

APPENDIX C

Affidavit of Steven M. Adami

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

IN THE MATTER OF THE APPEAL AND REVIEW OF)
THE DECISION REGARDING THE RECLASSIFICATION)
OF EIGHT MAIN STREAM DRAINAGES TO POWDER)
RIVER AND OTHER TRIBUTARIES IN THE)
POWDER RIVER BASIN, DATED DECEMBER 22, 2004)

AFFIDAVIT

COMES NOW **STEVEN M. ADAMI**, being first duly sworn upon his oath, and
deposes and states as follows:

1.

He is an adult person and makes this affidavit of his own personal knowledge.

2.

He is the owner of Adami Ranch LLC which holds title to 3,800 acres of deeded land
located generally in Township 49 North, Range 78 West, and Township 48 North, Range
78 West, as described in **Exhibit "A"** attached hereto.

3.

He is personally familiar with the Indian Creek Drainage as it crosses his property
and the Timber Draw which is a tributary of Crazy Woman Creek as it crosses the Silva
properties which he leases.

4.

Affiant uses the lands for grazing of livestock and general agricultural use as well
as investment purposes.

5.

Directly adjacent to Affiant's property, in an area identified as the NW¼SW¼ of

Section 32, Township 49 North, Range 78 West, there is a naturally occurring spring known as the "Pelloux Spring". Pelloux Spring is the spring identified as a seep below the Indian Creek Reservoir. It is Affiant's opinion that this is not a seep, but a natural occurring spring which produces water even when the Indian Creek Reservoir is dry and not storing water.

6.

Affiant has personally observed dry conditions in the Indian Creek Reservoir and yet the naturally occurring spring contains water below the reservoir on Indian Creek which is not the result of any loss of water or seepage from the reservoir.

7.

Above the Pelloux Spring is a plateau which has been identified as an archeological site used by Indians years ago because of its proximity to available water.

8.

The conclusion by DEQ that the wetland vegetation below Indian Creek Reservoir is a direct result of a seep from the reservoir is patently incorrect.

9.

Further upstream from this point in an unnamed tributary of Indian Creek, located in the NE $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 31, Township 49 North, Range 78 West is a seep which is several hundred feet long which is not below any impoundment and which contains aquatic characteristics and most likely contains aquatic life which should be protected as a wetland.

10.

In Affiant's experience, reservoirs such as Indian Creek Reservoir were always built

above a spring to protect the spring and allow it to maintain its flow. Affiant is familiar with a reservoir known as the Iberlin Reservoir constructed on Goble Draw on Four Mile Creek in which the reservoir was built above the spring existing on Goble Draw so that the spring and wetlands existed long before construction of the reservoir as in the case of the Pelloux Spring.

11.

Affiant has knowledge of a naturally occurring spring in Timber Draw, located in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 21, Township 49 North, Range 79 West, which occurs for several hundred feet and extends into the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 20, Township 49 North, Range 79 West. This naturally occurring spring is located below a livestock impoundment and has produced water throughout the drought and during periods when the reservoir was dry.

12.

Affiant has knowledge of a naturally occurring spring in Ploesser Draw, located in the NW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, Township 49 North, Range 79 West. There are no livestock impoundments above this spring which produces water year round even through the drought.

13.

These springs have hydrologic potential and the ability to support aquatic life at the location of the spring as well as downstream.

14.

In Affiant's opinion, the declassification of water in Indian Creek and Timber Draw will result in a decreased value to Affiant's lands and it will result in the allowance of Kennedy to further degrade the water quality that exists in Indian Creek and Timber Draw

and eliminate uses which have traditionally have been made on the property.

15.

During the last five (5) years, this property has been in a severe drought resulting in extremely dry conditions for reservoirs and ponds, both manmade and naturally occurring, which have imparted aquatic life in the drainage. The current dry condition is not reflective of a total history of the drainage areas as reflected by the archeology in the area and the historical agricultural practices in the area.

16.

Adami Ranch and Iberlin lands are used on a year round basis for agriculture, recreation, hunting and for fishing when water supplies were more plentiful.

17.

Affiant never received a notice of the hearing or proposed action of reclassification by direct mail nor did Affiant see a copy of the notice at any location available or posted in Johnson County, Wyoming. The lack of notice has denied Affiant its opportunity to be heard in the declassification and is taking of its property without just compensation and without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitution and Wyoming Constitution.

18.

FURTHER AFFIANT SAYETH NAUGHT.

DATED this 24 day of February, 2005.



STEVEN M. ADAMI

STATE OF WYOMING)
) ss.
County of Johnson)

Subscribed and sworn to before me by **STEVEN M. ADAMI**, this 24th day of February, 2005.

Witness my hand and official seal.

My Commission Expires: 6/27/2006

Perri D. Spade

Notary Public



EXHIBIT "A"

Township 48 North, Range 78 West, 6th P.M., Johnson County, Wyoming

Section 6: W $\frac{1}{2}$ of Lots 4, 5, 6

Township 49 North, Range 78 West, 6th P.M., Johnson County, Wyoming

Section 30: Lots 2, 3, 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$

Section 31: All except the S $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$

Section 32: NW $\frac{1}{4}$, N $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$

Township 48 North, Range 79 West, 6th P.M., Johnson County, Wyoming

A parcel of land lying in Sections 1, 2 and 12, being more particularly described as follows:

Beginning at the Northeast corner of Section 1; thence West 6690 feet to the centerline of County Road No. 204 as it existed February 15, 1961; thence along centerline of said County Road to the East line of Section 12; thence North 5670 feet to the point of beginning.

EXCEPTING THEREFROM the SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 1, and that portion of the NE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, Section 12, lying North of the centerline of County Road No. 204 as it existed October 5, 1993.

Township 49 North, Range 79 West, 6th P.M., Johnson County, Wyoming

Section 23: S $\frac{1}{2}$

Section 25: All

Section 26: E $\frac{1}{2}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$

Section 35: NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ W $\frac{1}{2}$, SE $\frac{1}{4}$