

COMMENTS – DECEMBER 7, 2007

Waste & Water Advisory Board Meeting

CHAPTER 1 WATER QUALITY RULES AND REGULATIONS

Resubmitted by

WYOMING STOCK GROWER'S ASSOCIATION

August 26, 2008

Flitner Ranch
Since 1906
3208 Beaver Creek Road
Greybull, WY 82426

07 December 2007

Water and Waste Advisory Board
Wyoming Department of Environmental Quality
Public Hearing: Thermopolis, Wyoming

Dear members of the board:

Sixty six years ago today, the Japanese launched a surprise attack on Pearl Harbor. I was eight years old. I remember exactly where I was when the news came over the radio on that Sunday afternoon in Shell, Wyoming. I remember hearing President Roosevelt's speech on the radio when he said: "This is a day that will live in infamy."

Within six months, nearly all the able bodied young men were gone to war. The rural life we had known was never to be the same again. Between 1941 and 1945 there was little ranch help to be found. During this labor crisis, we and many other ag producers, utilized German prisoners of war as farm help. Gasoline and sugar as well as many other food items were rationed. Many of the young people who voluntarily left to fight and survived the conflict in Europe and Asia never came back to the farm because they found better jobs elsewhere. Few of them returned to the hard life with its traditional meager economic rewards.

The war years represented a period of sacrifice, patriotism and immense change. By the year 1941 many farms had been lost during the Great Depression which began in 1929. The mass migration from agriculture, characterized by the great novel, *The Grapes of Wrath*, by John Steinbeck, was the norm in rural America everywhere. Many in agriculture could not survive the multiple whammies of drought, depression and war. Thousands and thousands left the farm for life in the city. We are now witnessing the horrific social consequences nationwide!

I mention the above scenario to make this point: We, who raise food for the American consumer and a fair share of the world, live on a precarious edge. We are subject to the sometimes catastrophic whims of nature as well as major price fluctuations. Production costs have no relativity to market price. The loss of a spring or reduced stream flow can wreak havoc on both farming and range operations. Long droughts, like the period we have experienced for the past seven years are devastating. These stressful periods have serious environmental and economic consequences to the average Wyoming producer. We constantly walk the fine line between solvency and uncontrollable economic disaster. We often ask ourselves why we continue to defy these insurmountable odds.

This is my second appearance before this board. This time, my son, Greg, who is our ranch manager and partner, has joined me. He is facing the enormous challenge of running a profitable business as well as the burden of surviving a Federal inheritance tax of 55% on any remaining assets of the ranch he has yet to purchase.

It is not the money that attracts and retains people in this business; it is something far more important: it is the love of the land and the nourishment from the magnificence of nature's beauty to the human spirit. Ranchers are motivated by their affection for domestic animals, wildlife and an inherent desire to improve the renewable resource of both grazing and farm lands. The ultimate goal is to survive financially and at the same time, preserve and enhance nature's full vitality and productivity for future generations.

Therefore, I would like to make the following observations and suggestions:

1. Please do not change the livestock "protection standards" that were in the Previous, i.e., "Old Policy".
2. The proposed change in wording from *livestock* to *landowner*, could be very dangerous. The wording should remain the same as the June 2007 draft.
3. Leaving the livestock producers at the whim of the State and Federal land "owners" is a most unsettling option. The livestock owners know best how to deal with the health of his or her livestock.

4. The proposed draft embodies language that places limits on several new constituents. There is little or no data available to evaluate the effects on our basic Wyoming industries: agriculture, oil and gas. There is no available data on over 70% of our current water discharges in Wyoming to date.

Only eleven of thirty nine of the past discharges since 1 June 1998 have any data at all and they all meet the newly proposed limits. It is a dangerous assumption to work with such limited data when there is so much economic value at stake in various livestock and wildlife enterprises depending on the water. Remember, this water has posed no animal health threat at all in the past our present. Our ranch and the previous owners have used the Dry Creek water for over nearly a century with no ill effects!

5. There is no scientific evidence available that will prove that these proposed *higher standards* will solve current problems in the Powder River Basin and such *over-regulation* with no scientific basis, could wreak havoc on the remainder of the State of Wyoming.
6. As I mentioned at the outset, Agriculture in Wyoming hangs by a narrow thread. Please do not support and recommend unrealistic regulations that are destined to fail in meeting hypothetical goals due to the lack of solid scientific data.
6. Any promulgations of unrealistic water quality regulations will have a potentially devastating affect on agriculture in this State as we know it and will only lead to accelerated failures of our business.
7. Finally, the “flows” from the Oregon Basin wells are a cornerstone of our grazing program effecting over 150,000 acres of rangeland and some twenty ranch employees. The recreational business called The Hideout is our “Cowboy Adventure” program utilizing the same water and area. This business employs another thirty employees and their families, many of whom live on the ranch..

In conclusion: We all recognize that we are competing in a global economy. During my life time, our industry has survived drought, disease, several wars and a major depression.

What we cannot survive, are well meaning, but misguided government regulations of livestock water sources which are not based on solid scientific data.

Thank you for the opportunity to express my views before the committee,

Sincerely,

A handwritten signature in cursive script, appearing to read "David Flitner".

David Flitner
Flitner Ranch and The Hideout, Outdoor Adventures
3208 Beaver Creek Road
Greybull, Wyoming 82426
(307) 765-2961

RECEIVED

November 30, 2007

Mr. David Waterstreet
4W 122 West 25th Street
Cheyenne, WY 82002

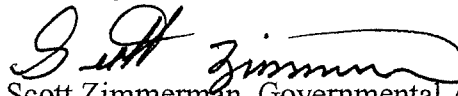
WATER QUALITY DIVISION
WYOMING

Dear David;

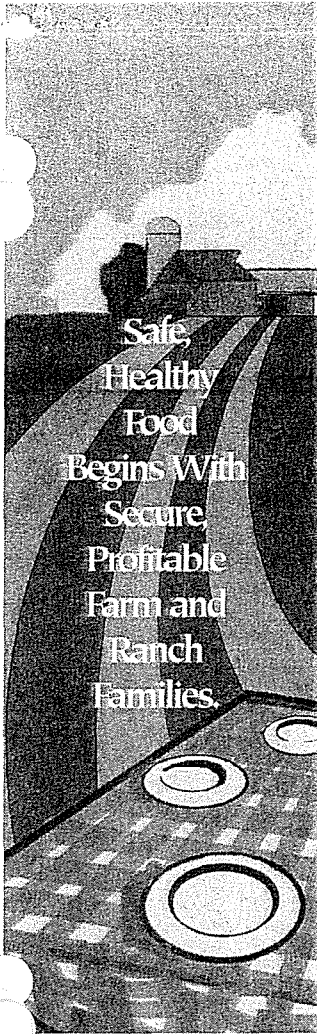
Please find enclosed the comments of Rocky Mountain Farmers Union on The proposed Chapter 1 Appendix H.

I want to thank you and the staff of the water quality section for the briefing this past Monday. It helped me to understand the issue much better.

Sincerely,



Scott Zimmerman, Governmental Affairs/Lobbyist
ROCKY MOUNTIAN FARMERS UNION



**ROCKY
MOUNTAIN
FARMERS
UNION**

5655 S. Yosemite St.
Suite 400
Greenwood Village, CO 80111

phone: 303-752-5800

fax: 303-752-5810

e-mail: rmfu@rmfu.org

web site: www.rmfu.org

Comments of Rocky Mountain Farmers Union
On Surface Water Quality Standards
Chapter 1 Appendix H; Agricultural use protection

Rocky Mountain Farmers Union welcomes the opportunity to comment of the proposed changes to Chapter 1 Appendix H; Agricultural Use Protection. In general, we feel there isn't enough information to allow our organization representing members of the farming and ranching community throughout the state to support these changes at this time.

We appreciated the willingness to meet with us and the briefing provided by the Director of DEQ and the water quality division personnel as to the reasoning behind the proposed changes as well as the likely impact on both dischargers and livestock operations.

We have concerns in the use of "grandfathering" to permits issued before a certain date. It is our understanding that this practice is being challenged in other chapter(s). We would more feel comfortable if this issue was settled legally or the Environmental Protection Agency has approved this practice before utilizing it in this chapter.

The use of a waiver to continue allow a discharge that exceeds standards seems problematic to us. If a landowner should choose to sell his property where a waiver is in place allowing a produced water discharge to flow through the property, the new owner might choose to cancel the agreement thereby jeopardizing the use of these waters by downstream livestock operations.

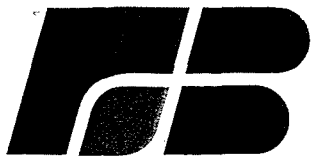
Specifically we are concerned with the potential effect on livestock water sources used by some of our members that are largely made up of produced water from oil and gas operations. After reviewing the proposed changes with the DEQ Director and staff from the Water Quality Division, we are concerned that the information needed to analyze the impacts associated with changes to the numeric standards is currently not available. In addition, the time necessary to determine the exact location of discharges that currently exceed the proposed limits and the potential impacts to livestock operations using these discharges as water sources doesn't exist.

Currently no standard exists for molybdenum or sodium and it is our understanding that discharge permittees and agencies doing water quality sampling do not test for the existence or levels of these two constituents in their samples. Without water quality test data to indicate the concentrations in existence in background levels and in permitted discharges, we have no way of knowing if water sources currently used by livestock producers could be in jeopardy. While the default levels of these standards would be ambient background water quality in streams where exceedence exists. We are concerned if sampling can be done in a timely manner to ensure continued discharges in areas with high background levels.

The proposed reduction in the limit of sulfate could have a similar effect on water sources. Again little data is available to determine the impact such a change could have. In our meeting with DEQ staff, the information presented on which current dischargers would be effected didn't provide sufficient information as to amount of water being discharged, percentage of total flow the discharge made up and if additional water sources exist in close proximity to replace a discharge that can't meet the new limits as a source of livestock water.

In summary, we feel that any changes to the current standards for livestock and wildlife use would be premature at this time. Until more information is available on the number of permits controlling discharges these proposed changes would impact we don't see a rush for change to the current standards. The Raisbeck report is a starting point to revisit the current standards but we urge caution before changing any numeric standards. The variability of these constituents in water sources as well as in the forage consumed by livestock begs the need for additional research and information before changes are adopted.

We thank you for the opportunity to comment on this proposal and would like to continue our involvement in this highly important issue.



WYOMING FARM BUREAU FEDERATION

P.O. Box 1348

Laramie, Wyoming 82073 • (307) 745-4835

November 28, 2007

RECEIVED

NOV 29 2007

WATER QUALITY DIVISION

WYOMING

Water and Waste Advisory Board
c/o David Waterstreet
DEQ/Water Quality Division
122 West 25th Street
Herschler Building, 4th Floor-West
Cheyenne, Wyoming 82001

Dear Water and Waste Advisory Board members:

The Wyoming Farm Bureau Federation would like to offer the following comments on the proposed livestock and wildlife standards of the Agricultural Use Protection document which the Advisory Board will consider for recommendation to the Environmental Quality Council.

The Wyoming Farm Bureau Federation represents agricultural producers throughout the state of Wyoming. These producers have established operations in many parts of the state. Being an arid state, producers in Wyoming have continually struggled with having enough water or water with high enough quality to utilize for livestock. Many of the livestock producer's settlement patterns were dictated by availability of water. Most have spent numerous years and million's of dollars trying to develop water sources in order to better utilize forage which has been limited by the availability of water. Some of the water sources developed have high concentrations of constituents which are proposed for changes. These changes, as proposed, could have significant ramifications for the livestock industry.

The issue to be resolved deals with the utilization of discharged water in some areas of the state which would not meet the proposed standards for protection of livestock or wildlife. Many producers have testified that absent these discharges, they would have limited or no water available for livestock. Absent these sources of water, livestock producers would either have to incur significant costs to develop a new water source or incur significant loses in income because of an inability to utilize forage previously available. Both scenarios are not helpful to these producers.

