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OCT 26 2001

Terri A. Lorenzon, Director  
Environmental Quality Council

Ms. Terry Lorenzon  
Environmental Quality Council  
Herschler Building  
122 West 25<sup>th</sup> Street  
Cheyenne, Wyoming 82002

Re: Yates Petroleum Bluebird Facility Permit WY 0043818

Dear Ms. Lorenzon and Council Members:

We are writing to appeal the above referenced permit.

We ranch in eastern Johnson County, on Deadhorse Creek which flows through our private property for 8 miles and then flows directly into the Powder River. Our families have ranched here for a 100 years.

On June 29, 2001 the WDEQ received my objections to the above mentioned permit. Mr. Eric Hargett, Senior Analyst for WDEQ, Water Quality Division responded to my comments in a letter dated Sept. 14, 2001 after the permit had been issued on August 27, 2001. In the letter he stated that I had 60 days to appeal this decision. I recently found out that the 60 days were from August 14, 2001 not Sept. 14, 2001, thus costing me 2 weeks of valuable appeal time. This is a denial of my due process of the appeal. Mr. Hargett had already issued the permit and then sent the letter to me. Therefore I am asking the EQC to set a definite policy on notifying objectors to the NPDES permits, thus ensuring the right to have 60 days notice in which to appeal the permit. The action by the WDEQ was unfair and didn't follow procedure.

Below are the following reasons we are objecting to the issuance of the permit WY 0043818:

1. Yates has committed to containment of all CBM waters. Since the reservoirs are not lined and the water is being allowed to infiltrate the alluvium, this is not containment. These pits are designed to leak. If the reservoirs are designed to infiltrate the groundwater, then a permit allowing such a discharge to groundwater must be issued before construction can be allowed. This water will travel through the alluvium and later surface downstream. Who will be monitoring the alluvium to determine whether this discharge is acceptable? This is a violation of W.S. 35-11-301. As a downstream landowner I am opposed to this procedure, as the water will impact the agricultural use of our land. The land will receive poor quality water and the established plant species, such as the one thousand thirty five 100-year-old cottonwood trees that line our portion of the creek will not tolerate this. This is a violation of Chap.1 Section 20 of the Wy. Water Quality Rules and Regulations.

2. The 25 yr/24hr. storm event is a misnomer since many storm events occur in one season. Since our families are 100 year residents along this creek, we have seen intense rainfall, cloudbursts, snowmelt and/or any combinations of precipitation. All such events are very different and entirely unpredictable. How can any company predict with any accuracy what will happen, when those of us who are life long residents along Deadhorse Creek can't?

3. Our ranch, where we sell grass marketed through our cattle, is watered largely by the natural flow of the water traversing down the creek after a storm event. In channel reservoirs will stop the natural runoff and will be extremely detrimental to our ranching operations when we have only low or medium occurring floods.

4. Along our creek we have many sub irrigated pastures that receive water during runoff as well as developed hay meadows. Water with such high SARS such as 17/20 that have been tested on our ranch will definitely kill the grass. I have personally seen the sodic areas and the dying vegetation in Burger Draw, strong evidence that clay soil and high SARS are death to any vegetation. One only has to study the soil samples of Deadhorse and the Big George coal water which is well known to have high SARS to realize that this is the death toll of grass in the drainage. Where did Yates find an SAR of 6 in the Deadhorse drainage? One only has to review all the data, for example of Prof. Bauder, MSU that indicates all the problems with SARS over 3 let alone 6. This decrease in soil productivity again violates Wyoming Water Quality Rules and Regulations, Chapter 1. Section 20.

5. Also Wyoming Water Quality Rules and Regulations, Chapter 1 Section 15 rules are being violated since there will be a resultant accumulation of salts and metals within these in channel reservoirs, applying to settleable solids, particularly with respect to these in-channel reservoirs. In channel reservoirs are illegal, since they constitute a pollution of state waters because they are built in a watershed. Any reservoir receiving pollutants, should be built outside any drainage. The discharge should be all points at which wastewater will enter the reservoir. If the reservoir is in-channel, the water of the state is being polluted. WDEQ can't seem to make up their mind—are they permitting a dam or a ~~water~~<sup>waste</sup> water reserve pit? As DEQ frequently tells us --- WDEQ doesn't deal with dams, that is the duty of the SEQ. If this is a waste water pit it should not be in the channel. If it is indeed a wastewater pit, it should be lined to prevent contamination of the groundwater. Allowing reservoirs to be built in this case without a permit to construct violates W. S. 35-11-301. These reservoirs meet the definition of "treatment works," as defined by W.S. 35-11-103. Their failure to do so violates state law.


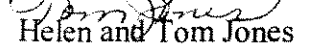
Last, but not least, since there are many outstanding issues, the NPDES permitting process does not meet all legal requirements and clearly violates several sections of the Wyoming Water Quality Rules and Regulations. As a concerned citizen and a downstream landowner, I am requesting a hearing on our appeal of this permit.

In order to resolve these many issues and to comply with the Wyoming Environmental Quality Act and the Water Quality Rules and Regulations we are requesting these remedies.

- a. Yates should be required to contain this discharge water in off channel pits and in treatment and storage ponds.
- b. Yates should be required to line these ponds with acceptable liners to prevent any leakage of impounded water
- c. Yates should drill monitoring wells near these pits and use an independent monitoring firm to test for reservoir leakage of the impounded water

Thank your for attention in this grave issue.

Sincerely,

  
  
Helen and Tom Jones  
Deadhorse Creek Ranch