

Mr. Mark Gordon, Chairman
Wyoming Environmental Quality Council
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Terri A. Lorenzon, Director
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Wyoming Department of Environmental Quality
Water Quality Division – Attention Bill DiRienzo
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Mr. Gordon and Mr. DiRienzo ;

Please accept this letter as written comment on Chapter 1, Section 20 and Ag Use Protection rulemaking currently being proposed by WYDEQ and considered by the EQC. Thank you for the opportunity to provide comment and for your time spent in consideration of the comments.

I am employed as a regulatory professional by Yates Petroleum and work daily with project planning and produced water management issues. I would like to focus my comments on “on the ground” problems with the policy/rule – of which there are many.

1. The established “default limits” for SAR and EC that are being used in the policy and proposed for rulemaking are not appropriate for the drainages in which they have been applied for a number of reasons.

a. WYDEQ has large volumes of data showing ambient water quality in these ephemeral drainages, in addition to monitoring that USGS has done on various drainages. Due to the highly soluble nature of soils materials in the Powder River Basin, it is not uncommon for these drainages to have water running in them (during rain events) that has EC levels of 3000 to 8000 umhos/cm. This is the ambient water quality that exists and it is the water quality that has been used for either passive or active irrigation. CBM discharge (or any other discharge) should not be held responsible to provide higher quality water than ambient, though the policy/rule asks for discharge water to do just that. Further, it asks that of discharge water to be held in reservoirs that will only overtop during storm events.

b. The Bridger Plant Materials data (suggested for use by the Water and Waste Advisory Board) is better suited for use in Wyoming for determining default limits for EC than the information being used from California. Soils, elevation and plant hybrids used at Bridger are a better match. WYDEQ attempts to protect crops such as alfalfa at a level that there would be no reduction of yield. It is important to understand that at our elevation and with our soils that alfalfa does not likely ever yield 100% of its capability and therefore exhibits reduced yields from the theoretical under ambient conditions.

c. No opportunity is provided for within the policy / rule for a landowner that wants CBM water higher in EC or SAR than the default limits to be discharged into a reservoir that will not contain the 50 year

/ 24 hour event. Further, this landowner is prevented from having CBM discharge flow down onto his lands if there are identified naturally irrigation areas identified.

2. Water storage / containment is a valuable water management resource that this policy / rule is going to make ineffective or not practicable at wholesale levels.

a. DEQ is requiring containment of the 50 year / 24 hour event in addition to all produced water in order to get limits that are relaxed from the default limits. Many reservoir locations will not contain the 50 year event with no CBM water. This eliminates these sites all together for beneficial use of CBM produced water.

b. Sites (such as off channel Pits) that can contain the 50 year / 24 hour event in addition to all produced water have lower beneficial use values to ranches. While a tool that can be used in specific locations, they are rarely suggested by ranchers.

c. Effluent limits (default) are being set that most CBM water cannot meet for reservoirs that do not meet the 50 year containment requirement. This has the effect of taking away current Ag Use. Ranchers are interested in constructing reservoirs that can catch some runoff and use that water during times when no CBM water may be available to be put in the reservoir.

3. "Ag Use Protection" is a misnomer for Appendix H. This policy as it is currently being enacted, and the rule as it is proposed will clearly eliminate more Ag use than it could possibly protect. There are hundreds of outfalls that have been permitted and constructed where water is being used currently that will be put out of business as a result of regulatory changes. This policy as it exists now and the rule should it be promulgated should be more properly entitled the "Ag Use Prevention Policy" as that it more likely the result it will obtain.

4. EQC, should it further consider rulemaking, should conduct meetings physically located in Gillette, which would be the epicenter of the damage to Ag use of this policy/rulemaking. Ranchers there are anxious there to tell the story of the losses of Ag Use that they would suffer.

5. EQC and DEQ are required to consider economic impacts of decisions they make, not making them in a vacuum. EQC / DEQ should be required to do an assessment of the financial impacts to the ranchers for removing their current use of CBM produced waters.

Thank you for the opportunity to comment;

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