BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

SEP 2 9 2008

Jim Ruby, Executive Secretary
Environmental Quality Council

IN THE MATTER OF THE APPEAL OF CLABAUGH RANCH, INC. FROM OF WYOMING POLLUTANT DISCHARGE ELIMINATION SYSTEM (WYPDES) PERMIT WY0050601	))))))	Docket No. 08-3805

YATES PETROLEUM CORPORATION'S RESPONSE TO CLABAUGH RANCH, INC.'S PETITION

Comes now Yates Petroleum Corporation (Yates), by and through its undersigned counsel, and responds to Clabaugh Ranch, Inc.'s (Clabaugh's) appeal of Yates' WYPDES permit number WY0050601 (as set forth in Clabaugh's Petition [the Petition], dated August 25, 2008). Yates responds as follows.

Yates' Responses to Allegations Set Forth in Clabaugh's Petition

1. Yates admits, based on information and belief, the allegations set forth in Paragraph 1 of the Petition.

2. Yates admits, based on information and belief, the allegations set forth in Paragraph 2 of the Petition.

3(a). Upon information and belief, Yates admits the allegation set forth in Paragraph 3a. of the Petition.

3(b). Yates admits the allegation set forth in Paragraph 3b. of the Petition.

3(c). Yates admits the allegation set forth in Paragraph 3c. of the Petition.

3(d). Yates admits that the outfalls are located up drainage from the Clabaugh Ranch. Yates denies all other allegations set forth in Paragraph 3d. of the Petition.

3(e). Yates cannot admit or deny the allegations set forth in Paragraph 3e. of the Petition as it is without sufficient knowledge of the allegations regarding the "Lance permit." Yates denies any other allegations set forth in paragraph 3e. of the Petition.

3(f). Yates denies all allegations set forth in Paragraph 3f. of the Petition.

3(g). The allegation set forth in Paragraph 3g. of the Petition is vague, ambiguous and conclusory and fails to specify any facts regarding how the permit fails to maintain and protect water uses in violation of Chapter 1, Wyoming Water Quality Rules and Regulations (WWQRR), Section 8 or any other provision of the Environmental Quality Act. Yates cannot frame a responsive pleading to this allegation. Accordingly, Yates denies the allegations set forth in Paragraph 3g.

3(h). The allegation set forth in Paragraph 3h. of the Petition is vague, ambiguous and conclusory and fails to specify any facts regarding how the permit is in violation of Chapter 1, Wyoming Water Quality Rules and Regulations (WWQRR), Section 15 or any other provision of the Environmental Quality Act. Yates cannot frame a responsive pleading to this allegation. Accordingly, Yates denies the allegations set forth in Paragraph 3h.

3(i). The allegation set forth in Paragraph 3i. of the Petition is vague, ambiguous and conclusory and fails to specify any facts regarding how the permit is in violation of Chapter 1, Wyoming Water Quality Rules and Regulations (WWQRR), Section 16 or any other provision of the Environmental Quality Act. Yates cannot frame a responsive pleading to this allegation. Accordingly, Yates denies the allegations set forth in Paragraph 3i.

3(j). The allegation set forth in Paragraph 3j. of the Petition is vague, ambiguous and conclusory and fails to specify any facts regarding how the permit is in violation of Chapter 1, Wyoming Water Quality Rules and Regulations (WWQRR), Section 17 or any other provision of the Environmental Quality Act. Yates cannot frame a responsive pleading to this allegation. Accordingly, Yates denies the allegations set forth in Paragraph 3j.

3(k). The allegation set forth in Paragraph 3k. of the Petition is vague, ambiguous and conclusory and fails to specify any facts regarding how the permit is in violation of Chapter 1, Wyoming Water Quality Rules and Regulations (WWQRR), Section 20. Yates cannot frame a responsive pleading to this allegation. Accordingly, Yates denies the allegations set forth in Paragraph 3k.

3(l). The allegation set forth in Paragraph 3l. of the Petition is vague, ambiguous and conclusory and fails to specify any facts regarding how the permit is in violation of Chapter 1, Wyoming Water Quality Rules and Regulations (WWQRR), Section 23. Yates cannot frame a responsive pleading to this allegation. Accordingly, Yates denies the allegations set forth in Paragraph 3l.

3(m). The allegation set forth in Paragraph 3m. of the Petition is vague, ambiguous and conclusory and fails to specify any facts regarding how the permit is in violation of Chapter 2, WWQRR, Section 5(c)(ii). Yates cannot frame a responsive pleading to this allegation. Accordingly, Yates denies the allegations set forth in Paragraph 3m.

3(n). The allegation set forth in Paragraph 3n. of the Petition is vague, ambiguous and conclusory and fails to specify any facts regarding how the permit is in violation of Chapter 2, WWQRR, Section 9(a)(v). Yates cannot frame a responsive pleading to this allegation. Accordingly, Yates denies the allegations set forth in Paragraph 3n.

