

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) PERMIT WY0052850)
(YATES PETROLEUM), DATED NOVEMBER 29, 2005)

Docket No. 06-3801

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 effluent limit established in Yates' permit is protective of livestock uses associated with downstream receiving waters. The DEQ denies that Yates' permit is not protective of livestock production. The effluent limit established in the permit protects livestock uses associated with downstream waters receiving discharge wasters. The permit does not establish effluent limits for protection of irrigation as no agricultural irrigation is occurring downstream of the outfalls on Indian Creek.

2. The permit issued to Yates limits the flow to 0.12 million gallons per day. Yates must comply with that limit whether or not Yates grossly underestimated its water budget calculations.

3. The DEQ WYPDES permit program does not regulate pollution of groundwater. DEQ's

Groundwater Pollution Control program regulates the pollution of groundwater in Wyoming.

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

5. The immediate receiving streams (Indian Creek and its ephemeral tributaries) are classified as 4B waters, which do not support aquatic life. The effluent limits and monitoring requirements in Yates' permit are currently based on discharge to a class 4B water. If the classification of the immediate receiving water were to change, the permit could be re-opened and modified to reflect such a change.

6. The DEQ denies Adami's assertions contained in issue number 6 titled "Lack of Access."

7. 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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John S. Burbridge