



HOT SPRINGS COUNTY COMMISSIONERS

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FILED

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Terri A. Lorenzon, Director
Environmental Quality Council

Date: March 20, 2007

**To: Richard C. Moore, Chairman
Environmental Quality Council of Wyoming
Herschler Building, 1 West
122 West 25th Street, Room 1714
Cheyenne, Wyoming 82002**

**Kip Crofts, Counsel to the Governor
Office of the Governor
State Capital, 200 West 24th Street
Cheyenne, Wyoming 82002**

**Re: Comments from Hot Springs County Concerning the
PRBRC Petition to Amend Wyoming Water Quality Rule
Chapter 2, Appendix H and Appendix I
“STATEMENT OF PRINCIPAL REASONS”**

Dear Sir:

Hot Springs County desires to submit the following written comments concerning the “STATEMENT OF PRINCIPAL REASONS” concerning the Petition to Amend Wyoming Water Quality Rule, Chapter 2, Appendix H and Appendix I, Docket No. 05-3102:

Summary:

Hot Springs County asserts that the administrative record for the petition to amend the State’s water quality standards does not document consideration of the effect of the proposed water quality amendments upon the social/economic structure of the County; and therefore, the Environmental Quality Council’s ruling was arbitrary and capricious.

In his December 6, 2006 letter to Kip Crofts, Counsel to the Governor, Attorney General Pat Crank quoted Wyoming Statute as:

“ Rules adopted by an agency must be supported by relevant information in the record, or they will be struck down as arbitrary and capricious.” (see Attachment A).

Hot Springs County asserts that various County, State and Federal regulations all require the utilization of social/economic impact studies when evaluating proposed State and/or Federal actions; and that, the PRBRC's petition, the EQC proceedings and administrative record, and the "STATEMENT OF PRINCIPAL REASONS" were materially deficient by not including such social/economic impact studies.

Discussion:

Hot Springs County submitted substantial documentation asserting that the Environmental Quality Council was required to consider the social/economic effect of the proposed regulations. The County contends that the "STATEMENT OF PRINCIPAL REASONS" did not cite social/economic impacts nor has the public record adequately documented consideration of social/economic effects.

Legal considerations which were aired during the proceedings included whether or not the Environmental Quality Council had authority to regulate quantity of discharge waters and whether or not coal bed methane could be treated separately from conventional oil and gas operations. The County contends that it is an oversight to not consider the social/economic impact of the proposed regulations; and that, the proposed action is legally very weak by failing to incorporate social/economic considerations in the deliberations and the decision record.

The Environmental Quality Council has gone in search of additional and more definitive information concerning water quality standards (numeric standards) and has commissioned a separate report by the University of Wyoming (Dr. Raisbeck). Dr. Raisbeck's study is entitled "Critical Review of the Scientific Literature Relating to Water Quality for Wyoming Livestock and Wildlife" which indicates that social/economic impacts are not part of the study. The County is concerned that submittal of Dr. Raisbeck's report will be without analysis of the social/economic effect of the numeric standards on the County's economy. We respectfully request that a similar study be commissioned which analyzes at least three (3) options for the social/economic impacts of the proposed amendments to the State's water quality standards.

The County asserts that the Environmental Quality Council would be remiss by utilizing Dr. Raisbeck's literature search as a decision making tool without accompanying economic impact studies. Our reasons for adamantly requiring the analysis of the economic impact the actions would have on the County's economy were laid out in our February 16, 2006 letter the content of which is attached (Attachment B).


Brad W. Basse, Chairman, Hot Springs County Commissioners


John P. Lumley, Vice Chairman


Frank T. Manning, Commissioner

Cc Pat Crank, Attorney General
Ryan Lance, Deputy Chief of Staff
Mary Flanderka, Governor's Planning Office
Terri Lorenzen, Director/Attorney for the Environmental Quality Council
Jerry Williams, County Attorney
Hans Odde, County Clerk

Attachments:

- A. December 6, 2006 letter from Attorney General Pat Crank to Kip Crofts, Counsel to the Governor. Re: Environmental Quality Council – Citizen Petition, Appendix I, regarding additional requirements applicable to produced water discharges from coal bed natural gas (coalbed methane “CBM”) facilities.**
- B. February 16, 2006 letter from Brad W. Basse, Chairman of the Hot Springs County Commissioners to Mark Gordon, Chairman of the Environmental Quality Council. Re: Comments from Hot Springs County Concerning the PRBRC Petition to Amend Wyoming Water Quality Rule, Chapter 2, Appendix H.**