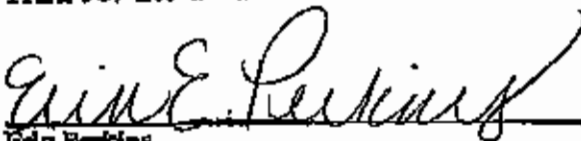
RESPECTFULLY SUBMITTED this 8th day of February, 2006.



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Joint Motion to Substitute Petitioner and  
Joint Motion for Extension of Time - NPDES Appeal No. 05-16