The proposed livestock standards seek to overcome these problems in three ways. The first is to "grandfather" discharges prior to 1998, with the caveat that absent a past complaint, these sources would be considered to be meeting the livestock protection standards necessary under Environmental Quality Act. The logic behind this process is interesting. If livestock has been utilizing a source of water where the constituents are higher than the proposed standards and that water source is from a discharge prior to 1998, then it meets the protection standards of the Act. If livestock is utilizing water where the constituents are higher than the proposed standards and that source is from a discharge after 1998, then it does not meet the protection standards of the Act.

The ability for this proposal to withstand a legal challenge may be problematic. The second proposal is for a "consent" process, which would allow discharges of water with constituents above the proposed standards as long as all "landowners" agree to this discharge. There are several issues with this process, which may make it difficult, if not impossible to overcome this standard. A hypothetical situation may best illustrate some of the issues which could present themselves under this proposal. If a discharger is discharging water with constituents higher than the proposed standards and has only been discharging since 1999, then the discharger would have to obtain agreements with landowners in the watershed where the water flows. If landowners A, B and C are the sole landowners, and A and C agree, but B does not, then the discharger must either meet the standard or not discharge. If the discharger chooses not to discharge, the A and C would be denied water which they may have come to depend upon. Another scenario could be that A, B and C all agree but A sells to D. As the permit comes up for renewal in 5 years, D could refuse to agree which would again potentially jeopardize the water source again. One can easily see how this process could break down and a viable water source for B and C would then be eliminated.

The third process would be to measure the background levels of the constituent and then allow that level to establish a standard. The process for obtaining a background level in areas where the water body is an ephemeral water body is difficult to say the least.

The implications of a "wrong" decision are significant.

The livestock standards are in response to a UW review of literature regarding several constituents found in water which could have an economic impact on livestock production. The study also focused on wildlife levels, but acknowledged there was limited or no information available to review regarding these levels. Therefore, we feel the review has limited applicability for wildlife and should not be used for that purpose.

Two of the standards which have potential impacts for current producers are those established for sulfate and sodium. In discussions with DEQ staff we find there are some limits still in their information regarding discharges of these constituents. Data from DEQ indicates that some current dischargers would violate the proposed sulfate standard absent some type of exception from that standard. The locations identified seem to correspond to areas in the state where some livestock producers testified they were currently utilizing the discharges for livestock production. The ability to fully analyze the impact on these producers is limited by the information available, the time needed to contact these producers and the ability to withstand legal challenges on the grandfather rule.

Because of these uncertainties, we feel the best course of action at this time would be to not precede with changes to the livestock standards until a better understanding of the consequences can be analyzed and understood.

WyFB Comments

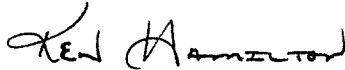
Page 3

The UW review establishes a "safe line" which in a perfect world would be the level a standard could be set. However, the study itself says, "We anticipate that this report represents a reasonable starting point for evaluating the adequacy of water quality for animals" (pg 5). As a starting point the UW review provides information which can be utilized by a livestock producer. However, testimony provided the Water and Waste Advisory Board indicates livestock producers have utilized water with constituents higher than the proposed livestock standards.

Once again, the best course of action for these proposed standards is to gather more information from current uses and the conditions of those uses, establish parameters where in water limited areas, water could still be utilized where it is available and at constituent levels which both industry and livestock interests could continue to benefit each other.

Thank you for this opportunity to comment.

Sincerely,



Ken Hamilton
Executive Vice President

Cc Board
NER
WACD
Farmers Union
WSGA
WWGA
WDA

P.O. Box 206
Cheyenne, WY 82003
113 East 20th Street



Phone: 307-638-3942
Fax: 307-634-1210
Email: info@wysga.org
www.wysga.org

President- Jon Kirkbride, *Cheyenne*
Region I Vice President- Ogden Driskill, *Devils Tower*
Region III Vice President- Garret Falkenburg, *Douglas*
Region V Vice President- Rob Hellyer, *Lander*

First Vice President- Frank Shepperson, *Midwest*
Region II Vice President- Rodger Schroeder, *Chugwater*
Region IV Vice President- Niels Hansen, *Rawlins*
Executive Vice President- Jim Magagna, *Cheyenne*

November 2, 2007

RECEIVED

John Wagner
Administrator
Water Quality Division
Department of Environmental Quality
122 W 25th Street
Cheyenne, WY 82002

Dear Mr. Wagner:

The Wyoming Stock Growers Association (WSGA) has followed closely the ongoing process of considering revisions to the departments Agricultural Use Protection Policy regarding livestock water. I recently testified before the Water and Waste Water Advisory Board regarding the report of Dr .Raisbeck.

It is our understanding that DEQ is preparing and will soon be releasing produced water quality recommendations for livestock. While we appreciate your work in this area, WSGA is concerned that this action may be premature and even unnecessary.

As the organization dedicated to serving the Wyoming cattle industry, the primary component of Wyoming agriculture, we are typically made well aware by our members of issues that they are facing in their daily operations. The quality of produced water has not been one of those issues. In fact, we have been contacted by a number of producers whose primary concern is the potential negative impact on water supplies that would result from more stringent standards.

WSGA commends the work of Dr. Raisbeck in developing proposed minimal risk standards. We believe that his work can serve as an important tool for agricultural producers in determining the potential risks associated with a given source of water. However, our producers must weigh this risk together with numerous other operating risks in making management decisions. Particularly in this time of drought, the risk of reduced productivity due to water quality must be weighed against the inability to harvest forage due to a lack of available water. Livestock producers must maintain the ability to make decisions on the acceptability of a water supply with good information and maximum flexibility.

Guardian of Wyoming's Cow Country Since 1872

John Wagner
November 2, 2007
Page 2

In our view, current DEQ quantitative and narrative standards maintain this needed flexibility without negative impacts. Since the purpose of this policy component is to protect livestock and wildlife, additional study under actual Wyoming operating conditions and management practices should precede policy changes. These studies should include significant input from a diversity of livestock producers.

Based on the concerns that we have addressed above, WSGA requests that your division not proceed with the release of new water quality recommendations for livestock water at this time. We would be pleased to visit with you further regarding this request.

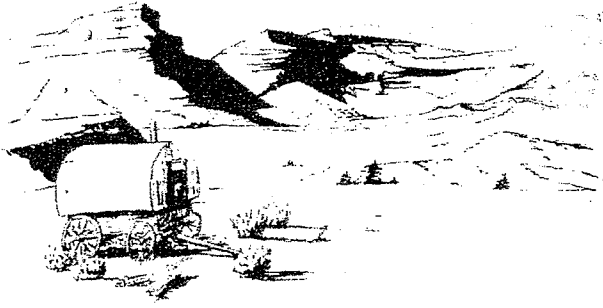
Thank you for your consideration of our request.

Sincerely,



Jim Magagna
Executive Vice President

Cc: Wyoming Department of Agriculture
Wyoming Association of Conservation Districts
Wyoming Farm Bureau Federation
Wyoming Wool Growers Association
Rocky Mountain Farmers Union



PRESIDENT

Jw Nuckolls
Hulett, WY

PRESIDENT-ELECT

Dave Julian
Kemmerer, WY

AUXILIARY PRESIDENT

Thea Nuckolls
Hulett, WY

REGIONAL VICE PRESIDENT

- I Reagan Smith, *Powell, WY*
- II Peter John Camino, *Buffalo, W*
- III Fred Roberts, *Cokeville, WY*
- IV Bob Hageman, *Douglas, WY*

VICE-PRESIDENT AT LARGE

Lisa Cunningham, *Kaycee, WY*
Allison Ramsbottom, *Buffalo,*
Jon Child, *Cokeville, WY*

EXECUTIVE VICE PRESIDENT

Bryce R. Reece, *Casper, WY*

EXECUTIVE ADMINISTRATOR

Diane L. Carpenter, *Casper, WY*

WYOMING WOOL GROWERS ASSOCIATION

811 N. GLENN ROAD • P.O. BOX 115 • CASPER, WYOMING 82602 • PHONE (307) 265-5250 • FAX (307) 234-9701
WWW.WYOWOOL.ORG • wyowool@wyowool.org

Delivered via fax: (307) 777-5973

Mr. John Wagner
Administrator, Water Quality Division
Department of Environmental Quality
122 West 25th Street, Herschler Building
Cheyenne, WY 82002

RE: Livestock and Wildlife Water Quality Standards

Dear Mr. Wagner:

As an organization who has represented an important and long-standing section of the Wyoming agricultural community for over 100 years, and whose primary purpose for those 100+ years has been to protect the interest of livestock producers INCLUDING THE HEALTH AND WELLBEING OF THOSE PRODUCERS' LIVESTOCK AND THE WILDLIFE WHICH INHABIT THEIR RANCHES, we are writing about the report entitled, "*Water Quality for Wyoming Livestock & Wildlife: A Review of the Literature Pertaining to Health Effects of Inorganic Contaminants*" by Dr. M. F. Raisbeck et. al. and what we understand may be proposed as revisions to the current water quality standards for livestock and wildlife drinking water.

While we appreciate the effort of Dr. Raisbeck et. al. in the above referenced report, after review of the report and consultation with other professionals well versed and credentialed in the area of water quality as it relates to livestock and wildlife drinking water quality and toxicology, we do not support any changes to the current livestock and wildlife water quality standards. We believe much of the information contained within the Raisbeck literature review is not relevant to Wyoming range conditions, including the ambient water quality and forage actually consumed by livestock and wildlife, or to the limited confined feeding situations for stock. Further, we don't believe the extremely limited amount of ANECDOTAL information presented to the Department of Environmental Quality regarding issues or concerns with the current livestock and wildlife water quality standards for oil and gas produced water discharges demonstrate that a problem exists or that the current standards are inadequate to protect livestock and wildlife. Based upon the lack of reports we have received from our members regarding any detrimental effects to livestock or wildlife water produced from oil and gas operations, we do not believe there exists in Wyoming today a level of risk to either livestock or wildlife from produced water discharges that would warrant ANY change to the current standards. To the contrary, we believe the loss of produced water as a drinking water source for livestock and wildlife that could result from changes to the current standards poses a much greater risk to our members, the livestock they own, and the wildlife inhabiting our members' ranches.

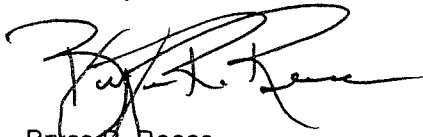
We are in the process of trying to ascertain from the Wyoming Diagnostic Veterinary Laboratory the number of cases over the past 20 years of either deaths or illness to livestock or wildlife attributed to the quality of oil and gas produced water. While our research has not reached a level that we consider complete, what we have already determined is that if any such problem exists, it is at such a negligible level as to be classified statistically as "negligible" or even "insignificant". This fact, coupled with the lack of direct reports from our members who are out on-the-ground, on a 24/7 day-to-day basis with livestock and wildlife, causes us to question the need for, or the advisability of, any changes to the current standards. We believe the current standards have served well to adequately protect livestock and wildlife drinking water as well as our members' operations.

A final comment. We are deeply disturbed by the failure on the part of both DEQ personnel and Dr. Raisbeck et. al. to contact our Association to request assistance with determining if a problem exists within the Wyoming livestock community related to water produced from oil and gas activities and/or in ascertaining the level of risk associated with water quality that our members consider tolerable. Again, our Association has been in continual existence representing an important and relevant part of the Wyoming livestock industry for more than 100 years, and we have ample experience with and knowledge about actual conditions for livestock and wildlife (e.g. seasonal forage and water, climate, factors affecting production/populations, etc.). Both Dr. Raisbeck et al and the Department should have extensive awareness and knowledge of our existence and function, yet NEITHER contacted us either prior to the publication of the Raisbeck et al report, nor even AFTER the report was published. It is disturbing to us that we learned about the Department's review of the current water quality standards for livestock and wildlife only through second and third hand sources, without so much as the courtesy of a simple letter from the Department detailing what this initiative concerns. Hopefully this lack of effort to contact us and the other constituent groups with direct ties to Wyoming's livestock industry, as opposed to other less well recognized groups with questionable ties to the livestock industry, will be rectified in the very near future.

Again, the Wyoming Wool Growers Association recommends and requests that NO CHANGES be made to the current livestock and wildlife water quality standards at this time.

