

FILED

MAR 29 2006

Terri A. Lorenzon, Director
Environmental Quality Council

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

IN THE MATTER OF THE APPEAL AND REVIEW OF)
THE DECISION REGARDING THE PROPOSED)
WYOMING POLLUTANT DISCHARGE ELIMINATION)
SYSTEM (WYPDES) PERMITS WY0052817 AND)
WY0052833 (KENNEDY OIL), DATED NOVEMBER 30, 2005)

Docket No. 06-3803

DEPARTMENT OF ENVIRONMENTAL QUALITY/WATER
QUALITY DIVISION'S RESPONSE

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 Adami Ranch, L.L.C.'s (Adami) Petition for Review, Notice of Appeal and Request for Contested Case Hearing and states to the Environmental Quality Council (EQC) the following:

1. The DEQ denies that the Appendix C is misleading as the DEQ WYPDES program is without jurisdiction regarding issues related to surface use and/or agreements with private property owners.
2. The DEQ denies Adami's assertion that the volume of water to be produced by Kennedy Oil's permits will cause accelerated channel erosion on the Adami's property resulting in a measurable decrease in forage and livestock production. Kennedy Oil is required to comply with water quality standards contained in the WQD's rules and regulations, Chapter 1, Section 15, 16, 20 and 23 which limit increases to sediment load and/or turbidity of streams.
3. The DEQ is denies that Kennedy Oil's permits are not protective of livestock production.

The effluent limits established in the permits are protective of livestock uses associated with downstream waters receiving discharge wastewaters. The permits do not establish effluent limits for protection of irrigation as no agricultural irrigation is occurring downstream of the outfalls on the ephemeral tributaries.

4. The DEQ WYPDES permit program does not regulate pollution of groundwater. DEQ's Groundwater Pollution Control program regulates the pollution of groundwater in Wyoming.

5. The DEQ denies that the entire Indian Creek drainage needs to be studied for cumulative effects prior to issuing permits to Kennedy Oil. The Indian Creek watershed is scheduled for stakeholder meetings during 2006 together with Dead Horse Creek and Burger Draw.

6. Monitoring wells are for the regulation of groundwater pollution. The DEQ WYPDES program does not regulate pollution of groundwater. DEQ's Groundwater Pollution Control program regulates the pollution of groundwater in Wyoming.


7. Permit WY0052817 is protective of downstream water quality standards independent of the Bureau of Land Management (BLM) site specific water management requirements. BLM water management plans do not always correspond directly to a given WYPDES permit. As an example, WQD often finds that a particular BLM water management plan may encompass several watersheds and therefore require several WYPDES permits. Conversely, some of the larger WYPDES permits may encompass multiple surface and mineral leases, resulting in multiple associated BLM water management plans. The WQD coordinates with the BLM to share information on permitted facilities.

8. The DEQ denies Adami's assertions contained in issue number 8 titled "Lack of Access."

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

DATED this 29th day of March, 2006.

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 29th day of March, 2006:

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