



PETROLEUM ASSOCIATION OF WYOMING

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November 10, 2009

Mr. Dennis Boal
Chairman, Environmental Quality Council
122 West 25th Street
Herschler Building, Room 1714
Cheyenne, Wyoming 82002

Attn: Docket # 08-3101

Dear Mr. Boal:

The Petroleum Association of Wyoming (PAW) welcomes this opportunity to present to the Environmental Quality Council (Council) information regarding the Expert Scientific Opinion on the Tier-2 Methodology (Report).

PAW is Wyoming's largest oil and gas trade association, members of which account for over 90% of the natural gas and 80% of the crude oil produced in the state. We have reviewed the Report and offer the following comments.

PAW believes the Council should follow the Department of Environmental Quality's (DEQ's) recommendation that the rule package be withdrawn. PAW agrees that many factors pertinent to the rule should be further discussed and explored. It has become clear that the Report is focused on management of produced water and the rule package as proposed does not address the concerns that have been outlined.

PAW is concerned about the implied regulation of water management in the report. It appears the report is suggesting DEQ should regulate the quantity of water in addition to the quality of water. The Wyoming Constitution is very clear that regulation of quantity of water shall remain with the State Engineer's Office, while the Environmental Quality Act states that DEQ shall regulate the quality of waters.

PAW has agreed to participate in the work group that has been proposed by Director Corra to develop solutions that allow the continued responsible use of produced water for agricultural purposes. We will work towards thoughtful decisions that are fiscally responsible and scientifically based.

PAW hopes that prior to any rulemaking the Council will consider the impacts of implementing new and more stringent water quality requirements on producers. The Wyoming Oil and Gas Conservation Commission (WOGCC) reported that of the 54,717 oil and gas wells in Wyoming through April 2009, 11,753 coal bed natural gas wells were shut in the Powder River Basin alone. There are numerous reasons why wells would be shut in, including current commodity pricing. However, by increasing the costs of operations, due to new regulatory requirements, it is very likely that wells currently waiting to be drilled, and additional planned wells may not be drilled if the costs to producers are increased. In addition, wells that are reaching the end of their production life cycle may be prematurely plugged and abandoned.

It is important to consider that every well will begin to decline in production at some point in the well life cycle. To counter declining production new wells must be drilled and new reserves must be put into production or revenue curves will follow production curves downward. In 2009, in the Powder River Basin, exploration rigs are not being hired to drill new wells. As reported by the WOGCC rig deployment by month tracking system, in August 2008, 42 active coal bed natural gas rigs were deployed. In August 2009, 3 coal bed natural gas rigs were deployed. Again, commodity pricing could be a factor in decisions to drill or not drill. However, as regulatory costs (such as costs associated with additional requirements for water treatment) continue to increase it is expected that rig counts and thus production will decline.

Revenue generated from production taxes, sales and use taxes and ad valorem taxes that benefit the cities, towns, counties and the state are in decline. These tax revenues would continue to decline if the natural gas reserves in the Powder River Basin are not produced due to business decisions that must be made to address changes in regulatory requirements such as those contemplated in the Ag Use Policy rulemaking.

As we have stated previously, PAW supports the livestock drinking water standards recommended by the Water and Waste Advisory Board (WWAB). Many agricultural producers have testified that the continued use of produced water is essential to their ranching operations. If more stringent standards are placed on oil and gas producers, some operations may cease and/or operators may cease water discharges that agricultural producers have historically relied upon.

Produced water discharges have occurred for decades in Wyoming under the current standards and there has been no evidence presented to the Council of any substantiated measurable decrease to livestock production caused by water discharged from oil and gas production under a WYPDES permit. To the contrary, many have testified that livestock and wildlife alike rely on produced water discharges, many of which do not meet the standards identified in the Raisbeck report. If the Council rejects the recommendations of the WWAB and decides to change the existing standards, it must remand the livestock standards portion of the rule back to DEQ and the WWAB for a study of the impacts the alternative standards would have. There has been no identification or analysis of any of the factors identified in W.S. § 35-11-302(a)(vi) under any alternative set of standards. While the DEQ tried to quantify the approximate number of permits that would be impacted if the lower standards suggested by the Raisbeck report were imposed, such quantification falls far short of describing all the facts and circumstances bearing upon the reasonableness of the rule, as required by the statute. A loss of produced water discharges, or reductions in current or future oil and gas production, would significantly negatively impact the communities where oil and gas are produced. These impacts must be identified and analyzed before the Council can make a decision to change the existing standards.

PAW continues to support the waiver provisions in the proposed rule. The Report agrees that the Irrigation Waiver portion of the proposed rule is reasonable as any water would be contained to targeted lands.

PAW again requests a non-severability clause be included in the final rule when Chapter 1 is submitted to the U.S. Environmental Protection Agency for final approval. This will ensure that the rule, as passed by all agencies involved in the rule making process, will remain intact.

PAW appreciates this opportunity to comment on the Expert Scientific Opinion on the Tier-2 Methodology. Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "John Robitaille", is centered within a light gray rectangular box.

John Robitaille
Vice President