Should you have questions, please do not hesitate to contact me at any time.

Sincerely,



Bryce R. Reece
Executive Vice President
Wyoming Wool Growers Association

Cc: WWGA Executive Board
Members of the Water and Waste Advisory Board
WDA
WSGA
WyFBF
WACD
RMFU

TESTIMONY – DECEMBER 7, 2007

Waste & Water Advisory Board Meeting

CHAPTER 1 WATER QUALITY RULES AND REGULATIONS

Resubmitted by

WYOMING STOCK GROWER'S ASSOCIATION

August 26, 2008

1 you're really trying to get at there.

2 MR. WAGNER: Will do.

3 MS. BEDESSEM: Thank you. That's all.

4 VICE CHAIRMAN WELLES: I think in the
5 interest of time and weather, let's go right into comments.

6 People who have signed up to make comments, I
7 guess we need to -- John, are you going to monitor that?

8 MR. WAGNER: Sure.

9 VICE CHAIRMAN WELLES: Those who signed up
10 first, we'll just go in order how they came.

11 MR. WAGNER: First is Robert Brug.

12 VICE CHAIRMAN WELLES: If people need to
13 take a break, want to take a break, go out and take a
14 break, otherwise let's keep this rolling, if that's okay
15 with everybody.

16 Robert, if you're more comfortable sitting or
17 standing, however you want to do it, I think --

18 MR. BRUG: I've been sitting quite a while,
19 I'll stand a little bit. Maybe it will get over quicker
20 that way.

21 VICE CHAIRMAN WELLES: Please introduce
22 yourselves, name, where you're from and what you're
23 representing, who you're representing.

24 THE REPORTER: If you'd spell your name,
25 too, please.

1 MR. BRUG: Robert Brug, B-R-U-G, north of
2 Recluse, Wyoming, and today I'm representing Quarter Circle
3 7 Ranch and South Finch, our own ranch.

4 Kendall Cox couldn't be here, which he represents
5 Quarter Circle 7, so he's made a I guess what would you
6 call it, a CD or --

7 MR. DIRIENZO: Yeah, some photographs.

8 MR. BRUG: Some photographs of it.

9 And this is a sprinkler system they put up
10 earlier this spring.

11 And you want to move on to another picture there.

12 That is -- that's a noxious weed. I'm going to
13 have to look at my notes.

14 VICE CHAIRMAN WELLES: Henbane.

15 MR. BRUG: Henbane.

16 VICE CHAIRMAN WELLES: H-E-N-B-A-N-E.

17 MR. BRUG: And the reason it's in here, is
18 to make -- everyone comments we have got a weed problem in
19 the county with the production of oil and gas production,
20 there's a lot of soil moved, but there's a lot of time
21 these soils -- these seeds are all in the soil. The
22 thought that CBM water has created this problem, the seeds
23 were there where the CBM water got there. There's no seeds
24 coming out of the water wells.

25 So move on to another one.

1 This is a pond they got. I asked him what it
2 was, he called it No Name Reservoir, No Name Drainage. He
3 wouldn't let me know where it was, but they got two -- a
4 lot of 2-pound fish there, trout.

5 Okay with the next one. This is some pipeline
6 that was reseeded. You see the yellow flowers in there,
7 get up a closer, can blow it up a little bit, you can see
8 there's some alfalfa, you see there's some elkady in it.
9 This is a pipeline seeding that Kendall done. It's a mix
10 Kendall and I come up with.

11 We were discussing this in the Northeast Sage
12 Grouse Working Group, which I'm a member of, and I brought
13 this up our second meeting in March, and they were more
14 concerned about, oh, what would you call it, the format of
15 the organization and everything. And long about July, they
16 got around to thinking about seeding, and after hashing it
17 over until November, we finally come up with a seeding mix,
18 but we come up with a seeding mix right quick and we
19 planted it and we had input from the Forest Service and the
20 Game & Fish and how we arrived at this, we picked the seeds
21 that grow best in our area, so anybody that's in a
22 different locality, different moisture conditions,
23 different kinds of soils, I would recommend going to the
24 Plant Material Center where they've done lot of
25 experimenting, and go with plants that will go, because if

1 you plant something that doesn't grow, you've wasted
2 everybody's money and time.

3 Go ahead.

4 Now, we've got some flack about having all the
5 water in the area. This is one bird that I don't know if
6 you call him an invasive species, such as we've started
7 getting water in the country, but evidently, they, in
8 migration north or south, if they're migratory bird, why
9 they decided maybe there was enough water to stay here and
10 there's a CBM pond there.

11 Go ahead.

12 This is a haying operation on that sprinkler that
13 was the first picture. This was a chickpeas/hay barley
14 crop that they put in.

15 Go on.

16 That's a water tank. Now, I don't quite
17 understand this water tank. I called Kendall, tried to get
18 ahold of him this morning and he already left. I can't
19 figure out what the lid is. Maybe somebody in the coal-bed
20 meth field can identify it a little bit better, but it
21 looks like a water stock tank and I see -- evidently
22 there's a float and maybe electricity in it to keep it from
23 freezing, because Kendall has had some tanks put in on
24 those pipelines where they can get electricity in to them
25 to keep water from freezing for the wild game animals,

1 because the last few years we've had quite a little drought
2 in our country, the water freezes up and there isn't any
3 water for them. So I think that's what this is for.

4 Go ahead.

5 Now, that's a bird taking off. I don't know what
6 breed of bird it is. It's not a very good picture. You
7 can move on.

8 Now, this is after the moisture's done in the
9 plains there -- or rains are over with and you can see the
10 greenness of that chickpeas and hay barley under that
11 circular sprinkler. You notice in the top of that area
12 where those bare spots -- you can go onto another picture
13 now. I think we can realize what they're doing.

14 This is some of the hay they put up. They put up
15 just about 2 tons to the acre of that chickpeas and barley.
16 It was a one-cut deal.

17 Go on.

18 That shows you where they're starting to sprinkle
19 and they've already picked some bales up and they'll be
20 moving those out ahead of the sprinkler.

21 Go ahead.

22 There's -- this is some deer that's just right
23 ahead of the sprinkler. Above the sprinkler system, I'll
24 take that back. This is when they come down and feed on it
25 in the evenings.

1 Now, those bare spots up there -- in that country
2 it's pretty steep. Natural rainfall takes the prime soil
3 off the top and settles it down towards the bottom, you've
4 got a little clay, so what they're doing is blowing straw
5 and mulch on that so it accepts the water better.

6 If you move on, there's some more of that.

7 Now, this is -- Kendall's on a field trip at my
8 place. That's a side rule I have on some irrigated fields
9 of my own. You can see it's a totally different country, a
10 little flatter. Ant that's about 4 miles away from what
11 you see there, their other field.

12 Dr. Raisbeck was out there and got one of the
13 habitat biologist from the Game & Fish, cataloging the
14 different species on my place. I anticipate a lot of
15 problems because on federal lands, private surface, you've
16 got the BLM coming in, doing studies. And somewhere along
17 the line I think this is going to come back to haunt me.
18 So I'm trying to get a catalog of what I got, take a
19 proactive position on it and hope I don't have a problem.

20 Go ahead.

21 That's a picture Kendall got. Now that fellow's
22 got horns going out of his horns.

23 And that's another -- same picture we had at the
24 top there. I think that should wind it up. Yep, it does.

25 MR. DIRIENZO: Yep, back to the beginning.

1 MR. BRUG: Now, for my own presentation.
2 As a landowner, these are the problems that arise. The
3 past presentation you've seen good things that can take
4 place if you mesh it right. And some of the areas I have
5 problems with Wyoming Oil and Gas Commission, they're
6 getting a little more stringent and tougher to deal with.
7 When they abandon a gas well, I want to be able to keep
8 that as a water well, I've got a pipeline already set up in
9 it, already got tanks in it and this is an area I think
10 needs to be revisited just a little bit.

11 Don't run off, John, I want to take a shot at
12 you.

13 And this Section 20, why, it -- you know, I'd
14 kind to see it just where it was, because it seemed to be
15 working for us, but it looks like in Dr. Raisbeck's
16 studies, some things have lessened up a little bit.

17 I'll make a comment on barium. I went to an
18 X ray and lab school when I took X rays. This is back in
19 the '50s, late '50s, and at that time we didn't have any --
20 what's the new -- the new deal, everybody in the tube and X
21 ray --

22 UNIDENTIFIED FEMALE: MRI.

23 MR. BRUG: Yeah. At the time if they
24 wanted to know whether you had cancer of the lower bowel,
25 ordered a barium enema. If you had cancer problems with

1 ulcers, you know, you took barium orally, and you drank the
2 stuff and it passed through your whole system, hydrochloric
3 acid on your stomach had a chance to work on it, the
4 bacteria did, everything else in it, and all of us
5 survived. Embarrassing situation to be in, not the most
6 desirable technique to have to do, but everybody survived
7 it, so I will always question barium, because why would
8 that be a problem when you take it in such a concentrated
9 base that way.

10 And State Engineer's Office got a problem with
11 that a little bit, because of the bypasses they want on
12 those existing reservoirs and steep countryside. It makes
13 quite a problem, erosion.

14 And additional regulations that we go -- that is
15 imposed on the companies, why, I think it's taken out on
16 us. Makes it just a little more difficult for us to
17 negotiate a good deal. Anybody that's in livestock
18 business knows when the feeder -- the factor takes a hit,
19 the feeder takes a hit, and the cow-calf producer takes a
20 hit, and there's no place to go with it. And I think we're
21 just basically in the same situation in the coal-bed
22 methane development. When things are tough, bottom line is
23 we're low man on the totem pole.

24 And now we got another problem looming, and
25 that's the sage grouse. And it don't plague you boys in

1 the production business, but it's going to plague us.
2 Anybody that's tied up with federal lands that ain't fenced
3 out, why, they're going to come with a forage density that
4 might be awful tough to live with.

5 As I guess you'd say a layman, a rancher, why,
6 you know, you do -- we got a lek on our place, counting
7 sage grouse and kind of keeping track of things, but when
8 it gets right down to the wire, I don't have a degree,
9 really don't amount to a lot. It's just information, but
10 it is really taken to heart. So that disturbs me
11 considerably.

12 Dr. Raisbeck, I don't doubt for a minute that his
13 information that he provided was absolutely accurate, but
14 back in the early '60s, there's a fellow -- a gentleman by
15 the name of Dr. Wilbank that worked at the experimental
16 station at Fort Robinson, Nebraska. He's probably got more
17 information on nutrition and livestock on our eastern
18 Wyoming and western Nebraska grasses than anybody else.
19 And in tying with it, there was some information on water,
20 and I was disappointed not to see any of that in this,
21 because the impetus for him to start this was getting these
22 cows to breed back and not lose a cycle, because
23 Bill will tell you, if you lose a cycle, depending on what
24 the price is, you're losing about 50 pounds per calf.
25 That's a good-doing calf. Dollar a calf, that's 50 bucks,

1 that's profit end.

2 So he's done a lot of work on rangeland
3 nutrition, what it takes to get a cow bred at proper times,
4 so that wasn't in there. And for a -- for a rancher, I
5 kind of waded through this whole thing. You know, there's
6 a lot about white mice. I couldn't relate to that.

7 So thank you for your time. I appreciate you
8 guys got an awesome job ahead of you.

9 MR. OLSON: Thanks, Rob.

10 VICE CHAIRMAN WELLES: Thanks, Robert.

11 For the record, for those of you who don't know
12 Robert, he served for many years on Campbell County
13 Conservation District, and as he said, also a member of the
14 Northeast Wyoming Sage Grouse Team, and he's put a heck of
15 a lot of time of his own time into, you know, looking at
16 all these issues and a lot of solid work. And I would say
17 don't sell yourself short just because you don't have some
18 degree in chemistry or something, because Robert's a huge
19 source of information and has done a hell of a lot of good
20 work and we appreciate it.

21 MR. WAGNER: Jim Hillberry.

22 VICE CHAIRMAN WELLES: Jim Hillberry.

23 MR. HILLBERRY: I'll stand back here so
24 people can hear.

25 VICE CHAIRMAN WELLES: This lady's

1 recording every word, so she's the one that needs to hear.

