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WATER QUALITY DIVISION
BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

Teri A. Lorenzon, Director
Environmental Quality Council

IN THE MATTER OF THE APPEAL)
OF PETRO-CANADA RESOURCES (USA)) Docket No. _____
INC. OF CONDITIONS IN WYPDES)
PERMIT NO. WY0051985)

NOTICE OF APPEAL AND PETITION FOR HEARING

Petro-Canada Resources (USA) Inc. ("Petro-Canada" or "Petitioner"), hereby appeals certain conditions contained in WYPDES Permit No. WY0051985 (the "Permit"), issued by the Department of Environmental Quality ("DEQ") to Petro-Canada on June 8, 2005, and requests a hearing pursuant to the Environmental Quality Act, the Administrative Procedures Act and the Environmental Quality Council's ("EQC") Rules of Practice and Procedure. The Permit authorizes discharges of coal bed methane produced water into the Wild Horse Creek Drainage of the Powder River Basin. In support of this appeal, Petitioner advises the EQC as follows:

I. INFORMATION ABOUT THE PETITIONER:

1. The Petitioner filing this appeal is:

Petro-Canada Resources (USA) Inc.
Suite 400, 1099 18th Street
Denver, CO 80202-1904
Attn. Alan Vrooman

Petitioner purchased the assets of Prima Oil and Gas Company ("Prima") in the Powder River Basin. Prima was the entity that originally filed the application for the Permit at issue in this matter. Petro-Canada seeks certain modifications to the Permit to better enable the company to maintain compliance with the Environmental Quality Act and to protect the environment. Petro-Canada is committed to protecting the environment and working with the DEQ to achieve appropriate environmental protection goals. The purpose of this appeal is to better enable Petro-Canada to meet those objectives.

Petitioner is represented in this matter by Keith Burron of Associated Legal Group, LLC. Correspondence and information related to this appeal should be served on Mr. Burron at the address listed below.

II. ACTION BEING APPEALED AND BASIS FOR APPEAL:

2. Petitioner appeals the following conditions and limitations in the referenced sections of the Permit:

- a. Part I.A.1.a.: Petitioner requests modification of the permit provisions stating that water may not be intentionally discharged from reservoirs, that reservoirs may discharge only in response to storm events or upstream reservoir outflow, and that discharges are limited to natural overtopping only. These provisions are inconsistent with the permit application and inconsistent with other permit language. There should be no requirement for full containment in on channel reservoirs if discharged water can meet applicable effluent limits. The permit application specifically proposed use of the ephemeral tributaries to Wild Horse Creek to infiltrate discharged water. Removing the ability of Petro-Canada to utilize the channel for infiltration significantly impacts Petro-Canada's ability to manage water as contemplated by the Permit application.
- b. Part I.A.1.a. Barium Treatment Requirement: In its application, Petitioner's predecessor, Prima Oil and Gas Company, proposed that "if barium concentrations for the proposed facility exceed the permit limits, Prima proposes a treatment process to remove the barium." The application stated that a sulfuric acid injection process could be used to treat barium, if necessary. The Permit assumes that barium limits will be exceeded and requires the installation of a sulfuric acid injection treatment process at every outfall. Petitioner requests modification of these requirements for the following reasons:
- A. Petitioner is advised that the barium effluent limit of 1800 μl is based on a drinking water standard. The Class 3 waters into which discharges under the Permit occur are not an actual or potential drinking water source. Barium concentrations in the discharge water do not have the potential to exceed drinking water standards in any actual or potential drinking water supply.
 - B. The proposed sulfuric acid treatment system, while effective at removing barium, may not be the best treatment option available. For example, other barium treatment systems that do not require the use of acid-based chemicals are feasible and could be utilized to reduce barium concentrations in discharge water. If the barium standard remains in the Permit, Petitioner requests the EQC to modify the permit to allow Petitioner to choose a treatment system suitable for the removal of barium, but not prescribe the type of system required. A non-prescriptive requirement to meet effluent limits is consistent with past practices within the WYPDES program.
 - C. If barium treatment remains a requirement under the Permit, Petitioner requests the EQC build a compliance schedule into the Permit allowing an appropriate amount of time for permitting,

