

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

APR 07 2005

Terri A. Lorenzon, Director
Environmental Quality Council

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)

Docket Number 05-3203

PETITION FOR LEAVE TO INTERVENE

Kennedy Oil, a Wyoming corporation, and Yates Petroleum Corporation, a New Mexico corporation, by and through their undersigned counsel, herewith move, pursuant to Chapter 2, Section 7, of the Rules of Practice and Procedure of the Council, for leave to intervene in this matter.

As noted in Appendix A attached to the Petition for Review admitted by Mr. Kirven on behalf of his client, the reclassification of drainages was undertaken at the request of Kennedy Oil. Kennedy Oil and Yates each has coal bed methane operations undergoing in the various drainages affected by the redetermination. Kennedy Oil and Yates retained the RETEC Group to perform a "Use Attainability Analysis, Kennedy Oil South Area, Johnson County, Wyoming." RETEC's report was tendered to the Water Quality Division on September 23, 2004, as noted in the decision by Mr. Wagner, attached as Exhibit A to the Petition.

If the relief sought by the Petitioners were to be granted, Kennedy Oil and Yates Petroleum Corporation would be adversely affected.

Further, certain discharges of water by Kennedy Oil and Yates Petroleum Corporation in connection of production of coal bed natural gas are (or will be) regulated by the Water Quality Division and therefore the Petitioners have a legal right

to appear in this proceeding.

Further, the Petitioners are indispensable parties. Kennedy Oil and Yates Petroleum Corporation claim an interest relating to the subject of this action and are so situated that the disposition of the action in the absence of the Petitioners may impair or impede the Petitioners' ability to protect their interests. See Rules 19(a) and Rule 24(a) W.R.C.P.

The Petitioners are attaching their opposition to the petition for review as a separate pleading.

Wherefore, Kennedy Oil and Yates Petroleum Corporation pray for leave to intervene in this proceeding, and to file and serve their opposition to the petition for review, and for such other relief as is appropriate.

DATED this 6th day of April, 2005.



Randall T. Cox
Attorney for Kennedy Oil and
Yates Petroleum Corporation
400 S. Kendrick, Suite 304
Gillette, Wyoming 82716
Phone: (307) 682-2500

CERTIFICATE OF SERVICE

I, Randall T. Cox, hereby certify that on the 6th day of April, 2005, I did cause a true and correct copy of the foregoing to be deposited in the U.S. Mail, postage prepaid, addressed to each of the following:

Terri A. Lorenzon
Environmental Quality Council
Herschler Building, Room 1714
Cheyenne, Wyoming 82002

Michael Barrash
Senior Assistant Attorney General
Wyoming Attorney General's Office
123 Capitol Building
Cheyenne, Wyoming 82002

Dennis M. Kirven
Kirven and Kirven, P.C.
104 Fort Street
P.O. Box 640
Buffalo, Wyoming 82834-0640



Randall T. Cox