

**FILED**

**AUG 09 2006**

Terri A. Lorenzon, Director  
Environmental Quality Council

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

**IN THE MATTER OF THE NOTICE OF )  
VIOLATION ISSUED TO: )**

**YATES PETROLEUM CORPORATION )  
105 SOUTH 4<sup>TH</sup> STREET )  
ARTESIA, NM 88210 )**

**DOCKET NO. 05-3218**

**WDEQ Docket No. 3795-05**

**JOINT MOTION FOR WITHDRAWAL OF APPEAL  
AND APPROVAL OF SETTLEMENT AGREEMENT**

The Parties in this matter, Petitioner Yates Petroleum Corporation (Yates), and Respondent Wyoming Department of Environmental Quality (DEQ), collectively referred to as "the Parties," present this Joint Motion for Withdrawal of Appeal and Approval of Settlement Agreement, and in support of the Parties' motion and stipulation, state the following:

1. This matter before the EQC concerns the Notice of Violation, DEQ Docket Number 3795-05, issued to Yates for the unauthorized discharge of produced water from its containment pond located at outfall 010 of WYPDES permit number WY0052001 in the SESW Quarter, Section 11, Township 48 North, Range 77 West.
2. As a result of the breach at Yates' Up Top reservoir, the DEQ/WQD issued NOV,

Docket number 3795-05 alleging a violation of part I.A.1 of WYPDES permit WY0052001 which states: "Discharges from the on-channel reservoirs are not allowed unless runoff from a storm event causes the reservoirs to fill and overtop." The DEQ/WQD issued the Notice of Violation, Docket Number 3795-05, to Yates on September 9, 2005.

3. Yates timely appealed the NOV which was filed with the EQC on September 26, 2005.

4. The Parties agree that proceeding to a contested case hearing is likely to be burdensome and expensive, and unlikely to lead to a mutually satisfactory resolution.

5. The Parties agree that resources presently spent on this litigation can be put to more productive use based upon a mutual agreement as set forth herein.

6. As a part of the agreement, which is marked as Exhibit A and is attached hereto and made a part hereof by this reference, Yates will withdraw its appeal in EQC Docket No. 04-3802 and asks that the EQC order the above captioned matter be dismissed.

7. The parties request that Exhibit A be made a part of the order and filed with the EQC, with file-stamped copies for the parties.

8. The Parties agree that they are bound by the terms and conditions contained in Exhibit A and further recognize that with the approval of this Motion by the EQC, Exhibit A becomes an Order of the EQC.

9. The provisions of Exhibit A shall be binding upon and inure to the benefit of the successors and assignees of the Parties hereto, to the extent allowed by law.

10. Each Party enters into this Joint Motion for Withdrawal of Appeal and Approval of Settlement Agreement for the purpose of resolving this matter in an appropriate manner without the expense, burden, and uncertainties of litigation and administrative proceedings.

NOW, THEREFORE, Yates Petroleum Corporation and the Department of Environmental Quality, respectfully request that the Environmental Quality Council enter an Order under WYO. STAT. ANN. § 35-11-901(a)(ii), WYO. STAT. ANN. § 16-3-107(n) and Chapter I, Section 11 of the DEQ Rules of Practice & Procedure approving, incorporating, and binding them to this Joint Motion for Withdrawal of Appeal and Approval of Settlement Agreement, Exhibit A and deeming Petitioner Yates' appeal in this matter to be withdrawn and dismissed, in accordance herewith.

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The signatories certify that they are authorized to bind their respective parties to this Joint Motion for Withdrawal of Appeal and Approval of Settlement Agreement in EQC Docket No. 05-3218.

DATED THIS 8<sup>th</sup> day of August, 2006.

YATES PETROLEUM CORPORATION.:

By: David Laming  
David Laming  
Manager of Rocky Mountain Operations

7/31/06  
Date

APPROVAL AS TO FORM:

Matthew Joy  
Matthew Joy  
Attorney for Yates Petroleum Corporation

7/25/06  
Date

STATE OF WYOMING, DEPARTMENT OF ENVIRONMENTAL QUALITY

By: John Wagner  
John Wagner, WQD Administrator

8/8/06  
Date

By: John Corra  
John Corra, DEQ Director

8/8/06  
Date

APPROVAL AS TO FORM:

John S. Burbridge  
John S. Burbridge  
Senior Assistant Attorney General  
Attorney for DEQ/WQD

8.8.06  
Date