



Representative Lorraine Quarberg  
Wyoming House of Representatives

November 7, 2008

Environmental Quality Council  
Herschler Building  
122 W. 25<sup>th</sup> St., Room 1714  
Cheyenne, WY 82002

Dear Chairman Boal and Council Members:

Thank you for agreeing to hold a public hearing in Thermopolis and providing me and others from the Big Horn Basin with the opportunity to testify.

My name is Lorraine Quarberg. I am the State Representative for House District 28, which includes all of Hot Springs County, south Big Horn County and a very small portion of extreme southeast Park County.

In addition to serving as a State Representative, I am also the Executive Director for the Thermopolis – Hot Springs County Economic Development Company, which is a non-profit corporation. Our company's mission is to strengthen and diversify our local economy, with emphasis on the retention and expansion of existing business.

I also have a strong background in agriculture. My husband, DeLoyd, and I moved to Thermopolis twenty-nine (29) years ago. Up until three years ago, we owned and operated our own farm/ranch consisting of 832 acres of deeded land. Approximately 300 acres of that land was irrigated crop land. We also leased 3,750 acres of BLM and State land.

Revising Chapter 1, Wyoming Surface Water Quality Standards, Section 20, Agricultural Water Supply is going on four years now with no resolution. Every time, I spend hours and hours reading the latest proposals, comments and backup documentation, I ask myself "How can a short, concise policy turn into a six (6) page, single-lined document complete with one chart. Plus add one additional page in the Wyoming Surface Water Quality Standards, Implementation Policies for a grand total of eight pages?"

Committees:

*Corporations,  
Elections and Political  
Subdivisions*

*Minerals, Business and  
Economic Development*

## **1. Historic Discharges – Discharges Occurring Prior to January 1, 1998.**

I support the Waste Water Advisory Board's (WWAB) recommendation that effluent limits on discharges that began prior to January 1, 1998 not be affected by Chapter 1, Appendix H in relation to the protection of agricultural uses.

As you know, Hot Springs residents have successfully used water produced from oil and gas operations for over 50 years. This water has been an asset to agricultural operations, provides environmental benefits for wildlife and enables the mineral industry to operate efficiently. Over 70% of the county's tax revenue is generated by the oil and gas industry.

**However, I request that the same recommendation and language be added to the Agricultural Use Protection Policy in the Wyoming Surface Water Quality Standards, Implementation Policies.** This recommendation makes it crystal clear in both rule and policy that the effluent limits on discharges that began prior to January 1, 1998 not be affected.

That being said, the entire issue of "grandfathering" in discharges occurring prior to January 1, 1998, while well meaning by all concerned, I believe will be problematic. I do not believe that this will stand the scrutiny of the U.S. Environmental Protection Agency (EPA) or a court of law.

**Therefore, I request the Water Quality Division submit a "non-severability" request to the EPA when submitting the rule for final approval by EPA. I suggest the Division follow this request to ensure the rule and the policy portions of the proposed documents remain whole, as the EPA would have to approve or deny all documents together.**

## **2. Livestock Watering Waiver and the Irrigation Waiver**

In general, I am very supportive of the livestock watering waiver and the irrigation waiver. These provisions should allow the landowners to make the best decision for their operations.

However, this draft for livestock waiver reads "An exception to the limits above may be made..." and for the irrigation reads "An exception to EC or SAR limits established under the Tier 1, 2 or 3 procedures may be made..."

**I request that "may" be stricken and "shall" be inserted in both of these provisions.**

What is the point of allowing for the waiver if there is no guarantee that it will be honored by the State of Wyoming? Unfortunately, the heavy hand of government wants to retain final control irregardless of the wishes of all landowners involved.

I believe a person has the right to accept the potential risk to his private property, including land and livestock.

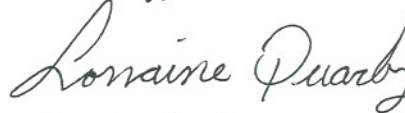
### **3. State Owned Watercourse Easement & Livestock Water**

Finally, as a layman, it appears to me that any landowner or producer along the watercourse easement can prohibit the flow of livestock water or for that matter irrigation water.

The state owns a watercourse easement through which waters of the state may flow. When produced water meets livestock water standards, it becomes a surface water of the state and should be allowed to flow down the water course for livestock and wildlife. The Wyoming Department of Environmental Quality has no authority to regulate water allocation. Language should be added to Appendix H that recognizes and reaffirms that principle and removes all doubt about this issue.

Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in cursive script that reads "Lorraine Quarberg".

Lorraine Quarberg  
State Representative