

BEFORE THE
ENVIRONMENTAL QUALITY COUNCIL
STATE OF WYOMING

FILED

JAN 24 1990

Terri A. Lorenzon, Adm. Aide
Environmental Quality Council

IN THE MATTER OF THE)
PROMULGATION OF CHAPTER XIII)
OF THE WATER QUALITY DIVISION)
RULES AND REGULATIONS)

STATEMENT OF REASONS FOR ADOPTION

Chapter XIII is an emergency rule that prohibits the issuance of new hazardous waste injection wells. Chapter XIII was filed with the Secretary of State on May 9, 1989 and is in effect for 120 days from that date.

The State of Wyoming, Department of Environmental Quality has primacy for the purpose of regulating the underground injection of hazardous waste. On July 26, 1988, the EPA promulgated new regulations which govern the underground injection of hazardous waste. According to federal law, the State of Wyoming may maintain primacy only if its rules and regulations governing underground injection are at least as stringent as federal regulations. The changes in the federal program implemented require the State to update its program in accordance with these changes or lose its primacy by virtue of becoming less stringent than the federal regulations. The State must have implemented these changes by April 24, 1989. See 53 Fed. Reg. 28120 (1988).

The policies and purposes of the Environmental Quality Act, as stated in Wyoming Statute 35-11-102, include securing cooperation between State and Federal agencies. These proposed rules will insure that the State of Wyoming may continue to implement the federal program for the underground injection of hazardous wastes. Cooperation between Wyoming and the U.S. government will, thus, be optimized. The State can maintain its primacy over the federal program. If Chapter XIII is not promulgated, in effect, such action implies that the State would, in effect, rejects the Federal government's offer on primacy and accepts the role of a separate, independent regulator. Dual regulation by the Wyoming Department of Environmental Quality and the U.S. Environmental Protection Agency in Wyoming would be the result.

It is extremely difficult for the State to promulgate rules and regulations which will meet federal primacy requirements by the end of the 120 day time frame provided under emergency rulemaking procedure. With no new rules in effect by that date, Wyoming could lose primacy. If the State loses primacy, regulated parties could be subject to dual regulation by virtue of the authority of the EPA to regulate the underground injection of hazardous waste and the State's ability to regulate discharges to groundwater.

From a regulatory standpoint, it is more efficient for the State to maintain primacy and its role as the primary and sole regulator of underground injection of hazardous waste. Also, if the State maintains the status of the sole regulatory body, regulated parties will not be burdened with the requirements of two regulatory agencies and the incidental bureaucratic inconveniences.


The rules proposed in Chapter XIII prohibit the issuance of a permit to inject hazardous waste. The purpose of this rule is to provide the State with rules and regulations at least as stringent as the Federal regulations and does so by prohibiting the issuance of permits for the injection of any hazardous waste in the State of Wyoming.

Eventually, it is anticipated that rules and regulations will be developed which will allow the injection hazardous waste in Wyoming, consistent with federal requirements for such injection. But until such rules and regulations have been developed, the total ban on hazardous waste injection set forth in Chapter XIII will allow the State of Wyoming to continue to implement the Federal program.


The Council finds that this regulation is reasonable and necessary to accomplish the policy and purpose of the Act as stated in Wyoming Statute 35-11-102, and that it has been promulgated in accord with the provisions of the Wyoming Administrative Procedure Act.

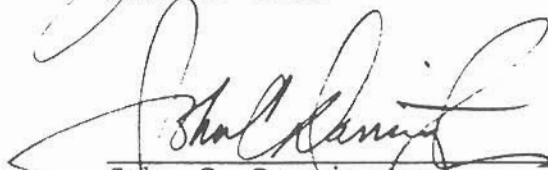
DATED this 28 day of August, 1989.

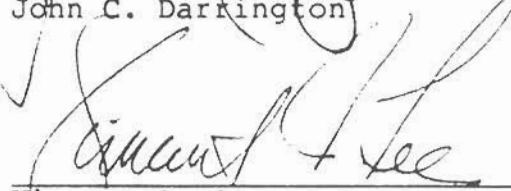
For the Environmental Quality Council


Harold L. Bergman John Schaffer


Fred H. Carr


John V. Crow


John C. Darrington


Vincent R. Lee


David Park