

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL

STATE OF WYOMING

FILED

SEP 18 2006

Terri A. Lorenzon, Director
Environmental Quality Council

IN THE MATTER OF THE APPEAL OF)
THE NOTICE OF VIOLATION AND)
ORDER ISSUED TO:)

) Docket No. 06-3812

Devon Energy Production Company, L.P.)
20 North Broadway)
Oklahoma City, Oklahoma 3102-8260)

**WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S
RESPONSE TO APPEAL BY DEVON ENERGY PRODUCTION COMPANY**

Respondent Wyoming Department of Environmental Quality (DEQ), Water Quality Division (WQD), pursuant to the Environmental Quality Council's (Council) September 7, 2006 Order, responds as follows to Petitioner Devon Energy Production Company, L.P.'s (Devon) Notice of Appeal and Petition for Hearing, filed August 28, 2006 in the above-captioned matter, contesting Notice of Violation (NOV) and Order No. 3878-06.

1. Devon is the owner/operator of the New Deal Draw coal bed methane (CBM) production facility located in the SWSW 1/4, Section 6, T55N, R74W, Campbell County Wyoming.

2. DEQ issued Devon WYPDES permit WY0042595 on September 17, 2001, which expires on September 16, 2006.

3. Devon's operation under WYPDES permit WY0042595 involves a CBM reservoir associated with outfall 003.

4. Part I.A.1. of WYPDES permit WY0042595 states that no discharge is authorized from such reservoirs.

5. A field inspection by DEQ/WQD on July 18, 2006 confirmed that a valve had been opened allowing the unauthorized discharge of CBM produced water to an on-channel stock reservoir on an unnamed ephemeral tributary to New Deal Draw, which is tributary to LX Bar Creek, which is tributary to the Powder River in Campbell County.

6. On August 11, 2006, DEQ issued NOV and Order No. 3878-06 to Devon, alleging the above-described violation of Part I.A.1. of WYPDES permit WY0042595, and ordering that Devon apply to modify its permit to provide for use of multiple on-channel reservoirs below each permitted outfall and inform DEQ of steps taken to prevent a recurrence of this type of violation.

7. Devon's Petition does not deny that alleged violation occurred, but claims that, without its consent, a third party opened the valve which caused the unauthorized discharge, that the alleged violation has since been corrected, and that Devon has now applied to modify its permit.

8. In issuing the NOV with an Order, DEQ did not seek a penalty and acknowledged that the unauthorized discharged resulted from a landowner opening the valve to fill a stock reservoir located approximately a half mile downstream.

9. If the permit modification Devon has applied for is granted, the contested Order will be satisfied, and the appeal will be moot.

DATED this 18th 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 DEVON ENERGY PRODUCTION COMPANY** was served this 18th day of September, 2006 by United States mail, first class postage prepaid, addressed as follows:

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