

FILED

APR 22 2005

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

Docket No. 05-3203

PETITIONERS' OPPOSITION TO PETITION FOR LEAVE TO INTERVENE

COME NOW the Petitioners, by and through their undersigned attorney, and hereby states their opposition to the petition for leave to intervene filed by Yates Petroleum Corporation ("Yates") as follows:

1.

There is nothing in the record to support the assertion that Yates made application for declassification nor that Yates participated in the preparation of the "Use Attainability Analysis, Kennedy Oil South Area, Johnson County, Wyoming" ("UAA"). The front page of the UAA states: "Prepared under the direction of Kennedy Oil Company." Yates has made no appearance with the agency and did not appeal the decision of the administrators in this matter. As a result, Yates has waived its right to intervene in this matter.

2.


The right to intervene is only available if the applicant claims an interest relating to the property; is situated so that it would impede the intervenor's ability to protect that interest; and that the intervenor's interest is not already adequately represented. Yates provides no evidence that the action will impair or impede its ability to protect its interest, nor does it provide any information that the interest is not adequately represented by the existing parties. See Platte County School District No. 1 v. Basin Electric Power Cooperative, 638 P2d. 1276 (Wyo. 1982).

3.

For the reasons stated above, Yates Petroleum Corporation presents no compelling reason for intervention and Yates's intervention should be denied.

DATED this 21st day of April, 2005.

KIRVEN and KIRVEN, P.C.:

By 
DENNIS M. KIRVEN, Attorney for
Petitioners
P.O. Box 640
Buffalo, Wyoming 82834
Phone: (307) 684-2248

CERTIFICATE OF SERVICE

I, **DENNIS M. KIRVEN**, of Kirven and Kirven, P.C., attorneys for Petitioners, certify that I served a true and correct copy of the foregoing "Petitioners' Opposition to Petition for Leave to Amend" as follows:

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

U.S. Mail
 Facsimile
 Federal Express
 Hand Delivery

Mr. John Wagner
Department of Environmental Quality
Water Quality Division
122 West 25th Street, Herschler Building
4th Floor West
Cheyenne, Wyoming 82002

U.S. Mail
 Facsimile
 Federal Express
 Hand Delivery

Randal T. Cox, Esq.
400 South Kendrick, Suite 304
Gillette, Wyoming 82716

U.S. Mail
 Facsimile
 Federal Express
 Hand Delivery

on the 21st day of April, 2005.


DENNIS M. KIRVEN