

September 24, 2009

Chairman Dennis Boal
Environmental Quality Council,
Herschler Building, Room 1714
122 W. 25th Street
Cheyenne, WY 82002
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SEP 23 2009

Jim Ruby, Executive Secretary
Environmental Quality Council

Attention EQC Docket ID No. 08-3101

To Chairman Dennis Boal:

My ranch is located On Little Badger Creek, Sheridan County. We desperately need the CBM water for our ranching operation. We use the water in Stock tanks and ponds all for the cow operation and for wildlife. There is no other source of water available without drilling a 2000' deep water well and pipelining for two miles. All of the shallow water zones in the little badger creek drainage are so full of sulfates that cows can not drink the water.

The water has been extremely beneficial to my livestock and I have NEVER observed a case of adverse affects in my livestock from the consumption of produced water. PRB livestock producers, including myself, have become dependent on produced water flows to enhance our agricultural operations. During the decade-long drought, the produced water discharge oftentimes was the only source of water available. Not only does the produced water support numerous livestock operations – but it supports a healthy and robust wildlife population that will also suffer if you adopt more stringent standards.

More stringent rules are not necessary. My crop and livestock yields remain high and until any sort of a 'measurable decrease' attributed to the presence of produced water is documented, present Rules shouldn't be changed. We run 60+ head of Registered Black Angus and raise Registered Black Angus Bulls. In fact, a loss of produced water would negatively impact my livestock and farming operations and result in a net decrease in my agricultural production. This will result in negative financial impact to our operation.

Based on overwhelming comments by the agriculture community, the oil and gas industry, and county and state government leaders; the WWAB and DEQ proposed to leave the numeric livestock drinking water standards unchanged at 5000 mg/l TDS, 3000 mg/l sulfate, and 2,000 mg/l chloride. These standards have worked well for several decades and there has never been a demonstrated case of decreased livestock productivity associated with these standards. In fact livestock production has increased and thrived under the current standards. Many livestock producers, including our operation, rely on produced water surface discharges for perennial livestock drinking water sources in many of our pastures.

I request the landowner waiver be retained in both the Livestock Drinking Water section of the rule and the Irrigation section of the rule. A landowner must have the right to decide if produced

water will be a benefit to their operations. Landowners know what is best for their operations and we don't need 'Big Brother' to dictate the use of produced water on our farms and ranches.

I also request that the grandfather provision continue to be included in the proposed rule. It is an absolute necessity to retain this provision in the proposed rule. However, if the grandfather provision is stricken from the rule by EPA, or successfully challenged in court by the environmental community, it will leave a large portion of historic discharges vulnerable to elimination. The Wyoming Outdoor Council has already gone on public record as opposing the grandfather provision. It is almost certain the environmental community will challenge the grandfather provision in court. The proposed rule must also be approved by the EPA. The EPA has also questioned the legal and scientific validity of the grandfather provision. In this regard it is also essential to include a 'non-severability' provision in the rule. A non-severability provision would require the EPA to approve or disapprove the rule in its entirety. If any provision of the rule is struck (including the grandfather provision) then the entire rule would be invalid.

I also ask the EQC to complete a formal study by the state Department of Administration and Information, Division of Economic Analysis, which examines the socio-economic effects changes to this Rule could cause. The Environmental Quality Act says the EQC is legally required to consider balancing criteria when establishing new rules. Expensive technical studies have been ongoing since the DEQ hired Dr. Raisbeck and the Council hired two New Mexico scientists to examine the Rule/Policy in more depth. The Raisbeck study only focused on whether produced water could have had negative impacts on livestock, however, it DID NOT identify or even consider the numerous benefits and values of providing produced water to livestock and wildlife. This implies that technical data is more important than socioeconomic data, yet the 'balancing' criteria are supposed to ensure 'balance' among all aspects of the rule. This was the very reason the Wyoming Legislature enacted the balancing criteria. The lack of socio-economic data creates a huge gap in the rule making process and the EQC and DEQ should know the socio-economic impact of the proposed new rule and any variations of the rule which may ultimately be approved by the EQC. For example, no one knows the consequences of adopting all of Dr. Raisbeck's proposed standards, because no produced water discharge data is available for some of the water quality standards for which Dr. Raisbeck has proposed a new limit. Data on other parameters recommended by Dr. Raisbeck is very limited. Also, Dr. Raisbeck's study is not representative of Wyoming open range conditions or the actual experience of those ranchers who have used the produced water for decades. Without quantifying how much produced water may be lost due to Dr. Raisbeck's recommended standards, or what this water is currently used for in agriculture operations; there is no way to determine the true economic impacts of the proposed new rule.

The final rule should allow for a flexible approach to using produced water. However, I do not believe any changes are needed because a 'measurable decrease' in production is yet to be seen – all across the state.

Thank you for considering my comments in this rulemaking.

Sincerely,

Verlin and Karen Dannar

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