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*Jim Ruby, Executive Secretary
Environmental Quality Council*

Chairman Dennis Boal
Environmental Quality Council
Herschler Building, Room 1714
122 W. 25th Street
Cheyenne, WY 82002
kwarin@wyo.gov

Re: EQC Docket No. 08-3101, WQD Chapter 1, Section 20, Appendix H,
Agricultural Water Supply

Dear Chairman Boal:

The Big Horn County Commissioners thank you for the opportunity to provide comments on the proposed Water Quality Division Chapter 1, Appendix H, which is currently being considered by the Council.

Big Horn County may be significantly impacted by the proposed rule and any changes to the rules currently in place for the regulation of water produced in association with oil and gas ("produced water"). According to the Wyoming Oil and Gas Conservation Commission, there was approximately 2 Million barrels of oil, 2.8 Million MCF of gas, and 174 Million barrels of water produced in Big Horn County in 2008. Of the approximately 23 companies producing oil and gas in our county, at least seven hold WYPDES permits for the surface discharge of produced water. Those seven companies produced 95% of the oil and water in the county in 2008.

The Commissioners urge the Council to adopt the recommendations of the Water and Waste Advisory Board and Department of Environmental Quality regarding livestock water quality standards. These standards should be maintained at current levels: 5,000 mg/l for TDS, 3,000 mg/L sulfate, and 2,000 mg/L chloride. Produced water discharges are important to agricultural operations and wildlife in our arid county. These livestock operations, along with a variety of wildlife, have come to depend on produced water discharges, especially in locations where there is no other water available.

The Commissioners further ask that the EQC not adopt the irrigation standards contained in Appendix H and remand that portion of the rule back to the Water and Waste Advisory Board for evaluation of the proposed rule under the criteria described in WYO. STAT. § 35-11-302(a)(vi). We feel there is inadequate information in the record to determine "the character and degree of injury to or interference with the health and well being of the people, animals, wildlife, aquatic life and plant life affected," including the impacts to agriculture if the water were removed from use in Big Horn County. The report from Drs. Buchanan and Hendrickx filed with the EQC in

May, 2009, did not consider or address any of the uses of produced water for irrigation in the Big Horn Basin.

After the character and degree of such impacts are determined, we ask that the EQC require the DEQ and WWAB to identify and evaluate the social and economic impacts of the rule, including the value of the source of pollution and the technical practicability of complying with any revisions to the rule. In this regard, we agree with the position of the Commissioners from Hot Springs County, Johnson County, and Washakie County in their appeal of the EQC's decision to deny the request for a socioeconomic study.

In conclusion, we thank the Council for this opportunity to comment on the proposed rule. The outcome of the proposed revisions to the rules governing produced water discharges and the Agricultural Water Supply will have long term impacts on our agriculture and mineral industries, along with our wildlife resources. Thank you for your time and consideration.

Sincerely,

Thomas S. Henman Chairman
Big Horn Co. Comm.

9-15-09