

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

**FILED**

SEP 26 2006

Terri A. Lorenzon, Director  
Environmental Quality Council

IN THE MATTER OF THE APPEAL OF )  
CLABAUGH RANCH, INC. FROM )  
WYPDES PERMIT NO. WY0049697 )

Docket No. 06-3811

**WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S  
RESPONSE TO APPEAL BY CLABAUGH RANCH, INC.**

Respondent Wyoming Department of Environmental Quality pursuant to the Environmental Quality Council's (Council) September 7, 2006 Order, responds as follows to Petitioner Clabaugh Ranch, Inc.'s appeal in the above-captioned matter. For the purpose of this response, the "permit" refers to the major modification to WYPDES Permit No. WY0049697 issued on March 10, 2006.

1. The DEQ admits the allegations contained in paragraph 1 of the petition.
2. The DEQ denies the allegations contained in paragraph 2 of the petition. The action that is being appealed here is a major modification of already existing permit No. WY0049697.
3. The DEQ admits the allegations contained in paragraphs 3(a), 3(b) and 3(c) of the petition.
4. The DEQ denies the allegations contained in paragraphs 3(d), 3(e), and 3(f) of the petition.

5. The DEQ denies the allegations contained in paragraph 3(g) of the petition. The permit protects water uses that were in existence on or before November 28, 1975 and is also protective of antidegradation concerns. The permit complies with Water Quality Rule and Regulation, Ch. 1, § 8.

6. The DEQ denies the allegation contained in paragraph 3(h) of the petition. The permit specifically prohibits the discharge of produced water that could cause the formation of visible deposits of iron, hydrocarbons or any other constituent on the bottom or shoreline of any receiving waters. In addition, the permit prohibits the discharge of any water that would result in a significant aesthetic degradation or degradation of habitat for aquatic life, plant life, public water supply or those intended for agricultural or wildlife use. The permit complies with Water Quality Rule and Regulation, Ch. 1, § 15.

7. The DEQ denies the allegations contained in paragraph 3(i) of the petition. The permit complies with Water Quality Rule and Regulation, Ch. 1, § 16.

8. The DEQ denies the allegations contained in paragraph 3(j) of the petition. The permit complies with Water Quality Rule and Regulation, Ch. 1, § 17.

9. The DEQ denies the allegations contained in paragraph 3(k) of the petition. The permit protects surface water quality so that the quality of the water does not cause a measurable decrease in crop or livestock production. The permit complies with Water Quality Rule and Regulation, Ch. 1, § 20.

10. The DEQ denies the allegations contained in paragraph 3(l) of the petition. The permit complies with Water Quality Rule and Regulation, Ch. 1, § 23.

11. The DEQ denies the allegations contained in paragraph 3(m) of the petition. The permit complies with Water Quality Rule and Regulation, Ch. 1, § 5(c).

12. The DEQ denies the allegations contained in paragraph 3(n) of the petition. The permit complies with Water Quality Rule and Regulation Ch. 2, § 9(a)(v), calling for permits which comply with the water quality requirements of affected states. DEQ also asserts that petitioner has no standing to contest this rule, as the petitioner has no legal interest to protect for any other state or its citizens.

13. The DEQ denies the allegations contained in paragraph 3(o) of the petition.

14. The DEQ denies the allegations contained in paragraph 3(p) of the petition. Permittee is expected to comply with all applicable rules and regulations, including Ch. 2, Appendix H of the Water Quality Rules and Regulations.

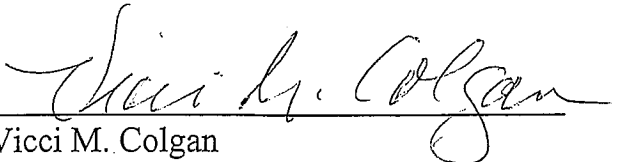
15. The DEQ denies the allegations contained in paragraph 3(q) of the petition.

16. The DEQ admits the first sentence of paragraph 3(r) of the petition. The DEQ denies the rest of the allegations contained in paragraph 3(r).

17. The DEQ denies the allegations contained in paragraphs 3(s) and 3(t) of the petition.

18. The DEQ denies each and every allegation not specifically admitted in this response.

DATED this 26 day of September, 2006.



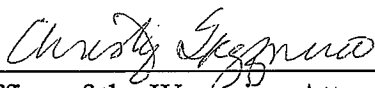
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**CERTIFICATE OF SERVICE**

A true and correct copy of the foregoing **WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S RESPONSE TO APPEAL BY CLABAUGH RANCH, INC.** was served this 26<sup>th</sup> day of September, 2006 by United States mail, first class postage prepaid, addressed as follows:

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