2 MR. HILLBERRY: That's fine. I maybe can
3 provide a few words. I appreciate you folks being here and
4 especially being here in this locale. I live in Hot --
5 actually live in Powell, have a ranch at Grass Creek and at
6 Hamilton Dome, so we've got quite an area involved in Hot
7 Springs County, Wyoming. And we're particularly concerned
8 about the changes that are being proposed by these
9 criteria, particularly for livestock and our irrigation and
10 the whole thing in general.

11 I have a problem that I don't think we need to go
12 to a new rule. I think we need to keep -- continue our
13 policy with the criteria that's been listed. While it's
14 fresh on my mind, and the discussion about Dr. Raisbeck, I
15 really, as an individual and as a rancher, had some problem
16 with that report, because it was a combination of various
17 activities and experiments out there.

18 Now, we personally have been on this ranch since
19 '92. Prior to that, my grandparents homesteaded in the Big
20 Horn Basin on Gooseberry Creek. So our family has a long
21 history of experimentation on the ground in Wyoming and the
22 Big Horn Basin. And since '92, we've offered to have
23 people come out and do specific studies regarding the
24 surface water discharge from Cottonwood on our ranch,
25 neighboring ranches, and yet today, we've not had a

1 response in that regard.

2 Further, in 1960, I graduated from the University
3 of Wyoming, barely, and went to the University of Nevada,
4 and working on their experimental farm and stations there.
5 Dr. Verl Bowman was the head of the animal science
6 department. Dr. Darrell Foote was the head of the
7 physiology department. I worked very closely with those
8 gentlemen doing studies on nitrate problems, phosphate
9 problems, molybdenum problems and salinity problems on
10 their experiment. And they were doing that in regard to
11 requests from the Paiute Indian people out of Nevada on
12 their reservation.

13 And there was salinity, and we could take those
14 cattle up -- I don't recall all the numbers now -- take
15 those cattle up to where they exceeded what they could
16 tolerate. We backed them back down and they were normal
17 cattle, went on into the feedlot, produced good steaks and
18 everything.

19 We did the same thing with molybdenum, nitrate,
20 and barium and phosphate and various components of the
21 chemicals. We got to a point with some of the molybdenum
22 where it affected some of the blood flow and we lost a foot
23 or two, but those cattle, we took them back down, they
24 recovered, and I tell you that was the kind of information
25 that we needed. It gave them the levels.

1 I have a problem, as they recommended here,
2 particularly with the sodium and the sulfate levels, on --
3 on the chronic exposure going down to a thousand
4 milligrams. I think the 3,000 milligrams is adequate.

5 We've got 15 years experience of the water coming
6 out of Hamilton Dome oil field. We have, to our knowledge,
7 not lost an animal based on any of the chemical criteria of
8 that discharge water prior to it hitting Cottonwood Creek
9 or after it dilutes with Cottonwood Creek. We've got --
10 and I've presented the Board with pictures of the hay
11 production, of the cattle grazing on the pastures and
12 things there. I see no need for any major revisions for
13 the livestock and/or irrigation criteria in this program.

14 My concern also is that we know that in the Big
15 Horn Basin it's underlined with coal, and it's a matter of
16 time until coal-bed methane starts development here. And I
17 don't think that we need to have the strict criteria that
18 you find in the Powder River Basin or even on the ranch
19 like that's been developed here. We can live with it. Our
20 soils are different. Each individual acre or hundred acres
21 of ground is different. And you bring the different waters
22 and things that come out of that. And that's going to
23 have, of course, an effect on it.

24 And as mentioned, we learned to live with it, the
25 livestock learned to live with it, and it's the water that

1 is the key to survival in the majority of the state of
2 Wyoming. We're seeing it for the community, in Cheyenne,
3 they're having water problems, but we're going to get this
4 criteria so tight that in time they'll not be able to
5 supply our municipalities with water.

6 I'm sorry. In a hurry to get down here I left a
7 packet of my notes, but the one thing that I've not heard
8 about in any of this discussion or research is waterfall
9 and wildlife. It's all been about livestock, cattle and
10 sheep. I've not heard anything about relation to horses.
11 You know, and, of course, we know that we have a
12 substantial amount of wild horses in the state of Wyoming.

13 And when we don't have water, what's going to
14 happen to them? You'll see like I saw in Nevada and part
15 of California, carcasses of horses laying out there because
16 they did not have water, but be that as it may, we need to
17 look at more than just isolated pockets of this, as I know
18 you do, sitting on the board where you are. But I think
19 there needs to be more emphasis put into it for the
20 wildlife and the waterfowl.

21 And the other thing, and I appreciate the -- John
22 and his group and Dr. Corra coming up last summer and doing
23 a tour of Cottonwood Creek, and where life -- the water
24 shows the lifeblood of a stream. As we crossed Cottonwood
25 Creek at Mr. Robbins' place, Cottonwood Creek had been dry

1 for the majority of the year. From the point that that
2 discharge water entered Cottonwood Creek, you saw flora
3 growing, you saw trees, you saw willows, you saw sage
4 grouse, you saw deer; antelope, from there to where the
5 water drained into the Big Horn River, 30-some miles. That
6 was a good strong drainage with all of the activity you
7 like to see in the growth of plants, in animal use.

8 So I think, you know, we can't put criteria to
9 the point that we're going to satisfy some minority group
10 on the eastern part of the state, when we're in a
11 completely different area. We're going to see energy
12 continue to be developed. We're experiencing that today
13 with the price of oil and gas. And that's going to
14 continue to get worse. We're going to have more effects
15 from our suppliers in other foreign countries. We're going
16 to have to compromise. We're going to have to have some
17 levels in the state of Wyoming, in Hot Springs County and
18 Park County, the Big Horn Basin and the Powder River Basin,
19 where there's going to be a trade-off that we have
20 electricity, we have energy to produce food and fiber, that
21 we have heating oils to keep our homes warm, provide for
22 education.

23 So I think we need to lighten up on some of this
24 stuff. We can all and they can exist, and they can exist
25 into the next generations to come, but let's not get these

1 criteria so tight that we shut all that stuff out.

2 So I appreciate your hearing me and I'm sorry I
3 don't have the other things I was going to talk about, but
4 the main thing is let's use some common sense in this.
5 Let's not allow the special interest group dictate what
6 we're going to have to live with. And again, coming back
7 to a couple of the recommendations, I don't have a DVM
8 degree behind me. I'm -- like the gentleman said, you
9 know, I'm Joe Blow here; however, I do have a BS that I can
10 account for.

11 And plus, I've got 70 years of experience on the
12 ground, so I think that is meaningful and I would recommend
13 that this level of chronic exposure be reversed back and
14 leave it at the 3,000 or 4,000 number that's printed in
15 your criteria here.

16 And I don't have it -- enough experience or
17 knowledge about this point of compliance at the end of the
18 pipe. I don't know if that's the best criteria or not. I
19 had questioned it, but I won't make any further comment
20 about that. Again, thank you, and I know you'll come up
21 with a good decision, and I'm glad I'm not in your seat.
22 Thank you.

23 (Applause.)

24 VICE CHAIRMAN WELLES: Thank you, Jim. We
25 appreciate your time and also your expertise and your

1 experience.

2 MR. WAGNER: Lee Campbell.

3 VICE CHAIRMAN WELLES: Lee Campbell.

4 MR. CAMPBELL: Yes, sir.

5 MR. BASSE: Can I just give a speech?

6 VICE CHAIRMAN WELLES: Sure. Why don't you
7 just stand there and introduce yourself and speaking on
8 behalf of Lee, who has --

9 MR. BASSE: Actually, I'm not going to
10 propose to speak on behalf of Lee.

11 VICE CHAIRMAN WELLES: Well, you're
12 substituting for Lee.

13 MR. BASSE: Yes. Okay. I'll go in his
14 place.

15 I'm Brad Basse. I'm the chairman of the Hot
16 Springs County Commission. I thank you for allowing us to
17 give you our opinion on this issue, and I thank you for
18 having a meeting in Thermopolis that allows people in this
19 area of the state to comment. From our standpoint of the
20 county commission, we did submit written comments, and I
21 ask that you consider those in your decision-making
22 process.

23 We feel that at this time it would be prudent to
24 keep the standards the same as they are, as they
25 historically have been decades long in Hot Springs County.

1 with oil and gas and production and trying to get more
2 domestic production, we're going to -- we're going to
3 impact that and impact significantly for Hot Springs
4 County.

5 Once again, I just thank you for the time and I
6 don't -- I probably didn't cover all the points that Lee
7 did, but I think our written comments are very complete and
8 I was kind of quickly put into this position, but thank
9 you.

10 VICE CHAIRMAN WELLES: We thank you.

11 And thank you, Lee.

12 (Appause.)

13 MR. WAGNER: Ken Hamilton.

14 MR. HAMILTON: My name is Ken Hamilton,
15 H-A-M-I-L-T-O-N. I represent the Wyoming Farm Bureau
16 Federation on this issue.

17 And I'd like to just mention our members have --
18 our organization has members throughout the state, and this
19 issue has become a pretty significant issue for a lot of
20 our members, at least in this area. I submitted written
21 comments to the Water and Waste Advisory Board, so I'm not
22 going to go into depth on those comments, but I'd like to
23 reiterate a couple of things that I had in those comments
24 for the Water and Waste Advisory Board.

25 Before I do that, I'd like to mention, we've

1 talked a lot about the PRBRC petition, and we did submit
2 comments on those and we did submit comments on their
3 requests to lower some of the standards and kind of started
4 driving this, and those comments were there wasn't adequate
5 information. Now, I would have been very disappointed had
6 the Environmental Quality Council gone ahead based on that
7 lack of information.

8 The issue of Dr. Raisbeck or UW report kind of
9 come out of that, but one of the things I think -- major
10 point we need to reiterate is that there's a lot of
11 uncertainty in this. And I'm going to talk about
12 specifically the livestock standards, if I could. And I
13 want to stress to this Board that I don't think that we
14 should go forward with this. The livestock industry
15 that -- the members that I've talked to have not expressed
16 a desire to do this. And I think that the information that
17 we've had before us were a little bit too premature on
18 going forward.

19 And I'd like to reiterate one of the things in
20 Dr. Raisbeck's report. And it's the last statement or the
21 last sentence on page 5 of his report. It says we
22 anticipate that this report represents a reasonable
23 starting point for evaluating the adequacy of water
24 quality. And I think that's important to keep in mind.
25 This is his information. I think he felt it would just be

1 a starting point, not an end point. And before we get to
2 that end point, we need to consider a lot of other things.

3 We've also heard about the analysis done by the
4 staff here. And they've done a good job of pulling out
5 information and saying this is going to affect 6 percent of
6 the outfalls, or those kinds of things. And those numbers
7 aren't very high, I know, but I'd like to reiterate and
8 point out that 2 percent of the population in the United
9 States are in agricultural production, and that small a
10 number is one that feeds this nation, as well as the rest
11 of the world.

12 I don't think we want to jeopardize these
13 people's abilities to continue in that. I think we have to
14 get more information on the potential impact before we go
15 forward with anything. I don't think that we should go
16 forward with something that we have this -- these many
17 uncertainties. We've talked some about the grandfather
18 clause. And the grandfather clause is one of those things
19 I think if we had a perfect crystal ball, we could look
20 into it and decide whether this was an effective way of
21 dealing with this -- with the problems that we are finding
22 ourselves in, but I guess the one thing I'd like to ask is
23 what would happen if that grandfather clause went away.
24 And the impact would be significantly grave.

25 Now, Mr. Wagner and Mr. DiRienzo has made some

1 good points on maybe this grandfather clause isn't as
2 tenuous as I think it is, but I've seen a lot of what I
3 thought to be pretty solid things go away. And I remember
4 early on in some of the water quality stuff, state of
5 Wyoming automatically classified a lot of our dry gulches
6 as a Class IV water body and EPA continually hammered on
7 the state of Wyoming to change those. And I always kind of
8 considered that to be a grandfather, because to me it was
9 fairly stupid, if you will, to consider dry gulches in
10 Wyoming to be anything less than what they had them
11 classified as, or more than.

