

FILED

AUG 31 2007

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

Terri A. Lorenzon, Director
Environmental Quality Council

IN THE MATTER OF THE APPEAL AND)
REVIEW OF THE DECISION REGARDING)
THE RECLASSIFICATION OF EIGHT) Docket No. 05-3203
MAIN STREAM DRAINAGES TO POWDER)
RIVER AND OTHER TRIBUTARIES IN THE)
POWDER RIVER BASIN, DATED)
DECEMBER 22, 2004)

JOINT STIPULATION

Petitioners Cat Creek Land Company LLC, Tear Drop Cattle Company LLC, Indian Creek Land Company LLC, Camino Ranch Limited Partnership, Simon J. Iberlin and Bette L. Iberlin, Falxa Land Company, Inc., and Cato Crazy Woman Ranch LLC (“Petitioners”), by and through their counsel Dennis Kirven, Esq., and respondents Anadarko Petroleum Corporation (“Anadarko”), by and through its counsel Holland & Hart LLP, and the Wyoming Department of Environmental Quality (“DEQ”), by and through its counsel, John Burbridge, Esq., have reached an agreement for resolution and withdrawal of a portion of the above captioned matter and for a order of reclassification of Timber Draw and Goble Draw to Class 3 water.

In 2004, RETEC Group, Inc. performed surveys and a use attainability analysis in support of the reclassification of eight drainages (Indian Creek, Timber Creek, Coal Draw, Flying E. Creek, Cat Creek, Fourmile Creek, the North Fork of Fourmile Creek, and the South Fork of Fourmile Creek) from Class 3 to Class 4B or 4C waters of the state. The report was supplemented in 2006. Based on RETEC’s reports, DEQ reclassified the drainages in December 2004. On February 24, 2005, Petitioners

appealed DEQ's reclassification disputing the RETEC results. DEQ field observations following the entry of appeal have led DEQ to conclude that two draws, Goble (a tributary of the South Fork of Fourmile Creek) and Timber Draw should not have been reclassified as Class 4 waters. DEQ identified a greater amount of wetlands in the Goble Draw and Timber Draw than were identified in the RETEC reports. DEQ, however, stands by its decision to reclassify the remaining drainages.

Though the parties have not agreed whether the reclassification of Timber and Goble Draws from Class 3 to Class 4 was originally justified, they have agreed to resolve this dispute, as outlined below, for the purpose of avoiding the time and cost of going to hearing.

Stipulation of the Parties

Wyoming Statute § 16-3-107(n) and Chapter I, § 11 of DEQ's Rules of Practice and Procedure provide for disposition of contested cases by stipulation of the parties upon approval of the Council. To that end, the parties Stipulate as follows:

1. Petitioners agree to dismiss their appeal of the reclassification of:
 - a. Coal Draw,
 - b. Flying E Creek,
 - c. Cat Creek,
 - d. Fourmile Creek,
 - e. The North Fork of Fourmile Creek,
 - f. The South Fork of Fourmile Creek, and
 - g. Indian Creek
2. The parties agree that Timber Draw should be returned to Class 3 status.

3. The parties agree Goble Draw, a tributary to the South Fork of Fourmile Creek, should be returned to Class 3 status.
4. This stipulation shall be binding upon the parties, their successors, and assigns.
5. Each party shall bear its own costs and attorneys fees.

WHEREFORE, the parties request that the Council enter an order:

1. Approving, incorporating, and binding the parties to this Joint Stipulation, and in accordance herewith, dismissing with prejudice Petitioners' appeal of the reclassification of Coal Creek, Flying E. Creek, Cat Creek, Fourmile Creek, the North Fork of Fourmile Creek, the South Fork of Fourmile Creek, and Indian Creek; and
2. Ordering that Timber Draw and Goble Draw be reclassified as a Class 3 waters of the state.

The signatories certify that they are authorized to bind their respective parties to this Joint Stipulation in EQC Docket No. 05-3203.

DATED this 30th day of August, 2007.


FOR PETITIONERS



Dennis M. Kirven, Kirven & Kirven, P.C.
Attorney for Petitioners

8.30.07
Date

FOR ANADARKO PETROLEUM CORPORATION



Jack D. Palma, II, P.C., Holland & Hart LLP
Attorney for Anadarko Petroleum Corporation

8-31-07
Date

FOR THE WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY



John Burbridge, Senior Assistant Attorney General
Attorney for the DEQ

8-31-07
Date

- 

John Corra, Director
Department of Environmental Quality

8/31/07
Date