

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

MAY 19 2009 *KEJ*

*Jim Ruby, Executive Secretary
Environmental Quality Council*

IN THE MATTER OF THE APPEAL OF)
JOHN D. KOLTISKA, AC RANCH, INC.)
A Wyoming Corporation, PRAIRIE DOG)
RANCH, INC., a Wyoming Statutory Close)
Corporation, and PRAIRIE DOG WATER)
SUPPLY COMPANY, FROM WYPDES)
PERMIT NO. WY0054364)

Docket No. 09-3805

WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S
RESPONSE TO AMENDED PETITION

Respondent Wyoming Department of Environmental Quality (DEQ) hereby responds to the allegations of fact in ¶¶3.a.-s. in Petitioners' Amended Petition. For the purpose of this Response, all references to the "Modified Permit" refer to WYPDES Modified Permit No. WY0054364 issued to Pennaco Energy, Inc. (Pennaco) on April 29, 2009.

3.a. DEQ admits the averment in ¶3.a.

3.b. DEQ admits the averment in ¶3.b. that John D. Koltiska (Koltiska) is president of AC Ranch, Inc., incorporator of Prairie Dog Ranch, Inc., and a director and vice president of Prairie Dog Water Supply Company. DEQ is without knowledge or information sufficient to form a belief as to the truth of, and therefore denies, the remaining averments in ¶3.b.

3.c. DEQ admits the averment in ¶3.c.

3.d. DEQ admits the averment in ¶3.d.

3.e. DEQ admits the averment in ¶3.e. that of Prairie Dog Water Supply Company (PDWSC) is a Wyoming non-profit mutual benefit corporation. DEQ is without knowledge or information sufficient to form a belief as to the truth of, and therefore denies, the remaining averments in ¶3.e.

3.f. DEQ admits the averment in ¶3.f.

3.g. DEQ affirmatively states that the Modified Permit authorizes discharges from outfall 002 into an on-channel reservoir subject to restrictions on releases from the reservoir into Wildcat Creek. DEQ admits the other averments in ¶3.g.

3.h. DEQ admits the averments in ¶3.h. that AC Ranch, Inc. owns land of which portions lie along Wildcat Creek and that point(s) of diversion for irrigation exist on Wildcat Creek downstream from outfall 002 identified in the Modified Permit. DEQ is without knowledge or information sufficient to form a belief as to the truth of, and therefore denies, the remaining averments in ¶3.h.

3.i. DEQ admits the allegation in ¶3.i. that the Permit authorizes discharges from outfall 002 into an on-channel reservoir subject to restrictions on releases from the reservoir into Wildcat Creek. DEQ is without knowledge or information sufficient to form a belief as to the truth of, and therefore denies, the remaining averments in ¶3.i.

3.j. DEQ admits the averment in ¶3.j. that there are points of diversion for irrigation on Prairie Dog Creek downstream from outfall 003 identified in the Permit. DEQ is without knowledge or information sufficient to form a belief as to the truth of, and therefore denies, the remaining averments in ¶3.j.

3.k. DEQ admits the averments in ¶3.k. that the Permit authorizes discharges from outfall 003 into Prairie Dog Creek and that there are points of diversion for irrigation on Prairie Dog Creek downstream from outfall 003 identified in the Permit. DEQ is without knowledge or information sufficient to form a belief as to the truth of, and therefore denies, the remaining averments in ¶3.k.

3.l. DEQ is without knowledge or information sufficient to form a belief as to the truth of, and therefore denies, the averments in ¶3.l.

3.m. DEQ admits the averments in ¶3.m. that water discharged under the Permit “could co-mingle with water in Prairie Dog Creek” and that there are points of diversion for irrigation on Prairie Dog Creek downstream from outfall

003 identified in the Permit. DEQ is without knowledge or information sufficient to form a belief as to the truth of, and therefore denies, the remaining averments in ¶3.m.

3.n. DEQ denies the averment in ¶3.n.

3.o. DEQ is without knowledge or information of the ambient levels of EC, SAR and dissolved sodium in Prairie Dog Creek at the point of discharge (outfall 003) sufficient to form a belief as to the truth of the averment in ¶3.o., and therefore denies the averment in ¶3.o.

3.p. DEQ denies the averments in ¶3.p.

3.q. DEQ denies the averment in ¶3.q.

3.r. DEQ denies the averment in ¶3.r.

3.s. DEQ denies the averment in ¶3.s.

DEQ generally denies any other allegations in Petitioners' Amended Petition.

DATED this 19th day of May, 2009.



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CERTIFICATE OF SERVICE

This certifies that true and correct copies of the foregoing WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY'S RESPONSE TO AMENDED PETITION was served this 19th day of May, 2009 by United States mail, postage prepaid, and also by hand delivery, e-mail or facsimile transmission, addressed as follows:

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