12 So that was one of the things that I think we
13 have to be careful of, that grandfather clause. And it's
14 an important thing. And these rules go forward -- or those
15 proposals go forward, we have to have that, because if we
16 don't, we'll wreck what producers we have out there that we
17 are trying to protect.

18 The other thing that I mentioned in that was the
19 issue of these other two things, the waiver, and quite
20 honestly, I can see that thing turning into more of a
21 nightmare than it -- than it -- at the end would not help
22 our livestock producers, because it'd only take one person
23 in the watershed to wreck that, unless you can contain the
24 water body -- or contain the water. The other thing, of
25 course, is the ephemeral, the background level. On some of

1 these ephemeral water bodies that's difficult to get to. I
2 don't want to discount it. I think those are important,
3 but if you go forward -- and again, I reiterate, I don't
4 think you should, but if you do go forward, those are
5 important things.

6 We mentioned earlier about the landowner versus
7 livestock producer, and that is a significant change. And
8 it's got problems both ways, but I believe that we should
9 consider looking at the word "livestock producer," because
10 in a lot of areas in the state, landowner is the federal
11 government. And the livestock producer has a pretty vested
12 interest in maintaining water. There are some folks in
13 some of these federal agencies that aren't that interested
14 in maintaining water or having livestock on those lands, so
15 I think with that wording change, you could jeopardize some
16 livestock producers out there.

17 I guess that's the major points that I would like
18 to reiterate, but, again, I think that we've got to be
19 very, very careful with this, because the impact if we make
20 the wrong decision on livestock producers in this state are
21 going to be significant. Thank you.

22 VICE CHAIRMAN WELLES: Thank you, Ken. We
23 appreciate your comments.

24 MR. WAGNER: Sorry, Marie Fontaine.

25 MS. FONTAINE: I'm Marie Fontaine and I'm

1 the county as far as our assessed valuation, as the
2 commissioner from Hot Springs kind of spoke to. And I
3 think it could also have a trickle-down effect in other
4 areas, too. Your property taxes could change, there's just
5 a lot of effects.

6 So I support the historic uses and continued use
7 of the policies. Thank you.

8 VICE CHAIRMAN WELLES: Thank you very much.

9 MR. WAGNER: Jack Turnell.

10 VICE CHAIRMAN WELLES: Jack Turnell.

11 MR. TURNELL: Thank you, Bill, the Board,
12 for allowing us to speak today.

13 I'm a rancher from Meeteetse, Wyoming and
14 Pitchfork Ranch and Turnell Cattle, and been involved in
15 this stuff for a long time with the Wyoming Stock Growers.
16 Jim Magagna called and I guess I'm it for the stock growers
17 today, plus ranchers. But on the other hand, I grew up in
18 Grass Creek and my dad worked for Amoco. I'm an oil brat
19 and a rancher for the last 40 years. And I taught ag, so
20 that's my background.

21 However, these kinds of things, we've been doing
22 this now for I don't know how many years. Whether it's the
23 Powder River Basin or the Big Horn Basin or wherever, we
24 just keep talking about this water or this thing or that
25 thing. And we always become site specific, which we're

1 doing right now, that all the sudden we're going to say all
2 the water in the West is going to be at this Nth degree,
3 and that's wrong, because every system -- the Big Horn
4 Basin and I'll speak to this mostly -- the Big Horn Basin
5 is a different system than the Powder River Basin or Nevada
6 or anywhere else. How do we find a way to discharge to
7 accommodate several things, which I'm going to talk about
8 now.

9 Over here, in this area, where I'm at, versus
10 that area -- and I can't talk about that area, because I
11 have rancher friends that say we love methane gas and the
12 ranchers says I hate the methane gas. It all boils down to
13 whose dog's getting bit. If I had methane gas, I'd say
14 let's go for it. Let's get all we can get. So we have to
15 figure out that system. In my case, it's the Big Horn
16 Basin. The Big Horn Basin, from here, Thermopolis to
17 Hamilton Dome, Grass Creek, Little Buff, Poor Bear, Spring
18 Creek, Pitchfork Field, that area is what I'm going to talk
19 about.

20 And the discharge from all of that, we don't want
21 it to be a bad thing. You know, we wouldn't want you to
22 put whatever out of the treaters and the knockouts, or
23 whatever, into that system; however, the system, I believe,
24 is something like -- I'm not a scientist. I'm just a
25 rancher, so -- but I understand that 4,000 parts is

1 adequate for cattle and for irrigation. Well, it's working
2 great. The Big Horn Basin, I think -- I do know that
3 Hamilton Dome, Grass Creek and all those places they talk
4 about really depend, in agriculture, on those things. And
5 we even depend on those things for the discharge to come
6 into our hay meadows to irrigate. And then we take most of
7 that impact out and put it on this irrigation system, and
8 it seeps down through the system.

9 150 years ago the Greybull River had dried up.
10 Now today it keeps running. Why? Because we stick it back
11 in the system as a sponge. We stick it in the system and
12 it comes back out, and part of it is this discharge from
13 the oil fields. Do I want that discharge from the oil
14 field to be a nasty thing? No. I'd like to just control
15 it at a reasonable level, and I think we've been doing
16 that.

17 And then let's talk about wildlife. Since we
18 decided in our -- all of our great intelligence that
19 wildlife is a wonderful thing that we have to have all
20 these wolves, it's forced wildlife down into areas they've
21 never been before, 15 miles out here. Even on our ranch,
22 on Rawhide, which Rawhide wouldn't even exist if it wasn't
23 for oil discharge. We have 75 elk now on the Witt Ranch,
24 which I own, and we never had elk down there in my lifetime
25 or in my grandpa's lifetime. Now they're there. Why?

1 Because the wolf puts them down there. How do we
2 accommodate the water system, which brings me back to your
3 issue, the water system. The elk have to water there. If
4 they don't water there, where they going to go? They keep
5 pushing here, there and everywhere.

6 So to stabilize that wildlife system, elk, deer,
7 antelope, all the other little critters, you've got to
8 accommodate that with that stream of water coming down
9 there. So you can say, oh, yeah, let's run all this water
10 through filtration systems and destroy the economic
11 basement, Meeteetse, Wyoming or Cody, Wyoming, you're very
12 site specific if you just think we're going to -- here's
13 the standard and you have to do it.

14 You're affecting so many things out there beyond
15 your belief. And if you don't start thinking that way,
16 you're going to destroy this state and the West. Think in
17 terms bigger. How do we help the oil companies discharge
18 it so we can utilize it for the wildlife, for our economies
19 and, you know, be reasonable. I don't want you -- unless I
20 can capture the oil down at my place and put it through a
21 treater and knock out and sell it, which would be great,
22 you can dump it, if you want, bring 'er down.

23 However, since that's not going to happen, you
24 know, stick it through your system up there and purify it
25 up to this 4,000 parts, and it's good for cattle, good for

1 wildlife, good for the whole system, good for the economy.
2 So don't go beyond getting wild where we're going to have
3 drinking water coming out of Rawhide Creek or out of
4 Cottonwood Creek or any other creek, Spring Creek, all
5 around this basin, Knollwood, wherever, I don't know.

6 Quit thinking that way. Think that we're going
7 to bring that all together and have a system that is
8 acceptable for all the above. We haven't done that. We
9 just fight this out and say, oh, all the sudden we're going
10 to change the whole world.

11 Now, can we change in the Powder River? That's
12 not -- I can tell you in the Big Horn Basin we want that
13 water and we want the discharge. We don't want it nasty,
14 but we want it and it's going to help everything in our
15 communities and our livelihoods and also the wildlife, even
16 the discharge in the rivers, so it doesn't dry up, that's
17 very important. We've got to think bigger, get out of the
18 box.

19 That's my appeal. Thank you, Bill.

20 VICE CHAIRMAN WELLES: Thank you, Jack.

21 And I have the privilege, many years ago, back in
22 the 1980s, of serving underneath Jack's leadership on the
23 Wyoming Riparian Association, which was really the
24 beginning of all this.

25 Thanks, Jack.

1 We're very concerned about it. I just want to
2 make that point. We're doing things about it, we're
3 checking into things. We spent money on it already. It's
4 a big deal to us. Probably 20 miles of creek there that
5 would be just a dry draw, except for two or three times a
6 year, if it didn't have our NPDES discharge water going
7 into it. Thank you.

8 VICE CHAIRMAN WELLES: Thank you, Bart.
9 David Flitner.

10 MR. FLITNER: My name is David Flitner.
11 I'm a rancher from Shell, Wyoming, and I'm here speaking
12 today really on behalf of our ranch.

13 And having had the opportunity to look at the
14 previous comments, I really think that maybe my comments
15 today are both redundant and superfluous, because of the
16 quality -- both the quality and content of what I've
17 already heard this morning. I compliment the presenters on
18 what they have said. And I certainly agree with nearly
19 everything that's been said thus far.

20 I think that it might be well if we begin with a
21 little bit of a historical context. And this is addressed
22 to the Board, and hopefully it will put a little bit of
23 perspective in the economic situation that agriculture
24 faces today.

25 Sixty (sic) years ago today, the Japanese

1 launched a surprise attack on Pearl Harbor. I was 8 years
2 old at the time. I remember exactly where I was when the
3 news came over the radio on that Sunday afternoon in Shell.
4 I remember hearing President Roosevelt in his speech on the
5 radio when he said: "This is a day that will live in
6 infamy."

7 Within six months, nearly all the able bodied
8 young men were gone to war. The rural life we had known
9 was never to be the same again. Between 1941 and 1945
10 there was little ranch help to be found. During this labor
11 crisis, we and many other ag producers utilized German
12 prisoners of war as farm help. Gasoline and sugar as well
13 as many other food items were rationed. Many of the young
14 people who were -- who voluntarily left to fight and
15 survived the conflict in Europe and Asia never came back to
16 the farm because they found better jobs elsewhere. Few of
17 them returned to the hard life with its traditional meager
18 economic rewards.

19 War years represented a period of sacrifice,
20 patriotism and immense change. By the year 1941 many farms
21 had been lost during the Great Depression which began in
22 1929. This mass migration from agriculture, characterized
23 by the great novel, the Grapes of Wrath, by John Steinbeck,
24 was the norm in rural America everywhere. Many in
25 agriculture could not survive the multiple whammies of

1 drought, depression and war. Thousands and thousands left
2 the farm for life in the city. We are now witnessing the
3 horrific social consequences nationwide.

4 I mention the above scenario to make this point.
5 We, who raise food for the American consumer and a fair
6 share of the world, live on a precarious edge. We are
7 subject to sometimes catastrophic whims of nature as well
8 as major price fluctuations. Production costs have no
9 relativity to market price. The loss of a spring or
10 reduced stream flow can wreak havoc on both farming and
11 ranch operations. Long droughts, like the period we have
12 experienced for the past seven years, are devastating.
13 These stressful periods have serious environmental and
14 economic consequences to the average Wyoming producer. We
15 constantly walk the fine line between solvency and
16 uncontrollable economic disaster. We often ask ourselves
17 why we continue to defy these insurmountable odds.

18 This is my second appearance before this board.
19 This time, my son, Greg, who is a ranch manager and
20 partner, has joined me. He is facing the enormous
21 challenge of running a profitable business as well as the
22 burden of surviving a federal inheritance tax of 55 percent
23 on any remaining assets of the ranch he has yet to
24 purchase.

25 It is not the money that attracts and retains

1 people in this business; it is something far more
2 important; it is a love of the land and the nourishment
3 from the magnificence of nature's beauty to the human
4 spirit. Ranchers are motivated by their affection for
5 domestic animals, wildlife and an inherent desire to
6 improve the renewable resource of both grazing and farm
7 lands. The ultimate goal is to survive financially and at
8 the same time preserve and enhance -- enhance nature's full
9 vitality and productivity for future generations.

10 Therefore, I would like to make the following
11 observations and suggestions: Number one, please do not
12 change the livestock protection standards that were in the
13 previous, quote, old policy.

14 The proposed change in wording from livestock to
15 landowner could be very dangerous. The wording should
16 remain the same as the June 2007 draft.