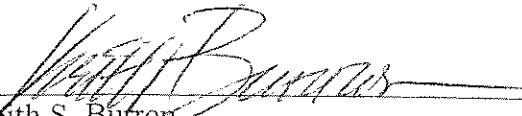
- construction and installation of the treatment systems. A compliance schedule is necessary because under current DEQ policies a Chapter 3 construction permit is necessary for any treatment works. However, under the construction permit program, a Chapter 3 permit to construct cannot be obtained within a reasonable time for every outfall, due to existing DEQ policies and permit processing procedures.
- c. Part I A. 2.b., Routine End of Pipe Monitoring: Petitioner requests that the EQC modify the monitoring frequency for all constituents requiring monitoring on a monthly basis to annual or at most a semi-annual monitoring frequency. Since the CBM produced water from the outfalls is coming from a confined aquifer in an unaltered state, there is no reason to require monthly monitoring, as the chemical composition would not be expected to vary appreciably from month-to-month. Excessive sampling results in no additional useful data and adds unnecessary operational expense and reporting requirements.
- d. Part I A.2.c., relating to ICP effluent limits: The permit provides that the irrigation compliance point (“ICP”) limits for EC and SAR are in effect year-round, and contains no reference to flow conditions to trigger ICP monitoring for these constituents. EC and SAR limits are imposed to protect irrigation use under the narrative standards of Chapter 1 Section 20, WQRR, and accordingly they should only apply during those times when water is available for irrigation purposes, i.e., during irrigation season and at high flow rates that will result in activation of spreader-dike irrigation systems. To impose the limits at low flow is impracticable because natural water quality and the natural mineralogy in the drainage prevent the attainment of these limits for even natural flow under lower flow conditions.
- e. Part I A.2.c., relating to compliance for EC and SAR: Petitioner objects to the following provision: “If produced water from this facility reaches the ICP and results in a violation of the ICP effluent limits, this action will constitute a violation of this permit, regardless of the cause of the violation (i.e., natural conditions of the stream channel or other operators in the drainage.)” This provision is contrary to law. Petitioner cannot be held responsible for exceedences of effluent limits that it did not cause or contribute to, and over which it has no control.

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

1. Grant Petitioner a contested case hearing on its appeal pursuant to the Environmental Quality Act, W.S. § 35-11-112, the Administrative Procedures Act and the EQC's Rules of Practice and Procedure.
2. Modify the provisions of the Permit referenced herein in a manner that enables Petitioner to reasonably comply with the Environmental Quality Act and the rules and regulations promulgated thereunder.
3. Provide such other and further relief as the EQC determines just and equitable in the premises.

RESPECTFULLY SUBMITTED this 3RD day of August, 2005.

FOR PETRO-CANADA RESOURCES (USA) INC.



Keith S. Burron
Associated Legal Group, LLC
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Cheyenne, WY 82001
307-632-2888
307-632-2828 (Fax)

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true, full and correct copies of this Notice of Appeal and Request for Hearing were served upon the following on August 31st, 2005, in the manner indicated below:

Mr. Mark Gordon, Chair
Environmental Quality Council
Room 1714
Herschler Building,
122 West 25th Street
Cheyenne, WY 82002

HAND DELIVERED ORIGINAL PLUS
8 COPIES; TWO COPIES VIA
CERTIFIED MAIL; COPY SENT
VIA E-MAIL

Mr. John Corra
Director
Department of Environmental Quality
Herschler Building, 4W
122 West 25th Street
Cheyenne, WY 82002

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TWO COPIES VIA CERTIFIED MAIL


Keith S. Burron