

February 10, 2006

Mr. Mark Gordon
Chairman
Environmental Quality Council
Herschler Building 1W
Cheyenne, Wyoming 82002

Dear Mr. Gordon:

Fidelity Exploration & Production Company (Fidelity) an oil and gas production company with coal bed natural gas (CBNG) production in the Powder River Basin greatly appreciates this opportunity to comment on the Powder River Basin Resource Council's (PRBRC) petition to amend Wyoming Water Quality Rule, Chapter 2, Appendix H (Petition) filed on December 7, 2005 with the Environmental Quality Council (Council). Fidelity strongly endorses the recommendation submitted by the Petroleum Association of Wyoming (PAW) to deny the Petition.

Fidelity agrees with the PAW that the Petition is flawed because: 1) the Petition narrowly defines beneficial uses on livestock watering, wrongly ignoring wildlife propagation and other beneficial uses such as managed irrigation; 2) the WDEQ has no statutory authority to regulate water quantity which is under the supervision of the State Engineer's Office; 3) the Petition would have unintended consequences for all agricultural users if implemented; and 4) PRBRC's assertion that CBNG produced water is not of good enough quality to be used for agricultural purposes is unsubstantiated.

As PAW's letter discusses, 40 C.F.R. Part 435 contemplates water "that has a use in agriculture or wildlife propagation." Certified soil scientists Kevin C. Harvey and Dina E. Brown published "*Managed Irrigation for the Beneficial Use of Coalbed Natural Gas Produced Water: The Fidelity Experience*" (copy enclosed). The publication presents data collected from successful managed irrigation projects conducted over four full irrigation seasons starting in 2002 operated by and on behalf of Fidelity on properties located near our CBNG production operations near Sheridan, Wyoming. These successful applications of CBNG produced water that yield valuable forage crops to the landowners while conditioning and protecting the soils are just one example of a much broader definition of beneficial use than the petitioners suggest.

In addition, proposed potential onerous monitoring requirements could impact all irrigation operations if the Petition were implemented as is and would exclude scientifically-based managed irrigation as a beneficial use. The PRBRC and the other petitioners seem content to ignore the science and programs being developed to enhance agricultural and stock development in this arid region. If this managed irrigation water management tool were eliminated from beneficial uses, the unintended consequence is that the Council would impede landowners rights to this wonderful benefit of enhanced forage crop production.

Another problem with the Petition, its supporting documents and statements are the many inaccuracies contained therein. For example, the Petition implies on page 20 and accompanying footnote 31 in the "What are the alternatives?" section that Fidelity treats the produced water with RO to reduce salinity to make the water usable for irrigation at the Wrench Ranch project. That is false, not only at the Wrench Ranch project area, but at all of Fidelity's managed irrigation sites in Wyoming. As Harvey and Brown reported, it is unnecessary to treat water using RO at properly managed irrigation sites. Next in that section under "Minimize water production", the PRBRC list a litany of developing technologies, implying that they are proven solutions to complex water production and management challenges. That is irresponsible and wrong. The only proven mechanism to induce adsorbed coalbed natural gas to flow and be produced in commercial quantities is through depressurization by water extraction. Industry is continually working on developing new technologies, some of which were listed without any substantive analyses, to reduce impacts and enhance gas production. Developmental technologies like those the petitioner's listed, however, are years in the making and often not commercially successful.

Another example of PRBRC's inaccuracy appears under "Reinjection" where the Petition ignores the geologic and hydrologic constraints to injecting produced water into the production coal seams as discussed in the CDM report entitled, *"Technical Review and Analysis of Kuipers' / NPRC Documents Related to the Water Management of CBNG Produced Water in the Powder River Basin"*, December 21, 2004. The insistence on the practicality of "reinjection" ignores the fact that the availability of suitable reservoirs is very limited in the Powder River Basin. Wyoming Department of Environmental Quality Director John Corra stated in a letter dated June 30, 2005 (copy attached) to the Montana Water Pollution Control Advisory Council that out of 308 CBNG Class V injection wells in Wyoming only 60 are active injecting about 3% of the total water produced.

Fidelity encourages the Council to deny the Petition because it defines beneficial use too narrowly, is calling for DEQ oversight of CBNG produced water quantity outside of its statutory authority, contains many inaccuracies, wrongly characterizes the CBNG produced water quality, and could result in unintended consequences on all agricultural uses.

Respectfully,

Greg Petruska, P.E.
Water Resources Manager

Cc: John Corra
John Wagner
Todd Parfitt