FILED

## BEFORE THE ENVIRONMENTAL QUALITY COUNCIL THE STATE OF WYOMING

Terri A. Lorénzon, Director Environmental Quality Council

IN THE MATTER OF THE APPEAL	)	
OF CLABAUGH RANCH, INC.	)	Docket No. 08-3802
FROM WYPDES PERMIT NO. WY0049697	)	

## REPLY OF DEPARTMENT OF ENVIRONMENTAL QUALITY/WATER QUALITY DIVISION

The Department of Environmental Quality (DEQ)/Water Quality Division (WQD) by and through its attorney, John S. Burbridge, Senior Assistant Attorney General, hereby responds to Clabaugh Ranch, Inc.'s. (Clabaugh) appeal of Lance Oil and Gas Company's WYPDES Permit No. WY0049697, issued by the DEQ/WQD and states to the Environmental Quality Council (EQC) the following:

- 1. The DEQ admits the allegation contained in paragraph 1 of Clabaugh's appeal.
- 2. The DEQ admits the allegation contained in paragraph 2 of Clabaugh's appeal.
- 3(a). The DEQ admits the allegation contained in paragraph 3(a) of Clabaugh's appeal.
- 3(b). The DEQ admits the allegation contained in paragraph 3(b) of Clabaugh's appeal.



- 3(c). The DEQ admits the allegation contained in paragraph 3(c) of Clabaugh's appeal.
- 3(d). The DEQ admits that the outfalls are located up drainage from Clabaugh's ranch but denies the remainder of the allegations contained in paragraph 3(d) of Clabaugh's appeal.
- 3(e). The DEQ admits that discharge water may reach Clabaugh's ranch. The DEQ can not admit or deny whether discharge water will pass through Clabaugh's ranch for several miles as alleged in paragraph 3(e) of Clabaugh's appeal.
- 3(f). The DEQ admits that discharge water may reach Clabaugh's ranch. The DEQ is without sufficient knowledge to be able to either admit or deny whether discharge water will pass through areas of Clabaugh's ranch that serve as important grazing pastures of livestock as alleged in paragraph 3(f) of Clabaugh's appeal. The DEQ denies all other allegations contained in paragraph 3(f).
- 3(g). The DEQ denies the allegation contained in paragraph 3(g) of Clabaugh's appeal.
- 3(h). The DEQ denies the allegation contained in paragraph 3(h) of Clabaugh's appeal.
- 3(i). The DEQ denies the allegation contained in paragraph 3(i) of Clabaugh's appeal.
- 3(j). The DEQ denies the allegation contained in paragraph 3(j) of Clabaugh's appeal.

- 3(k). The DEQ denies the allegation contained in paragraph 3(k) of Clabaugh's appeal.
- 3(l). The DEQ denies the allegation contained in paragraph 3(l) of Clabaugh's appeal.
- 3(m). The DEQ denies the allegation contained in paragraph 3(m) of Clabaugh's appeal.
- 3(n). The DEQ denies the allegation contained in paragraph 3(n) of Clabaugh's appeal.
- 3(o). The DEQ denies the allegation contained in paragraph 3(o) of Clabaugh's appeal.
- 3(p). The DEQ denies the allegation contained in paragraph 3(p) of Clabaugh's appeal.
- 3(q). The DEQ denies the allegation contained in paragraph 3(q) of Clabaugh's appeal.
- 3(r). The DEQ denies the allegation contained in paragraph 3(r) of Clabaugh's appeal.
- 3(s). The DEQ denies the allegation contained in paragraph 3(s) of Clabaugh's appeal.
- 3(t). The DEQ denies the allegation contained in paragraph 3(t) of Clabaugh's appeal.

4. The DEQ denies each and every allegation not specifically admitted to in this response.

## AFFIRMATIVE DEFENSES

- 1. Clabaugh has failed to state a claim upon which relief can be granted.
- 2. Clabaugh lacks standing to bring this appeal before the EQC.
- 3. The EQC lacks subject matter jurisdiction to hear Clabaugh's appeal.

WHEREFORE, the DEQ prays that the Environmental Quality Council enter an ORDER affirming the issuance of WYPDES Permit No. WY0049697 by the Department of Environmental Quality/Water Quality Division.

DATED this 7<sup>th</sup> day of July, 2008.

FOR THE DEPARTMENT OF ENVIRONMENTAL QUALITY

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## CERTIFICATE OF SERVICE

I, John S. Burbridge, certify that the foregoing Response was served by US. Mail, postage prepaid, and addressed correctly, to the following people on the 7<sup>th</sup> day of July, 2008:

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