3(o). The allegation set forth in Paragraph 3o. of the Petition is vague, ambiguous and conclusory and fails to specify any facts regarding how the permit is in violation of Chapter 2, WWQRR, Section 9(a)(vi). Yates cannot frame a responsive pleading to this allegation. Accordingly, Yates denies the allegations set forth in Paragraph 3o.

3(p). The allegation set forth in Paragraph 3p. of the Petition is vague, ambiguous and conclusory and fails to specify any facts regarding how the permit is in violation of Chapter 2, WWQRR, Appendix H paragraphs (b)(i), (b)(ii), (b)(v), (b)(vii) and (b)(ix). Yates cannot frame a responsive pleading to this allegation. Accordingly, Yates denies the allegations set forth in Paragraph 3p.

3(q). The allegation set forth in Paragraph 3q. of the Petition is vague, ambiguous and conclusory and fails to specify any facts regarding how the permit is in violation of Chapter 2, WWQRR, Appendix H paragraph (d)(iv). Yates cannot frame a responsive pleading to this allegation. Accordingly, Yates denies the allegations set forth in Paragraph 3q.

3(r). The allegation set forth in Paragraph 3r. of the Petition is vague, ambiguous and conclusory and fails to specify any facts regarding how the permit is in

violation of 40 C.F.R. § 435, Subpart E and/or Chapter 2, WWQRR, Appendix H paragraph (d)(iv). Yates cannot frame a responsive pleading to this allegation. Accordingly, Yates denies the allegations set forth in Paragraph 3r.

3(s). The allegations set forth in Paragraph 3s. of the Petition are vague, ambiguous and conclusory and fail to specify any facts regarding how the permit will not protect plant life from adverse effects of the discharge or how the permit will cause a measurable decrease in crop and livestock production. Yates cannot frame a responsive pleading to this allegation. Accordingly, Yates denies the allegations set forth in Paragraph 3s.

3(t). The allegation set forth in Paragraph 3t. of the Petition is vague, ambiguous and conclusory and fails to specify any facts regarding how the permit is in violation of the anti-backsliding provisions of the Clean Water Act. Yates cannot frame a responsive pleading to this allegation. Accordingly, Yates denies the allegations set forth in Paragraph 3t.

4. Petitioner's request for relief is not an allegation of fact to which an answer is required.

Yates' General Denial

To the extent the Petition raises any allegations beyond those specifically denied above, Yates denies all such allegations and reserves the right to fully address all allegations during these proceedings, as appropriate.

Yates' Affirmative Defenses

1. The EQC lacks subject matter jurisdiction over Clabaugh's appeal.

2. Clabaugh lacks standing to bring this appeal.

3. Clabaugh did not properly exhaust its administrative remedies before the Wyoming Department of Environmental Quality.

To the extent Clabaugh's Petition raises any allegations beyond those specifically denied above, Yates denies any and all such allegations and reserves the right to fully address all allegations at appropriate stages of these proceedings.

WHEREFORE, Yates respectfully requests that the Environmental Quality Council enter an order affirming the issuance of WYPDES permit number WY0050601.

Respectfully submitted this 26th day of September, 2008.

Eric L. Hiser - BY MJ

Matthew Joy
Eric L. Hiser (Wyo. Bar No. 6-4003)
Jorden Bischoff & Hiser
7272 E, Indian School Road, Suite 360
Scottsdale, AZ 85251
Phone: (480) 505-3900
Fax: (480) 505-3901
Attorneys for Yates Petroleum Corporation

Certificate of Service

I certify that on this 26th day of September, 2008, service of a true and complete copy of Yates Petroleum Corporation's Response to Clabaugh Ranch Inc.'s Petition was made upon each party or attorney of record herein as indicated below.

The ORIGINAL and eleven (11) copies were filed by Federal Express of the same on September 26, 2008 with:

Jim Ruby, Executive Secretary
Wyoming Environmental Quality Council
122 W. 25th Street
Herschler Bldg., R. 1714
Cheyenne, Wyoming 82002

COPIES were served by Federal Express of the same on September 26, 2008 with:

Tom C. Toner
Attorney for Clabaugh Ranch, Inc.
319 W. Dow St.
P.O. Box 6288
Sheridan, WY 82801-1688

John Burbridge
Office of the Attorney General
123 Capitol
200 W. 24th Street
Cheyenne, WY 82002

John Corra, Director (2 COPIES)
Department of Environmental Quality
122 W. 25th Street
Herschler Building, 4th Floor West
Cheyenne, WY 82002

John Wagner
Wyoming DEQ, Water Quality Division
122 W. 25th Street
Herschler Building, 4th Floor
Cheyenne, WY 82002

Thurston E. Baker