

**AUG 28 2006**

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

**Terri A. Lorenzon, Director  
Environmental Quality Council**

IN THE MATTER OF THE NOTICE OF )  
VIOLATION AND ORDER ISSUED TO: )  
)  
Devon Energy Production Company, L.P. )  
20 North Broadway )  
Oklahoma City, Oklahoma 73102-8260 )

DOCKET NO. 3878-06

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**NOTICE OF APPEAL AND PETITION FOR HEARING**

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Devon Energy Production Company, L.P. ("Devon" or "Petitioner") hereby appeals the Notice of Violation and Order issued by the Department of Environmental ("DEQ") under Docket No. 3878-06 and requests a hearing pursuant to the Environmental Quality Act, the Wyoming Administrative Procedures Act, and the Environmental Quality Council's ("EQC") Rules of Practice and Procedure. In support of this appeal, Petitioner advises the EQC as follows:

**I. INFORMATION ABOUT THE PETITIONER**

The Petitioner filing this appeal is:

Devon Energy Production Company, L.P.  
20 North Broadway  
Oklahoma City, Oklahoma 73102-8260

Petitioner is represented in this matter by Margo Harlan Sabec and Nicol Thompson Kramer of Williams, Porter, Day & Neville, P.C., P.O. Box 10700, Casper, WY 82602. Correspondence and information related to this appeal should be served on Devon's attorneys and on the company, c/o Randy Maxey, Senior Regulatory Specialist, at the address above.

**II. ACTION BEING APPEALED**

Petitioner appeals the Notice of Violation and Order ("NOV") under DEQ Docket No. 3878-06, which alleges Devon violated its WYPDES Permit No. WY0042595, which alleges Devon violated its permit when a landowner opened a discharge valve from a reservoir in which water discharged under the permit was stored in order to fill a stock reservoir located approximately a half mile downstream.

The NOV orders Devon to submit a permit application on or before September 29, 2006 to modify the permit to allow Devon to use multiple on-channel reservoirs where no irrigation activities occur between the reservoirs. The NOV further orders Devon to inform the DEQ

Water Quality Division on or before September 15, 2006, of the steps taken by Devon to prevent the type of alleged violation from occurring again.

**III. BASIS FOR THE APPEAL**

Petitioner challenges the NOV because it is brought pursuant to WYO. STAT. § 35-11-701(c)(i), which states:

In case of failure to correct or remedy an alleged violation, the director shall cause to be issued and served upon the person alleged to be responsible for any such violation a written notice which shall specify the provision of this act, rule, regulation, standard, permit, license, or variance alleged to be violated and the facts alleged to constitute a violation thereof, and may require the person so complained against to cease and desist from the violation within the time the director may determine[.]

Devon has not failed to “correct or remedy” the alleged violation and had, in fact, submitted an application for a modified permit before the NOV was issued. The application for a modified permit also sets forth the steps Devon is taking to prevent this type of alleged violation from occurring again.

The alleged violation was not caused by Devon’s conduct, but the release was caused when a third party, without Devon’s knowledge or consent, opened a valve to provide water for livestock.

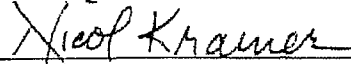
Petitioner reserves the right to supplement the grounds for this appeal as those grounds may become apparent at a later date.

WHEREFORE, Petitioner respectfully requests the EQC grant the following relief:

1. Grant Petitioner a contested case hearing on its appeal pursuant to the Environmental Quality Act, the Wyoming Administrative Procedures Act, and the EQC’s Rules of Practice and Procedure;
2. Disapprove, revoke, and repeal the NOV in this matter; and
3. Provide such other relief as the EQC determines just and reasonable under the circumstances.

RESPECTFULLY SUBMITTED this 28<sup>th</sup> day of August, 2006.

DEVON ENERGY PRODUCTION  
COMPANY, LP



By: Margo Harlan Sabec  
Nicol Thompson Kramer  
Williams, Porter, Day & Neville, P.C.  
159 North Wolcott, Suite 400  
P.O. Box 10700  
Casper, Wyoming 82602-3902  
(307) 265-0700  
Attorneys for Petitioner

**CERTIFICATE OF SERVICE**

The undersigned certifies that the above and foregoing **NOTICE OF APPEAL AND PETITION FOR HEARING**, was served this 28<sup>th</sup> day of August, 2006 as follows:

Mark Gordon, Chairman  
Environmental Quality Council  
Room 1714  
Herschler Building, 1<sup>st</sup> Floor West  
122 West 25<sup>th</sup> Street  
Cheyenne, WY 82002

HAND DELIVERED:  
Original plus ten (10) copies

John Corra, Director  
Department of Environmental Quality  
Herschler Building, 4<sup>th</sup> Floor West  
122 West 25<sup>th</sup> Street  
Cheyenne, WY 82002

SENT VIA CERTIFIED MAIL:  
Two (2) copies

  
Nicol Thompson Kramer