17 Leaving the livestock producers at the whim of
18 the state and federal land "owners" is a most unsettling
19 option. The livestock owners know best how to deal with
20 the health of his or her livestock.

21 The proposed draft embodies language that places
22 limits on several new constituents. There is little or no
23 data available to evaluate the effects on our basic Wyoming
24 industries: agriculture, oil and gas. There is no
25 available data on over 70 percent of our current water

1 discharges in Wyoming to date.

2 To the best of my knowledge, only 11 of 39 of the
3 past discharges since 1 June 1998 have any data at all and
4 they all meet the newly proposed limits. It is a dangerous
5 assumption to work with such a limited database when there
6 is so much economic value at stake in various livestock and
7 wildlife enterprises depending upon the water. Remember,
8 this water has posed no animal health threat at all in the
9 past or present. Our ranch and the previous owners have
10 used the Dry Creek water for over nearly a century with no
11 ill effects.

12 There is no scientific evidence available that
13 would prove that these proposed higher standards will solve
14 current problems in the Powder River Basin, and such over-
15 regulation with no scientific basis could wreak havoc on
16 the remainder of the state of Wyoming.

17 As I mentioned at the outset, agriculture in
18 Wyoming hangs by a narrow thread. Please do not support
19 and recommend unrealistic regulations that are destined to
20 fail in meeting hypothetical goals due to the lack of solid
21 scientific data.

22 Any promulgations of unrealistic water quality
23 regulations will have a potentially devastating effect on
24 agriculture in this state as we know it and will only lead
25 to accelerated failure of our business.

1 Finally, the flows from the Oregon Basin wells
2 are a cornerstone of our grazing program affecting over
3 150,000 acres of rangeland and some 20 ranch employees.
4 The recreational business called The Hideout is our Cowboy
5 Adventure program utilizing the same water and area. This
6 business employs another 30 employees and their families,
7 many of whom live on the ranch.

8 In conclusion, we all recognize that we're
9 competing in a global economy. During my lifetime, our
10 industry has survived drought, disease, several wars and a
11 major depression.

12 What we cannot survive are well meaning but
13 misguided government regulations of livestock water sources
14 which are not based on solid scientific data.

15 I thank you for the opportunity to express my
16 views before the committee, and I'd like to compliment both
17 the Board and the staff of the DEQ. It's very obvious that
18 you've done a great deal of hard work in conscientious
19 manner and I salute you for this. Thank you very much.

20 VICE CHAIRMAN WELLES: Thank you, sir. We
21 appreciate very much your comments.

22 MR. FLITNER: Thank you.

23 VICE CHAIRMAN WELLES: Well said.

24 John Robitaille.

25 MR. ROBITAILLE: Thank you, Mr. Chairman.

1 vulnerable, then, is grandfathering and landowner waivers,
2 those concepts that would create exemptions to these new
3 standards.

4 Thank you for your time and I'd be happy to
5 answer any questions.

6 VICE CHAIRMAN WELLES: Thank you very much,
7 Margo.

8 And, Kathy, you can take a break here. I'd like
9 to say something that doesn't need to be recorded.

10 (Off-the-record discussion.)

11 VICE CHAIRMAN WELLES: Thank you, Margo.

12 Next is Joe Dennis.

13 MR. DENNIS: Yes, I'm Joe Dennis. I farm
14 in the Pavillion area and I ranch over east of Thermopolis,
15 and the Murphy Dome oil field sits on part of my ranch. I
16 have no love for the oil companies. In particular, they're
17 a pain in the butt, but I love that water they produce and
18 I need that water they produce. For many of my pastures
19 it's the only source of water.

20 And I guess I just have to go why are we
21 changing, or why we changing now? Your own people have
22 said there have been no problems reported. I'm not aware
23 of any ranchers that have low conception rates. I'm not
24 aware of anybody reporting fish die-offs. I don't think
25 anybody's said wildlife has been damaged by this water.

1 But I can tell you one impact to these changes. You're
2 going to have less oil production, you're going to have
3 less produced water, and notwithstanding whatever
4 protections you have in there for livestock watering, if
5 there's less produced water, there's going to be less
6 available for the ranchers to provide their cattle, so
7 you'll have subsequently less cattle grazing and you're
8 going to have less wildlife.

9 Now, I'm not real familiar with your new proposed
10 rules. I missed that last meeting. I've been to several
11 others, but I missed the last meeting in Jackson, but I
12 have a question. If I have a waiver to tell the oil
13 company, yes, you can put that water on my property, what
14 liability am I creating for myself with a downstream
15 rancher? Or vice -- or turn it the other way, if I cut the
16 water off and tell them no, do I have some liability,
17 because the downstream rancher felt he was either hurt by
18 the water or lack of the water?

19 Let's talk a little about the science behind
20 this. I am not a vet. I do not have a degree in range
21 science, but I do have a couple of degrees in electrical
22 engineering and I worked with engineers and scientist for
23 many years and I managed them. In fact, I still have
24 contact with them through the company I own. And I'm very
25 familiar with the scientific method.

1 Let's look at what was done here. This was a
2 paper study. We went -- Dr. Raisbeck went out and looked
3 at published papers. You got to be very suspect of
4 published papers. I read a report I think it was for
5 studies -- published peer-reviewed papers I think for the
6 year 2005. 60 to 70 percent of them had significant
7 errors. I'd have to go research who did that study, but it
8 was a reputable source, but what we find is a lot of
9 scientific papers out there are flat wrong.

10 Now you're proposing changes that are going to
11 have significant economic impact on Wyoming. I don't think
12 we can foresee the full impact of it. And you're doing it
13 with very little science. If I had some engineers or
14 scientists come to me and propose doing some significant
15 change like this, I would want to know what sort of
16 prohibited chemicals they've been ingesting or I might show
17 them the door, I'd fire them.

18 Now, I don't know what -- I think it would be
19 negligent to make this kind of change on the little bit of
20 science that's been done. There's many ranchers who have
21 testified at these meetings, who graze here, who use this
22 water, if you -- this study, these paper studies are
23 nothing more, I think, than a jumping-off pointing to go do
24 some real on-the-ground studies, because you don't know
25 what the full economic impact of this thing will be, and,

1 like I said, you're doing it with very little science. I'm
2 sorry.

3 Now, then we get -- you go to these levels, and
4 even the level's picked are somewhat arbitrary. If you go
5 to Dr. Raisbeck's recommendations, sometimes you follow
6 them, sometimes you pick another what appears to be to me
7 arbitrary figure, which leads me to say what's the
8 motivation behind all of this?

9 When I first went to this meeting, it was
10 almost -- not quite a year ago, I think down in Cheyenne,
11 when I -- first meeting attended on this, and it was -- the
12 motivation was by some ranchers who were disgruntled over
13 in that Powder River Basin, to shut down coal-bed methane
14 production. And I didn't understand their problems, and I
15 still don't fully understand their problems. I recognize
16 they're a minority. And our comments -- Matt Brown made
17 them, I made them, other ranchers from this area made them
18 -- whatever you do over there, don't destroy our water
19 source.

20 Now this thing's come full circle, it looks like
21 the biggest impact will be over on us here in the -- in the
22 Big Horn Basin, rather than the Powder River Basin. And I
23 think you guys need to take a long hard look at this and
24 say probably at this time no change should be made,
25 unless -- if we see problems, let's do further real studies

1 on the ground and see what's happening. And maybe those
2 disgruntled ranchers, the few over there in the Powder
3 River Basin, ought to just put on their big girl panties
4 and learn to live with the water. Thank you.

5 VICE CHAIRMAN WELLES: Thank you, Joe.

6 MR. DENNIS: If you're not clear where I
7 stand, I can clarify in those words.

8 VICE CHAIRMAN WELLES: Okay. We're working
9 our way down the list, and we're going to keep going. It's
10 20 to 12:00. We may set a record here.

11 Steve Jones.

12 MR. JONES: Thank you. My name is Steve
13 Jones, J-O-N-E-S. That got a laugh last time, too.

14 I'm the resource management coordinator for the
15 Meeteetse Conservation District. Like Jack Turnell, I have
16 kind of a varied background. As long as we've got the
17 adrenaline level up with those comments, let's keep it
18 there for a moment.

19 For the record, would all of the board members
20 indicate to the recorder whether or not they have read the
21 comment letter submitted by the Meeteetse Conservation
22 District on November 30, 2007.

23 MS. BEDESSEM: You bet.

24 VICE CHAIRMAN WELLES: Yes, sir.

25 MR. OLSON: Excuse me.

COMMENTS – SEPTEMBER 14, 2007

Waste & Water Advisory Board Meeting

CHAPTER 1 WATER QUALITY RULES AND REGULATIONS

Resubmitted by

WYOMING STOCK GROWER'S ASSOCIATION

August 26, 2008

14 September 2007

From: David Flitner

To: Wyoming Waste Water Advisory Board

Subj: Economic and social impact of fresh water discharge from Dry Creek

Ref: Wyoming Statutes 35-111-521

Encl: (1) 9-26-06 Statement of Greg Flitner, ranch manager, co-owner Flitner Ranch

(2) 7-17-06 Copy of Michael Blymyer, BLM field manager, Cody

(3) 1-06-06 letter from BLM Assistant Field Manager, Tome Hare

Ladies and Gentlemen of the Wyoming Waste Water Board, my name is David Flitner, owner of Flitner Ranch and Hideout Adventures, located near Shell, Wyoming. The ranch runs livestock on private, State and Federal lands. Our base operation is near Shell Wyoming and we utilize grazing lands on the Big Horns, Shell Valley, Powell/Cody and Tensleep. In 2006 we celebrated our 100th year of operation in the livestock and farming business.

Our ranch and recreation businesses employ some fifty people during the peak season. Both the livestock and recreation business are dependent on the lands served by the freshwater discharges that make up the total flow of Dry Creek. The cattle utilize Dry Creek as a sole water source in the area. The Hideout *cowboy adventure* guests who come from all quarters of the globe, participate in gathering and moving the livestock in this area. The BLM permit associated with this portion of the ranch consists of over 150,000 acres. Our ranch employees and guests work with the livestock in the area in both the spring and fall every year.

Dry Creek supplies the water for hundreds of cattle from various livestock operations throughout its full length from just south of Cody to Greybull. It is also the water source for a resident antelope and wild horse herd. If Marathon were to suddenly stop pumping the excess water from its production wells at Oregon Basin, this entire water source would dry up and the economic as well as ecological consequences would be devastating to the livestock industry as well as the wild horse population plus hundreds of antelope and deer.

In other words, the 150,000 acre Dry Creek grazing allotment and associated water from the fresh water discharges from the Oregon Basin oil field near Cody comprises a significant portion of our entire range operation and is essential to the core business success of the Flitner Ranch and The Hideout Adventures program.

There is a broad menu of beneficiaries from the fresh water discharges of the Oregon Basin field. They include several ranching operations, a substantial wildlife herd of

antelope and deer, the wild horse population in the area, the Loch Katrine reservoir, a wet land of some 600 acres produces up to 1,000 shore birds and the same number of water fowl. The benefits to these various multiple use entities that I have mentioned are enumerated in the letters from BLM officers enclosed with this statement.

The Flitner ranch has utilized the produced water from the Oregon Basin Field for ?? years. The water does not meet Dr. Raisbeck's proposed standards for fluoride, sodium, and sulfate. The quality of this water is at or above the existing 3000 mg/l sulfate limit. However, our production data shows that weaning weights of our calves, utilizing the Dry Creek pasture containing only produced water from the Oregon Basin Field, outperform other pastures with only natural water sources. This production data is depicted below.

Weaning rates of calves on the Flitners' ranches between 1999 and 2005. The Dry Creek pasture is associated with produced water sources, whereas the remaining pastures have access to only natural water sources.

