

STATE OF SOUTH DAKOTA



OFFICE OF ATTORNEY GENERAL

1302 East Highway 14, Suite 1
Pierre, South Dakota 57501-8501
Phone (605) 773-3215
Fax (605) 773-4106
TTY (605) 773-6585
www.state.sd.us/atg

LARRY LONG
ATTORNEY GENERAL

CHARLES D. McGUIGAN
CHIEF DEPUTY ATTORNEY GENERAL

December 30, 2008

John H. Davidson ✓
c/o Robert L. Graham
Jenner & Block LLP
330 N. Wabash Ave.
Chicago, IL 60611

Frederick W. Addison, III
Munsch, Hardt, Koph & Harr, PC
3800 Lincoln Plaza
500 N. Akard St.
Dallas, TX 75201-6659

Robert L. Graham
Jenner & Block LLP
330 N. Wabash Ave.
Chicago, IL 60611

Todd Meierhenry
Meierhenry & Sargent LLP
315 S. Phillips Ave.
Sioux Falls, SD 57104

Roxanne Giedd
Deputy Attorney General
1302 E. Highway 14, Suite 1
Pierre, SD 57501-8501

Re: *In the Matter of the Prevention of Significant Deterioration (PSD) Air
Quality Permit Application of Hyperion Energy Center-Hyperion Refining LLC*

Dear Counsel:

Find enclosed a copy of Order for Contested Case Hearing and Scheduling Order in the above-entitled matter. This is intended as service by mail upon you.

Sincerely,

Charles D. McGuigan
Chief Deputy Attorney General

CDM/dh
Enclosure
cc/enc Lee McCahren
Brenda Binengar

**STATE OF SOUTH DAKOTA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
BOARD OF MINERALS AND ENVIRONMENT**

IN THE MATTER OF THE PREVENTION OF) SIGNIFICANT DETERIORATION (PSD) AIR) QUALITY PERMIT APPLICATION OF) HYPERION ENERGY CENTER – HYPERION) REFINING LLC)))))	Permit #28.0701-PSD ORDER FOR CONTESTED CASE HEARING AND SCHEDULING ORDER
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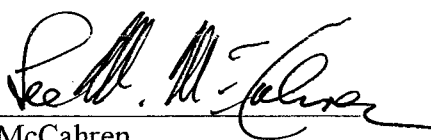
This matter came to the attention of the Hearing Chair pursuant to a motion of Hyperion Refining, LLC ("Hyperion"), the applicant for Prevention of Significant Deterioration Air Quality Preconstruction Permit No. 28.0701-PSD, to establish a Pre-hearing and Hearing scheduling order in this matter. Based on a review of the record, and a conference of the Hearing Chair, parties, and interested persons who requested leave to participate, it is hereby ORDERED as follows:

1. The parties shall adhere to the following schedule, which shall not be modified except by leave of the Hearing Chairman for good cause shown:

DATE	EVENT/ACTION
November 20, 2008	Written Discovery may begin on this date and end on March 19 th , 2009.
January 21 st , 2009	Depositions may begin on this date and end on March 19 th , 2009.
March 19 th , 2009	Discovery Deadline
April 1st, 2009	Motion Deadline & Prehearing conference
May 19, 2009 - May 22, 2009	Reserved for Hearings
June 23, 2009 - June 26, 2009	Reserved for Hearings

2. The Board will also schedule a time in or around April 16, 2009, for a possible site visit to the proposed Hyperion location, and for a Public Comment Hearing near that location.

Dated this 22nd day of December 2009.

By: 
Lee M. McCahren
Hearing Chair
Board of Minerals and Environment

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the ORDER FOR CONTESTED CASE HEARING AND SCHEDULING ORDER in the above entitled matter was served first class U.S. Postal Service Mail upon:

Todd Meierhenry
Meierhenry & Sargent LLP
315 S. Phillips Ave.
Sioux Falls, SD 57104
Counsel for Hyperion Resources LLC

Frederick W. Addison, III
Munsch, Hardt, Koph & Harr, PC
3800 Lincoln Plaza
500 N. Akard Street
Dallas, TX 75201-6659
Counsel for Hyperion Resources LLC

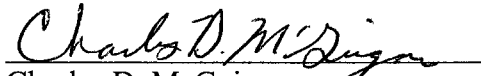
Robert L. Graham
Jenner & Block LLP
330 N. Wabash Ave.
Chicago, IL 60611
Counsel for Save Union County, Citizens Opposed to Oil Pollution and Sierra Club

John H. Davidson
c/o Robert L. Graham
Jenner & Block LLP
330 N. Wabash Ave.
Counsel for Save Union County, Citizens Opposed to Oil Pollution and Sierra Club

and by hand delivery upon:

Roxanne Giedd
Deputy Attorney General
Attorney General's Office
1302 East Highway 14, Suite 1
Pierre, SD 57501
Counsel for Department of Environment and Natural Resources

Dated this 30th day of December, 2008.



Charles D. McGuigan
Chief Deputy Attorney General
Counsel for the Board of Minerals and Environment
Attorney General's Office
1302 East Highway 14, Suite 1
Pierre, SD 57501
Phone: (605) 773-3215
E-Mail: charles.mcguigan@state.sd.us