

**JUL 07 2006**

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

Terri A. Lorenzon, Director  
Environmental Quality Council

**IN THE MATTER OF THE APPEAL OF POWDER )  
RIVER BASIN RESOURCE COUNCIL OF THE )  
RECLASSIFICATION AND DOWNGRADE OF THREE )  
DRAINAGES TO CRAZY WOMAN CREEK (Kennedy )  
South Area Addition) AND THEIR TRIBUTARIES )**

**Docket No. 06-3804**

**RESPONSE OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
TO THE PETITION OF THE WYOMING OUTDOOR COUNCIL**

The Department of Environmental Quality (DEQ)/Water Quality Division (WQD) by and through its attorney, John S. Burbridge, Senior Assistant Attorney General, hereby responds to Wyoming Outdoor Council's (WOC) appeal of the reclassification of three drainages to Crazy Woman Creek and their tributaries and states to the Environmental Quality Council (EQC) the following:

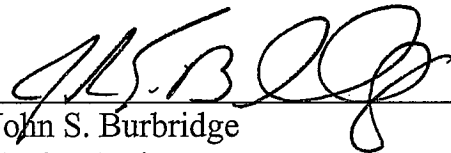
1. WOC has failed to show that it has standing to appeal the reclassification and downgrading of the drainages to Crazy Woman Creek and their tributaries, as no member of WOC that is directly affected by the DEQ's action has been listed in its Petition. As such, the EQC should dismiss WOC's Petition for lack of standing.
2. The DEQ admits paragraph 1 of WOC's Petition.
3. The DEQ states that its Rules of Practice and Procedure cited by WOC in paragraph 2 of its Petition speak for themselves.

4. The DEQ admits paragraph 3 of WOC's Petition.
5. The DEQ is without sufficient knowledge to either admit or deny the assertions contained in paragraph 4 of WOC's Petition.
6. The DEQ states that it considered the "Use Attainability Analysis Kennedy Oil South Area Addition Johnson County, August 3, 2005," its own analysis of the three drainages to Crazy Woman Creek (Kennedy South Area Addition), and public comments on the proposal to reclassify the drainages.
7. The DEQ admits paragraph 6 of WOC's Petition.
8. The DEQ admits the second and third sentences of WOC's Petition, but denies the allegation made in the first sentence of paragraph 7 of WOC's Petition.
9. The DEQ denies the allegations made in paragraph 8 of WOC's Petition.
10. The DEQ is without sufficient knowledge to either admit or deny the allegations contained in paragraph 9 of WOC's Petition.
11. The DEQ is without sufficient knowledge to either admit or deny the allegations contained in paragraph 10 of WOC's Petition.
12. The DEQ denies the allegation made in paragraph 11 of WOC's Petition.
13. The Use Attainability Analysis (UAA) is used by the DEQ to determine whether the default aquatic life designation is appropriate and does not attempt to evaluate the effects of future discharges in its reclassification process as alleged in paragraph 12 of WOC's Petition.

14. The DEQ denies WOC's allegations contained in paragraph 13 of its Petition.
15. The DEQ denies WOC's allegations contained in paragraph 14 of its Petition.
16. The DEQ denies WOC's allegations contained in paragraph 15 of its Petition.
17. The DEQ denies WOC's allegations contained in paragraph 16 of its Petition.
18. The DEQ denies each and every allegation not specifically admitted to in this response.

DATED this 7<sup>th</sup> day of July, 2006. .

FOR THE DEPARTMENT OF  
ENVIRONMENTAL QUALITY



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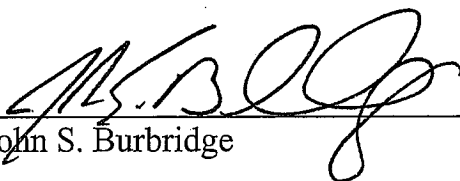
CERTIFICATE OF SERVICE

I, John S. Burbridge, certify that the foregoing Response was served by U.S. Mail, postage prepaid, and addressed correctly, to the following people on the 7<sup>th</sup> day of July, 2006:

Steve Jones  
Watershed Protection Program Attorney  
Wyoming Outdoor Council  
262 Lincoln Street  
Lander, Wyoming 82520

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John S. Burbridge