

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
OF THE STATE OF WYOMING

FILED

JAN 21 2009

Jim Ruby, Executive Secretary  
Environmental Quality Council

IN THE MATTER OF THE APPEAL OF )  
POWDER RIVER BASIN RESOURCE )  
COUNCIL, BERNADETTE BARLOW )  
BERNADETTE BARLOW TRUST, )  
WILLIAM L. BARLOW TRUST AND )  
ERIC BARLOW FROM WYPDES )  
PERMIT NO. WY0051268 )

Docket No. 09-3801

PETITION

POWDER RIVER BASIN RESOURCE COUNCIL, BERNADETTE BARLOW, BERNADETTE BARLOW TRUST, WILLIAM L. BARLOW TRUST AND ERIC BARLOW, pursuant to Wyo. Stat. §35-11-112 (a)(iv) and Chapter 1, Sec. 16 of the Rules of Practice and Procedure of the Wyoming Department of Environmental Quality petition the Environmental Quality Council of the State of Wyoming as follows:

1. Name and Address of Protestants and Protestants' Attorney. The names and addresses of the Protestants are:

- a) POWDER RIVER BASIN RESOURCE COUNCIL (PRBRC), 934 North Main Street, Sheridan, WY 82801.
- b) BERNADETTE BARLOW, 1625A Buffalo Cut Across Road, Gillette WY 82718
- c) BERNADETTE BARLOW TRUST, 1625A Buffalo Cut Across Road, Gillette WY 82718
- d) WILLIAM L. BARLOW TRUST 1625A Buffalo Cut Across Road, Gillette WY 82718
- e) ERIC BARLOW, 1625A Buffalo Cut Across Road, Gillette WY 82718

The names of the Protestants' attorneys are Kate Fox and J. Mark Stewart, Davis & Cannon, LLP, whose address is P.O. Box 43, Cheyenne, WY 82003.

2. Action Upon Which Hearing Is Requested. This is an appeal from the issuance of WYPDES Permit No. WY0051268 issued to Williams Production RMT Company November 25, 2008 by the Director of the Department of Environmental Quality (WDEQ).

3. Statement of Facts.

a. Powder River Resource Council (PRBRC) is a an association of ranchers and citizens dedicated to ensuring the viability of Wyoming's agricultural heritage and rural lifestyle and is also dedicated to working for the careful and responsible development of Wyoming's valuable and important mineral resources.

b. The Bernadette Barlow Trust, William L. Barlow Trust and Eric Barlow (Barlows) are the owners of ranchlands in Campbell County, Wyoming, portions of which lie on Dead Horse Creek, downstream of the location of the discharges permitted by WYPDES Permit No. WY0051268.

c. Bernadette Barlow and Eric Barlow are members of the PRBRC.

d. On November 25, 2008, with the approval of the Administrator of WDEQ/WQD and the Director of WDEQ, WYPDES Permit No. WYPDES Permit No. WY0052299 (the Permit), was issued to Williams Production RMT Company (Williams).

e. The Permit authorizes Williams to discharge water from coalbed methane wells located upstream of lands owned by the Barlows. The Permit authorizes discharge into Dead Horse Creek, which crosses the lands of the Barlows.

f. The outfalls are located upstream of the Barlows' properties and water discharged under the permit could enter and cross the lands of the Barlows.

g. The discharged water could pass through bottom lands located on the Barlows' property. These bottom lands provide important grazing and forage for the Barlows' livestock and are integral to the agricultural productivity of the Barlow ranches.

h. The Permit authorizes discharges that will not maintain the water supply at a quality which allows continued use of the water for agricultural purposes without a measurable decrease in production in violation of Water Quality Rules and Regulations, Chapter 1, Sec. 20.

i. Limitations on the effluent constituents Electrical Conductivity (EC) and Sodium Adsorption Ratio (SAR) have the reasonable potential to adversely impact the agricultural use of the receiving water. The numeric effluent limitations on EC and SAR in the Permit are not derived from appropriate scientific methods in violation of Water Quality Rules and Regulations, Chapter 2, Section 5(c)(iii)(C)(IV).

j. The Permit conditions do not provide compliance with the applicable requirements of W.S. 35-11-302 and the Water Quality Rules and Regulations in violation of Water Quality Rules and Regulations, Chapter 2, Sec. 9(a)(vi).

4. Request for hearing. PRBRC and the Barlows request a hearing before the Environmental Quality Council (Council) and request that the Council reverse the decision to issue permit WY0051268 and to grant Protestants such other relief as Protestants are entitled to and which the Council deems just and proper.

Dated this 21<sup>st</sup> day of January, 2009.



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Kate M. Fox

J. Mark Stewart

DAVIS & CANNON, LLP

Attorneys for Protestants

422 W. 26<sup>th</sup> St.

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Cheyenne, WY 82003

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CERTIFICATE OF SERVICE

I certify that on the 21<sup>st</sup> day of January, 2009, I served a true and correct copy of the foregoing by U.S. registered mail, return receipt requested, postage prepaid and addressed to:

Williams Production RMT Company  
300 North Works Avenue  
Gillette, WY 82716

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

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



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J. Mark Stewart