Year	Dry Creek	Potato Ridge	Home Place
1999	473	451	469
2000	501	492	476
2001	462	454	473
2002	487	509	512
2003	522	503	497
2004	515	498	526
2005	526	482	501
Average:	498	484	493

As the result of our personal experience with our livestock operation which has used the Dry Creek water source for years with only positive results, we suggest the following:

1. Any policy formulated should not interfere with landowners or permittees on Federal and State leases who desire to use produced water to improve their property or sustain a livestock operation.
2. The policy should allow landowners to use and receive the water even if it does not meet DEQ's "standards."
3. The landowners/ranch managers are in the best position to evaluate the impact on their livestock even if the water does not meet DEQ standards and in a better position to evaluate whether water that exceeds the "standard" is beneficial to his lands and livestock. Often Big Brother is not close enough to the situation to

4. Accurately evaluate all the physiological and economic factors that go into making a decision that is realistic.
5. One of the great challenges in the livestock industry in Western range grazing areas is the proper distribution of livestock and wildlife by utilizing water sources for uniform distribution of grazing in a given area. Historic water uses could easily be disrupted by imposing unrealistically rigorous water quality standards. This would be devastating to livestock, wild horse and wildlife populations.
6. Water quality standards for agriculture use protection should be based on Wyoming open range conditions, not on feed lot studies.

Great caution should be exercised by any regulatory entity in the State to ensure that overly zealous regulations do not destroy the fragile balance that has taken over a hundred years to establish.

Thank you for the opportunity to comment. I would hope that the Board would seriously consider the immense economic and social implications any further water quality decisions would have to all the interests involved who see no need for further regulations.

David Flitner

Larsen Ranch Company

Kelly Graham
192 Rd. 4DT
Meeteetse, WY 82433
(307) 866-2342

September 10, 2007

DEQ/Water Quality Division
Attn: David Waterstreet
Herschler Building, 4th Floor West
122 West 25th Street
Cheyenne, WY 82002

RE: Comments on University of Wyoming Report - *Water Quality for Wyoming Livestock and Wildlife*

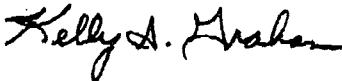
Dear Mr. Waterstreet:

My family owns and operates Larsen Ranch Company, which is a commercial cow/calf operation near Meeteetse. Larsen Ranch has used produced water discharged from a traditional oil and gas facility for more than forty years. The discharge water flows in a streambed that would normally only run water for a few days during spring runoff and during cloudbursts. The discharge water allows us to utilize forage that would otherwise be unavailable due to lack of water. Our cattle are healthy and we have no unusual sickness or death loss associated with the discharge water.

I believe Dr. Raisbeck's study has been beneficial as a starting point for developing water quality standards for livestock and wildlife. However, there are still many variables that have not been addressed. One factor that will vary the impact of the contaminants on livestock and wildlife health is the availability and quality of existing forage. Another factor is the amount of time that livestock actually drink the produced water. Also a factor is whether the livestock are able to utilize any other "cleaner" water sources or if this is the sole source of water. And, yet another factor is whether or not the discharge water is diluted by the addition of non-produced water further from the discharge point.

The bottom line is that all cattle producers and wildlife managers would like to provide abundant supplies of "perfect" water and forage for all animals. The reality is that slightly less than perfect water is better than no water at all, which is what would happen if strict standards were imposed and the produced water discharges were no longer allowed. I believe that further study using real world conditions are called for. It would be shameful to shut off supplies of useful water based on incomplete data.

Sincerely,



Kelly A. Graham

TESTIMONY – SEPTEMBER 14, 2007

Waste & Water Advisory Board Meeting

CHAPTER 1 WATER QUALITY RULES AND REGULATIONS

Resubmitted by

WYOMING STOCK GROWER'S ASSOCIATION

August 26, 2008

1 MR. SUGANO: Sure.

2 MR. APPLGATE: And just to add to that, I
3 know Mr. Flitner has time constraints today. So if he
4 needs to go first.

5 Mr. Flitner, why don't you go ahead.

6 MR. FLITNER: If that's agreeable.

7 MR. SUGANO: Sure. That's fine.

8 MR. FLITNER: Good morning. My name is
9 Dave Flitner. And I'm the owner of the Flitner Ranch and
10 Hideout Adventures, which is located near Shell, Wyoming.

11 The ranch runs a livestock operation on
12 private, state and federal lands. Our base operation is
13 near Shell, Wyoming. And we utilize grazing lands on the
14 Big Horns, Shell Valley, Powell, Cody and Ten Sleep. In
15 19 -- in 2006, we celebrated our 100th year of operation
16 in the livestock and farming business.

17 Our ranch and recreation business employs some
18 50 people during the peak season. Both the livestock and
19 recreation business are dependent upon lands served by
20 the freshwater discharges that make up the total flow of
21 Dry Creek. In fact, our operation -- that pasture we
22 graze consists of about nine miles of Dry Creek. The
23 cattle utilize Dry Creek as a sole water source in this
24 particular nine-mile area.

25 The Hideout cowboy adventure guests, who come

1 from all quarters of the globe, participate in gathering
2 and moving the livestock in this area. The BLM permit
3 associated with this portion of the ranch consists of
4 over 150,000 acres. Our ranch employees and guests work
5 with the livestock in the area in both the spring and the
6 fall of every year.

7 Dry Creek supplies the water for hundreds of
8 cattle from various livestock operations throughout its
9 full length from just south of Cody to Greybull. It's
10 also the water source for a resident antelope and wild
11 horse herd. If Marathon were to suddenly stop pumping
12 the excess water from its production wells at Oregon
13 Basin, this entire water source would dry up, and the
14 economic, as well as ecological consequences, would be
15 devastating to the livestock industry, as well as the
16 wild horse population, plus hundreds of antelope, deer
17 and upland fowl.

18 In other words, the 150,000-acre Dry Creek
19 grazing allotment and associated water from the
20 freshwater discharges from the Oregon Basin oil field
21 near Cody comprises a significant portion of our entire
22 range operation and is essential to the core business
23 success of the Flitner Ranch and The Hideout Adventures
24 program.

25 There is a broad menu of beneficiaries from the

1 freshwater discharges of the Oregon Basin field. They
2 include several ranching operations, a substantial
3 wildlife herd of antelope and deer and the wild horse
4 population in the area. The Loch Katrine Reservoir, a
5 wetland of some 600 acres, produces up to 1,000 shore
6 birds and the same number of waterfowl. The benefits of
7 these various multiple-use entities that I have mentioned
8 are enumerated in the letters from the BLM officials
9 enclosed with this document.

10 The Flitner Ranch has utilized the produced
11 water from the Oregon Basin field for over ten years.
12 The water does not meet Dr. Raisbeck's proposed standards
13 for fluoride, sodium and sulfate. The quality of this
14 water is at or above the existing 3,000-milligram-per-
15 liter sulfate limit. However, our production data shows
16 that weaning weights of our calves utilizing the Dry
17 Creek pasture containing only produced water from the
18 Oregon Basin field outperform other pastures with only
19 natural water sources. This production data is depicted
20 below.

21 And just to summarize it, you can see there are
22 several pastures there that we operate on. Dry Creek is
23 the one we're talking about this morning. The Potato
24 Ridge Pasture is south of the home ranch at Shell and the
25 home place there on the ranch itself. And it shows --

1 the production figures would show that the weaning
2 weights are the highest, actually, of those livestock
3 coming off of the water source that's in question here
4 this morning, which is the Dry Creek field produced
5 water.

6 As the result of our personal experience with
7 our livestock operation, which has used the Dry Creek
8 water source for years with only positive results, we
9 suggest the following. One, any policy formulated should
10 not interfere with landowners or permittees on federal
11 and state leases who desire to use the produced water to
12 improve their property or sustain a livestock operation.

13 Two, the policy should allow landowners to use
14 and receive the water even if it does not meet DEQ
15 standards.

16 Three, the landowners and ranch managers are in
17 the best position to evaluate the impact on their
18 livestock even if the water does not meet DEQ standards
19 and in a better position to evaluate whether water that
20 exceeds the standard is beneficial to his land or
21 livestock. Often Big Brother is not close enough to the
22 situation to accurately evaluate all the physiological
23 and economic factors that go into making a decision that
24 is realistic.

25 One of the greatest challenges -- five, one of

1 the great challenges in the livestock industry in western
2 range grazing areas is a proper distribution of livestock
3 and wildlife by utilizing water sources for uniform
4 distribution or grazing in a given area. Historic water
5 uses could easily be disrupted by imposing
6 unrealistically rigorous water quality standards. This
7 would be devastating to livestock, wild horses and
8 wildlife populations.

9 Six, water quality standards for agriculture
10 use protection should be based on Wyoming open range
11 conditions and not on feedlot studies.

12 Great caution should be exercised by any
13 regulatory entity in this state to ensure that overly
14 zealous regulations do not destroy the fragile balance
15 that has taken over a hundred years to establish.

16 Thank you for the opportunity to comment. I
17 would hope that the board would seriously consider the
18 immense economic and social implications and further
19 water quality decisions that would -- that have an
20 interest on all involved who see no need for further
21 regulations. Respectfully submitted.

22 And I should say that during my lifetime and in
23 the recent ten or fifteen years on Shell Creek, there
24 used to be about ten or fifteen viable cattle operations.
25 Now there are about four. Two of the four are for sale

1 right now. And part of that is due, I think, to the
2 escalated cost of diesel fuel. One operator told me this
3 morning that his diesel fuel bill went from 20,000 to
4 76,000 or 77,000 this year, from \$1 to \$3.48 or
5 something. And that operation is for sale. That's on
6 one side of us. And another operation to the west of us
7 is also for sale.

8 So I guess what I'm saying is, it doesn't take
9 much to upset the precarious balance for a lot of people
10 in this business. And you need to take that into
11 consideration.

12 MR. SUGANO: Thank you, Mr. Flitner.

13 Questions? Joe?

14 MR. OLSON: No, I'm fine. Thanks, Glenn.

15 MR. SUGANO: Looked like you were just
16 getting ready.

17 Thank you, sir.

18 Dave Applegate?

19 MR. APPLGATE: Hello. My name is Dave
20 Applegate, and I live in Casper, Wyoming at 1360 Bretton
21 Drive. I work for Anadarko Petroleum Corporation in
22 their environmental and regulatory group. And I'm
23 testifying today on behalf of the Petroleum Association
24 of Wyoming, of which Anadarko is a member.

25 Anadarko has a keen interest in the proposed

1 MR. SUGANO: We probably would reconvene
2 the meeting in a different site, but we would just keep
3 the record open.

4 I'd like to call on Jim Magagna, then, to give
5 us his presentation.

6 And keep it short and sweet, then, Jim.

7 MR. MAGAGNA: Definitely.

8 Thank you, Mr. Chairman and members of the
9 board.

10 What I would really like to do is give you a
11 little bit of a rancher's practical view of the issue
12 that you're dealing with here today. I'm Jim Magagna. I
13 represent the Wyoming Stock Growers Association. We have
14 over 1,000 members across the state who raise livestock,
15 primarily cattle. And we've represented them for the
16 past 135 years.

17 I was pleased to hear Dr. Raisbeck's report,
18 basically, his literature search, because I think it can
19 become an important tool for resource managers. But
20 that's what it is. It's a tool for those of us who have
21 to manage resources out on the ground to be able to use
22 that as a reference document to help us assess the risk
23 that we're taking and make our management decision. I
24 think it's also important insofar as it has identified
25 some areas for future research needs.

1 As I've reviewed the report, I look at
2 Dr. Raisbeck's recommendations as some very good fail-
3 safe limits. For those of us in the livestock industry,
4 we very seldom have the luxury, in any decisions we make,
5 of being fail-safe. We're constantly weighing risks in
6 our decision-making process, not any one risk in an
7 isolated sense, but together, and determining which risks
8 we can take and which combination of risks will most
9 likely serve the needs of our livestock and ultimately
10 result in profitability for our businesses.

11 And just to give you a couple of very brief
12 examples, sometimes with water, it's a matter of, do we
13 accept water that is of a lesser quality than we might
14 ideally like to have, or are we going to be without
15 water, or are we going to be forced to move our livestock
16 to another pasture that is short of forage and perhaps do
17 some resource damage in that pasture because the pasture
18 that has the forage is lacking in water? We have to
19 assess those risks.

20 We have to assess the risk of using a
21 lower-quality water with the risk of spending sometimes
22 20 or 30, or more, thousand dollars to have a well
23 drilled and put in a pumping system and not knowing if,
24 in fact, the economics of our industry will, in the long
25 run, enable us to recoup the costs involved with that.

