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Terri A. Lorenzon, Director
Environmental Quality Council

February 7, 2007

Mr. Bill DiRienzo
Wyoming DEQ/WQD
Herschler Building, 4th Floor West
122 West 25th Street
Cheyenne, Wyoming 82002

RE: Comments on Proposed Rule Changes to Agricultural Use Protection Policy
(Chapter 1, Section 20)

Delivered VIA facsimile (307-777-5973) and U.S. Mail

Dear Mr. DiRienzo:

I have several areas of concern with respect to the latest draft of the proposed changes to Chapter 1.

I am concerned with the criteria established for the protection of ephemeral drainages. The current proposed standards will leave a substantial number of ephemeral streambeds unprotected from the discharge of harmful coal bed methane water.

Ephemeral drainages provide critical forage and protection for virtually every ranch. Allowing CBM water to be discharged down any of them, without the surface owner having the ability to reject the water, will subject a ranch to an unreasonable burden. The rancher should not have to shoulder the burden for CBM profitability.

Our ranch straddles a divide between two major drainages. As such, we are at the head of the tributary ephemeral drainages and the proposed standards would probably not protect any of the ephemeral drainages on our ranch. The significance of ephemeral drainage bottoms should not be deferred to an arbitrary measurement but determined by the facts and circumstances of those drainages.

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Page H-2 of Appendix H, lines 4-11 address the phrase "measurable decrease in crop or livestock production". It then goes on to address livestock watering and irrigation, either artificial or natural. This fails to consider that livestock production depends on much more than water to drink and irrigated crops.

Changes to natural forage, whether they are irrigated or not, will effect "livestock production". Restrictions to the ability of livestock to use ephemeral drainage bottoms for protection from weather will effect "livestock production". A cow that loses her calf because it stumbles into the water during the first critical minutes of its life will effect "livestock production". The inability of livestock to navigate ice fields during the winter will effect "livestock production". The arbitrary requirement that protection will be available only for "a substantial acreage of naturally sub-irrigated pasture within a stream floodplain" fails to adequately protect "livestock production" as required under Section 20.

On page H-4 of Appendix H, lines 16-21 define what is to be considered agriculturally significant acreage of naturally irrigated land. This definition is arbitrary and defeats the purpose of protecting against a "measurable decrease in livestock production".

My understanding is that there is a goal of reducing the number of discharge permits appealed to the EQC. The arbitrary language contained in Appendix H of the current draft will have the opposite effect by inviting appeals of discharge permits.

Pages H-5 to H-9 of Appendix H establish Tier 1, 2, and 3 criteria for water quality that is to be allowed for discharge onto irrigated land. These seem incredible complex and designed more to create loopholes allowing for discharges that would otherwise be prohibited.

Page H-10 of Appendix H, lines 22-27 is pure and simple blackmail. The dominant mineral estate already has the right to use as much of the surface as is reasonably necessary for the extraction of their mineral interests. The DEQ has no business assisting in the forced access onto land that industry does not already possess the legal right to access. Industry has the ability to condemn my land for whatever purpose they can deem in the "public good". Let industry gain access to land the same way they do for all other development purposes.

I don't remember seeing anything in the prior drafts about Effluent Dependent Water. This is a new topic on the national environmental regulation scene and as such should require much more analysis and discussion before adoption of any rules. I see a real problem with an ephemeral drainage that already has CBM water discharge (Burger Draw or Four Mile Creek) being unable to seek protection because water dependent insects have begun using the water as a breeding ground.

Thank you for your time and consideration.

Sincerely yours,


Steve Adami