

SDSBT
(Stop Drilling-Save the Bridger-Teton)
PO Box 121
Bondurant, Wyoming 82822

By e-mail to kmcgee@state.wy.us

And by fax to: 307-777-6134

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Terri A. Lorenzon, Director
Environmental Quality Council

January 29, 2007

Environmental Quality Council
Herschler Building, Room 1714
122 West 25th Street
Cheyenne, WY 82002

Dear Members of the Environmental Quality Council:

**Re: Coal-bed methane (CBM) waste water discharges and
the proposed rule-making for consideration by the Council**

SDSBT is a citizens' group, 500 strong, focused on stopping drilling in the Upper Bridger-Teton National Forest/Wyoming Range and the surrounding private lands in the Hoback Basin. We thank the Council in advance for consideration of these comments.

The water available to us is from aquifers, creeks and small rivers and these waters are essential for residential, wildlife, agricultural, and ranching purposes. Some residential areas are already suffering from a lack of groundwater. Water resources will, without question, be at risk if full-field energy development in the Hoback Basin were to occur. As a result, SDSBT is extremely concerned about the Department of Environmental Quality's (DEQ) behavior in recognizing water resource and pollution problems, and their reluctance to use existing legal and regulatory tools to even consider, let alone resolve, water-related issues. This is what we see as the case in CBM development.

SDSBT supporters in our part of the state rely on both the limited groundwater and surface water resources available to us. We fear that the long-term need for clean water in the Hoback Basin and elsewhere in Wyoming is becoming a sacrificial lamb to the near-term interest in energy "treasure." Contamination of groundwater and surface waters and draw-downs of the capacity of supporting aquifers are serious problems which pose unnecessary risks not only to current residents but also to current sustainable economic activities, including ranching, agriculture, tourism and the long-term health of the public lands that support so much of the recreational economy.

To say in 2007 that Wyoming is an energy development state is an understatement; along with new energy development come serious impacts on other long-established economic activities, and to established communities. There is "no such thing as a free lunch." Unfortunately, under current policies, those who reap the "treasure" of energy development in Wyoming are not the ones who will pay the price. The sacrifice of Wyoming's surface waters and aquifers, as well as the pollution and degradation of land, air, vegetation, and wildlife, not to mention the already documented threats to vital communities is too high a price. The citizens of Wyoming need to insist upon behavior modification both by public agencies and the energy industry.

As SDSBT understands it, the currently proposed rule is focused on the immediate problem of permitting discharges of pollution only for, "beneficial use", and also includes standards, such as effluent limits, that are expected to be protective of livestock and wildlife. These are very important matters and we support them.

The current proposal does not, however, address the very large "elephant in the room", the very real and obvious problem of aquifer quality and depletion as a result of the volume of water consumed in CBM—and other energy developments—that is now affecting and may affect basins across Wyoming.

Two competing resources, water and energy, should not be seen as a trade-off, one for another. As a result of excessive water take-downs that are associated with energy development, our State is facing a grim and longer-term problem. The current state of affairs supports both the pollution and the waste of water at a time when the State should be protecting its water resources. As a matter of sound public policy, this fundamental deficiency needs to be addressed. The condition and contamination of aquifers, rates of recharge, as well as contamination of surface waters, in the face of large-scale energy development now underway, are not being effectively addressed by Wyoming's DEQ. To put it mildly, this is short-sighted; we encourage the Environmental Quality Council to engage with others to determine the best short-term balanced approach to meet competing demands for clean water supply in Wyoming. Wyoming cannot exist without a clean supply of water. What we have now, as is evident with the CBM development, is 1) sanctioned water contamination and 2) waste. This is flagrant unacceptable behavior.

The current attitude of the DEQ, in the matter of permitting water for beneficial use in the case of CBM water discharge, sends the wrong message and, we suggest, produces the wrong result. To view the permitting of beneficial use to encompass all discharges is a DEQ blind spot; only a small portion of the water discharged allowed will go to beneficial use. The remainder is wasted and just causes damage. This rule will provide protection of soil, vegetation, wildlife, livestock, aquatic life and the downstream landowners and their existing uses of the land, and prevent further damage caused by DEQ's failure to appropriately permit CBM discharges. This proposed rule is a positive step.

In this case, DEQ apparently maintains an argument over the issue of authority; and a competing jurisdictional issue with the State Engineers Office, and the Board of Control. To simply maintain an argument, rather than address the solution is both unprofessional and unnecessary. We believe under both state and federal law (the Clean Water Act) the DEQ has the authority to regulate waste water discharge including the volume of that discharge, and we see their behavior as a "dodge of responsibility". But, if they do not see their authority that way, the Council can promulgate this proposed rule and enable the DEQ to get on with getting the job done.

It suffices to say that permitting the small volume of water that actually is put to beneficial use is appropriate. This acts as a mandatory incentive to industry to reduce the larger volumes of water discharges, or require them to apply technology fixes such as piping to appropriate discharge locations or re-injection or other appropriate measures that are more respectful to Wyoming lands, waters, wildlife and ranching. Floods of contaminated water discharges that cause harm, soil erosion, siltation, and more is not acceptable. Permitting to beneficial use then becomes in effect a performance standard. There is nothing wrong with standards. We hold public elected officials to standards. We hold school to performance standards and penalize them if they do not perform; it is appropriate to hold industry to standards as well.

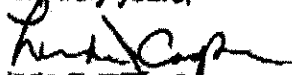
Respect for lands and waters of Wyoming must prevail. Long-term effects on the aquifers, that support Wyoming, while drought conditions, population expansion, and energy development proceed simultaneously, demand immediate attention. Whether in fact climate change forces are at work that would make Wyoming increasingly drier for years is not yet known with certainty, but the reality is that years of drier than average winters in the intermountain west are occurring at the same time that energy development demands excessive water. Apparently there is a serious blind spot or a deliberate effort to not utilize the regulatory tools to protect Wyoming, and we find this inappropriate, in fact perhaps a "dereliction of duty."

To use an analogy, if one was in Iraq and given a weapon and the ammunition and one chose to fire blanks instead of live ammunition, one would be court marshaled. On the other hand, perhaps one was poorly advised or influenced, may have some fear about taking the shot, or may not know how to load the rifle, in which case there is the duty to resolve these matters, and learn how to load the weapon before entering the live battlefield. In this case, promulgation of these proposed rules would enable DEQ to do their duty removing the reluctance they now exhibit.

We encourage and support the Environmental Quality Council to: see to it that further pollution of Wyoming does not stand; to see to it that remediation and compensatory measures are taken where necessary; and to see to it that this proposed rule will be promulgated.

The state of Wyoming owns the waters, the SEO permits the taking of water and the DEQ has legal authority to permit the discharge of contaminated water. The permitting process is a tool used in every state in the US to manage for environmental quality. The State must act in such a way that produces as much of a positive result as can be expected given the mess of CBM development in the first place. This is a case where both industry and the State leaped before they looked and now it is time to take corrective measures. Both the DEQ and the CBM industry should be held accountable for the current problems in the Powder River Basin. This rule will make clear what DEQ must do with its authority. Thank you for the opportunity to comment on this matter.

Very truly yours,


Linda Cooper, President
SDSBT

Cc Senator Enzi
Senator Thomas
Governor Frudenthal
Patrick Tyrrell, State Engineer
John Wagner, DEQ Administrator