

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

FEB 20 2009

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. WY0052299 )

Jim Ruby, Executive Secretary  
Environmental Quality Council

Docket No. 09-3802

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**RESPONSE OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY/WATER  
QUALITY DIVISION**

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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 the Powder River Basin Resource Council (PRBRC), Bernadette Barlow, Bernadette Barlow Trust, William L. Barlow Trust, and Eric Barlow (collectively Barlow) appeal of Bill Barrett Corporation's (Barrett) WYPDES Permit No. WY0052299 issued by the DEQ/WQD, and states to the Environmental Quality Council (EQC) the following:

1. The DEQ admits the allegations contained in paragraph 1 of PRBRC's appeal.
2. The DEQ admits the allegations contained in paragraph 2 of PRBRC's appeal.
- 3(a). The DEQ admits the allegations contained in paragraph 3(a) of PRBRC's appeal.

3(b). The DEQ admits the allegations contained in paragraph 3(b) of PRBRC's appeal.

3(c). The DEQ is without sufficient information to admit or deny the allegations contained in paragraph 3(c) of PRBRC's appeal.

3(d). The DEQ admits the allegations contained in paragraph 3(d) of PRBRC's appeal.

3(e). The DEQ admits the allegations contained in paragraph 3(e) of PRBRC's appeal.

3(f). The DEQ admits that discharge water may reach Barlow's ranch. The DEQ is without sufficient knowledge to be able to either admit or deny whether discharge water will pass through Barlow's ranch as alleged in paragraph 3(f) of PRBRC's appeal. The DEQ denies all other allegations contained in paragraph 3(f).

3(g). The DEQ admits that discharge water may reach Barlow's ranch. The DEQ is without sufficient knowledge to be able to either admit or deny whether discharge water will pass through areas of Barlow's ranch that serve as important grazing pastures of livestock as alleged in paragraph 3(g) of PRBRC's appeal. The DEQ denies all other allegations contained in paragraph 3(g).

3(h). The DEQ denies the allegations contained in paragraph 3(h) of PRBRC's appeal.

3(i). The DEQ denies the allegations contained in paragraph 3(i) of PRBRC's appeal.

3(j). The DEQ denies the allegations contained in paragraph 3(j) of PRBRC's appeal.

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

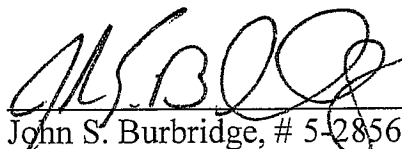
#### **AFFIRMATIVE DEFENSES**

1. PRBRC has failed to state a claim upon which relief can be granted.

WHEREFORE, the DEQ prays that the EQC enter an ORDER affirming the issuance of WYPDES Permit No. WY0052299 by the Department of Environmental Quality/Water Quality Division.

DATED this 20<sup>th</sup> day of February, 2009.

FOR THE DEPARTMENT OF  
ENVIRONMENTAL QUALITY



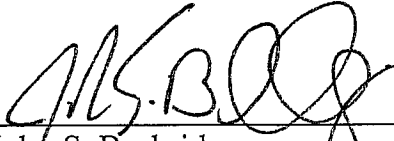
John S. Burbridge, # 5-2856  
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CERTIFICATE OF SERVICE

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 20<sup>th</sup> day of February, 2009:

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John S. Burbridge