

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

MAR 21 2007

Terri A. Lorenzon, Director
Environmental Quality Council

IN THE MATTER OF THE APPEAL AND REVIEW OF)
THE DECISION REGARDING THE PROPOSED)
WYOMING POLLUTANT DISCHARGE ELIMINATION)
SYSTEM (WYPDES) PERMITS WY0052817 AND)
WY0052833 (KENNEDY OIL), DATED NOVEMBER 30, 2005)

Docket No. 06-3803

PRE-HEARING DISCLOSURES

Pursuant to the Environmental Quality Council's (Council) Final Scheduling Order the Department of Environmental Quality, Water Quality Division (Division), through the Office of the Attorney General, hereby submits its Pre-Hearing Disclosures.

SUMMATION OF THE FACTS

The Division issued Wyoming Pollutant Discharge Elimination System (WYPDES) permits WY0052817 and WY0052833 to Kennedy Oil on November 30, 2005. Permit number WY0052817 allowed Kennedy to discharge 1.21 million gallons of produced water from coal bed methane wells to various named, on-channel reservoirs located on various unnamed ephemeral tributaries of Plosser Draw and Indian Creek. Indian Creek is a tributary to the Powder River. Permit number WY0052833 allowed Kennedy to discharge 2.55 million gallons of produced water from coal bed methane production to various on-channel reservoirs located on McCray Craw, Timber Draw, Morris Draw and unnamed ephemeral tributaries of Crazy Woman Creek. These streams are all tributaries to

the Powder River via Crazy Woman Creek. Both permits require that the produced water originate in the Big George coal seam.

Adami Ranch, LLC of Buffalo, Wyoming timely filed a Petition for Review, Notice of Appeal and Request for Contested Case Hearing with the Council on February 1, 2006.

Adami's petition contends that Kennedy's permit application:

1. falsely states that Kennedy and Adami Ranch reached an agreement with regard to the discharge of produced water over Adami Ranch,

2. the volume of produced water will cause accelerated erosion on Adami Ranch,

3. the application does not address the impact of produced water on livestock production,

4. that water infiltrating from the containment ponds through an unsaturated zone will result in violation of ground water standards,

5. monitoring wells are not sufficient, that the application is inconsistent with the plan of development submitted to the Bureau of Land Management,

6. there is no easement for the conveyance of produced water across Adami Ranch, and

7. cumulative effects of all Coal Bed Methane projects has not been studied for the entire Indian Creek area.

Since the filing of the Petition for review, Kennedy was purchased by Lance Oil & Gas Company, Inc., and Lance Oil & Gas has been purchased by Anadarko Petroleum Corporation.

LEGAL ISSUE

Whether WYPDES permits WY0052817 and WY0052833 were issued to Kennedy Oil by the Division in compliance with Wyoming law. The Division's position is that the discharge permits were issued in full compliance with Wyoming law.

WITNESSES

WILL CALL:

Kathy Shreve
Environmental Senior Analysis
Department of Environmental Quality
Water Quality Division
122 West 25th Street, 4th Floor West
Cheyenne, Wyoming 82002
307-777-7781

Ms. Shreve is in charge of the oversight and review of Kennedy's permit applications at issue in this appeal. She is expected to testify regarding all matters contained within the permits including items specifically itemized in Adami's Petition. In addition, Ms. Shreve will testify regarding general discharge permit application requirements and whether Kennedy's permit applications are in compliance with the requirements of Wyoming law.

MAY CALL:

John Wagner
Administrator
Department of Environmental Quality
Water Quality Division
122 West 25th Street, 4th Floor West
Cheyenne, Wyoming 82002
307-777-7781

Mr. Wagner may testify regarding his knowledge of discharge permit applications in general and may testify regarding his knowledge of Kennedy's permit applications.

Jason Thomas
Department of Environmental Quality
Water Quality Division
122 West 25th Street, 4th Floor West
Cheyenne, Wyoming 82002
307-777-7781

Mr. Thomas may testify regarding his knowledge of the discharge permit application filed by Kennedy and the issuance of those permits by the Division.

The Division may call any witness listed by the Appellant and Intervener in the above-captioned matter. In addition, the Division may call any witness needed for rebuttal testimony.

STIPULATED FACTS

The parties have not stipulated to any undisputed facts.

EXHIBITS

State's Exhibit 1: Kennedy permit application for permit WY0052817

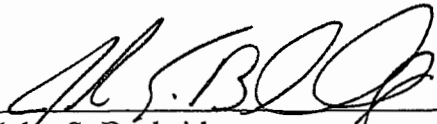
State's Exhibit 2: Discharge permit WY0052817.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

State's Exhibit 3: Kennedy permit application for permit WY0052833.

State's Exhibit 4: Discharge permit WY0052833.

DATED this 21st day of March, 2007.



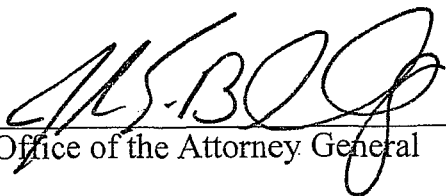
John S. Burbridge
Senior Assistant Attorney General
123 Capitol Building
Cheyenne, Wyoming 82001
307-777-7823

CERTIFICATE OF SERVICE

I, John S. Burbridge, certify that on this 21st day of March, 2007 the foregoing PRE-HEARING DISCLOSURES was served by United States Mail, postage prepaid, as follows:

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