1 So I think that it's important that we don't
2 isolate water quality beyond the point and say, well,
3 we're going to guarantee these things or attempt to
4 assure these things without allowing the people who are
5 making the on-the-ground decisions to look at all aspects
6 of this.

7 The other thing that I find difficult in using
8 standards of this type in a regulatory regime is that, on
9 every case-by-case basis, the conditions are going to be
10 different. The impacts, particularly the chronic impacts
11 that are referenced in the document, are vastly different
12 if I'm going to be keeping livestock in that pasture
13 twelve months of the year, utilizing that water, versus
14 if they're going to be in there for two weeks, utilizing
15 that water.

16 It's vastly different if I'm putting breeding
17 stock in there that are going to remain on the property
18 and use it every year for six or eight years or whether
19 I'm putting yearlings on that property that are going to
20 a feedlot and to slaughter, and as long as I haven't
21 created a human health risk, a food-borne risk, I'm not
22 particularly concerned about the long-term chronic
23 effects on those livestock.

24 So while I certainly agree with the goals of
25 DEQ or the EQC as laid out in terms of protecting the

1 livestock industry, things such as the weight gains,
2 reproductive efficiency of our animals and that, for us
3 as producers, have to be, again, weighed against the cost
4 associated with each of those.

5 Sometimes our bottom line is better if we ship
6 calves that weigh 50 pounds or 100 pounds less. It may
7 be because the market value of them is higher. It may be
8 because the incremental cost associated with putting on
9 those additional weights or ensuring that additional
10 5 percent reproductive efficiency are not justifiable in
11 the overall scheme of our operations.

12 So I would simply urge members of this board
13 and the Environmental Quality Council to recognize that
14 we need to maintain those flexibilities. And I would
15 submit to you that these guidelines are best kept as
16 guidelines used by the private sector. They can be a
17 tool for a livestock producer in negotiating with, say, a
18 mineral producer on produced water as to whether or not
19 this water is going to be allowed to flow, whether it's
20 going to receive some type of treatment before it's
21 released onto the land or into a waterway. And then I
22 think they can be a tool for the Department of
23 Environmental Quality when a conflict arises between
24 those parties and they seek administrative review of
25 their dispute.

1 But our position would be that we don't want to
2 see these more intense, more involved rules become a
3 regulatory scheme that's going to determine up front
4 under what circumstances waters can be released from
5 mineral production.

6 And with that, Mr. Chairman, that's all I would
7 have, unless there are any questions.

8 MR. SUGANO: Thank you, Jim.

9 Any questions?

10 (No response.)

11 MR. SUGANO: It doesn't sound like we're
12 going to get back on line. So I'll call on the two
13 representatives from PAW for their presentations.

14 MR. WAGNER: Mr. Chairman, before
15 Mr. Magagna leaves, do you have a written statement, or
16 was that all just off the top of your head?

17 MR. MAGAGNA: I did not prepare a written
18 statement.

19 MR. WAGNER: Thank you. We just need to
20 know whether we have -- we need to keep our file
21 complete. And that's fine. We'll just have to rely on
22 the court record.

23 MR. MAGAGNA: If that's acceptable to you.
24 I could put it into a written statement if necessary.
25 I'd prefer not to unless you feel a need for it.

1 put it out, let us all provide comment on that.

2 MR. SUGANO: Thank you.

3 We have one last person in the Jackson
4 audience, and that's Joanne Tweedy.

5 MR. BLAKESLEY: We have, actually, another
6 one. We have Mr. Mark McCarty, as well.

7 MR. SUGANO: Be sure and identify yourself
8 for the court reporter.

9 MR. McCARTY: My name is Mark McCarty, and
10 I represent my family as a ranching operation. I want to
11 thank you for the opportunity to come visit with you and
12 tell you about our experiences with running cattle on
13 produced water.

14 A little bit of my background personally is
15 that I'm a third-generation rancher in the Big Horn Basin
16 area, and we've ran cattle on this water for a
17 significant number of years and a significant number of
18 cattle.

19 All I can do today is tell you what we have
20 seen and experienced and how it's gone for us. We
21 purchased a ranch from the Deseret Ranches, which is
22 south of Cody about ten miles, about six to seven years
23 ago. And during the due diligence process of purchasing
24 this ranch, we were informed and found out that there was
25 some produced water on there that may contain alarming

1 rates of sulfates. We found out that the sulfate level
2 of this water was from 2,300 to 3,100 milligrams per
3 liter.

4 So at that time we thought it would probably be
5 a wise decision to hire a nutrition consultant to consult
6 with us and tell us if this water was going to be usable
7 for us or if there was any way to combat that. And we
8 contacted and hired a Dr. Trey Patterson for a nutrition
9 consultant. And at that time he was on faculty with
10 South Dakota State University. And his -- on the side,
11 he had this nutrition consultant business.

12 And if you don't mind, I'd like to read to you
13 some of the -- some of his opinions on what he's seen and
14 written us from our running cattle on this water.

15 It was brought to my attention that there are
16 proposed regulations to lower the sulfate standard in the
17 oil field discharge from 3,000 to 500 milligrams per
18 liter. It is my professional opinion that such a change
19 in the standard would be unnecessary and would
20 potentially exclude useful livestock from the productive
21 use in Oregon Basin, Wyoming.

22 As you know, I have sampled the water that your
23 cattle are consuming in the location that was over 2,200
24 milligrams per liter sulfate. As a professional
25 nutritionist, I viewed the cattle before and after they

1 were consuming the water. The cattle actually increased
2 in body condition score over the period of time and were
3 in good nutrition and health status. Production numbers
4 that you shared with me were consistent with the cattle
5 being in both good nutrition and health.

6 There is no question that high sulfates in
7 water are a concern for animal nutrition and health. We
8 conducted a series of experiments when I was on faculty
9 at South Dakota State University that showed the critical
10 level of sulfates in water to be approximately 3,000
11 milligrams per liter. In other words, we concluded that
12 water below 3,000 milligrams per liter was suitable for
13 cattle. We consider water to be toxic if it contained
14 4,000 milligrams per liter or greater sulfate
15 concentration.

16 There are some special nutritional
17 considerations for cattle when sulfates are present.
18 Sulfates can reduce the bioavailability of some trace
19 minerals. By specially designing a mineral product that
20 addressed this trace mineral concern, we were able to
21 utilize the water in Oregon Basin while keeping the
22 production and the health of the cattle at high levels.

23 And after he gave us those recommendations with
24 designing the special mineral supplementation, we
25 implemented those. And I can tell you that we run cattle

1 on the produced water areas from about the 20th of
2 November to the 15th of April every year. The cattle go
3 in there, and they maintain -- they go in there with a
4 body condition score of probably five, and they maintain
5 that score, if not incline during that period of time.

6 And one of the reasons, from a cowboy's point
7 of view, that I think that that happens is, it's
8 wintertime, it's cold, and those cattle like that warm
9 water. I've seen those cattle hang around that discharge
10 area for, I think, numerous reasons. One, it's warm.
11 They like that. And, two, they don't have to expel any
12 extra calories or energy to warm that water up when it
13 hits their system, which I think, in turn, helps maintain
14 their body condition score.

15 We have maintained a 92 to a 94 percent wean
16 calf crop off of those cattle year in and year out. And
17 I must tell you that it's our business to make a living
18 raising cattle. And I would not be interested in raising
19 cattle in an area that would be detrimental to the
20 productivity of the cattle, not to mention that the
21 wildlife that depends on the water there is tremendous.

22 So I guess it would be my suggestion that maybe
23 you need to look at this as a case-by-case situation, and
24 maybe there isn't a black-and-white here, as one might
25 think.

1 But thank you for your time.

2 MR. SUGANO: Thank you.

3 Any questions? Bill Welles.

4 MR. WELLES: Having been a rancher and
5 having had similar experience with produced water, albeit
6 in the Powder River Basin, and having also used
7 nutritionists such as you have -- and I would like you to
8 repeat his name. I didn't quite catch that.

9 MR. McCARTY: Dr. Trey Patterson.

10 MR. WELLES: Can you give us a little bit
11 more information on the trace mineral package that he
12 prescribed and that you have used and, again, the effects
13 not only on your weaning percentage, but perhaps a little
14 bit on how your cattle bred back, you know, just a little
15 bit more information there, and, also, what type of
16 cattle, what breed? I'm interested in that, too.

17 MR. McCARTY: We run -- a quick deal on
18 our cattle operation. We run Angus cattle, commercial
19 cattle. We breed to calve in May and June. We run out
20 year-round. We have year-round grazing. Our breed-up
21 has traditionally been between 94 and 96 percent. We'll
22 wean at 92 to 94 percent. As far as the specifics of the
23 mineral pack, I'd be happy to get that to you. Off the
24 top of my head, I can't remember the minimums and
25 maximums. But I can tell you that he raised copper and

1 been a lifesaver, definitely economically for us and many
2 of our neighbors in the Powder River Basin.

3 I speak and represent here today Jerry Geer,
4 who lives south of town in Gillette, Wyoming, and Faye
5 Mackey, also owning a ranch around Gillette.

6 I respect the study of Dr. Raisbeck and believe
7 that the data will be very helpful for us in the ranching
8 industry, that we may be able to use some of that data in
9 the future to make our management decisions. But I
10 submit to you that some of the suggested standards, if
11 they are suggested, are unrealistic and that the
12 restrictive standards, if they were implemented, are not
13 necessary for our livestock.

14 That livestock that we have has been drinking
15 that water, that very same water, with positive results
16 in the areas of calf weight and also utilization of our
17 pastures. I would urge you to keep the policy a policy,
18 to keep the government regulations as much as possible
19 out of our business. I would ask that you let us make
20 the management decisions, that we be allowed to weigh the
21 risks, versus the benefits. People in the ranching
22 industry weigh risks and benefits every day of our life.
23 That's what we do.

24 I would ask that you continue keeping this
25 policy a policy. Please keep it flexible so we are able

1 to use and be able to do what we need to do when we
2 manage on our ranch. And, also, that helps us if we can
3 have exceptions to the rule. It seems to me if you make
4 a hard-and-fast rule, one-size-fits-all, it doesn't fit
5 very many.

6 I appreciate the chance to speak to you again.
7 I know you've heard me before. But I can't emphasize
8 enough to ask you to keep the policy flexible and open so
9 the ranchers of the community, whether they be here or
10 the Big Horn or wherever, that we can manage it and make
11 our own decisions on our ranch.

12 Thank you. Thank you for your time.

13 MR. SUGANO: Thank you.

14 Are there any questions for Joanne?

15 (No response.)

16 MR. SUGANO: John, just for clarification,
17 the EQC now has this as a rule, don't they?

18 MR. WAGNER: Mr. Chairman, I'm glad you
19 brought that up, because several people have referenced
20 the idea of whether it should be a policy or a rule. As
21 you may recall, when we originally started this whole
22 thing, it was the Ag Use Protection Policy. And that's
23 the way the agency originally brought it forward.
24 However, the Environmental Quality Council decided that
25 they would prefer it to be a rule. And that's what we

1 MR. WELLES: Aye.

2 MR. OLSON: Aye.

3 MR. SUGANO: Aye. That motion carries.

4 Is there any old business to come before the board today
5 or any new business? We'll go around to the satellite
6 sites. Does anyone have anything they would like to add?

7 MR. HILLBERRY: This is Jim Hillberry in
8 Worland. Hello?

9 MR. SUGANO: Yes. Go ahead, Jim.

10 MR. HILLBERRY: We were blacked out from
11 1:00 until about five minutes ago. So, consequently, we
12 were not able to present any testimony on the water
13 quality and Dr. Raisbeck's study. Will that be
14 permissible at your December meeting and still have
15 effect in your decision-making?

16 MR. SUGANO: You know, we have to sign off
17 here in Jackson at 3:50. So there's still plenty of time
18 if you folks would like to make a presentation. We'll
19 take your comments now. Otherwise, we have left our
20 meeting open to written comments prior to our next
21 meeting. But if you'd like to do an oral presentation
22 now, feel free.

23 MR. HILLBERRY: Yes. This is Jim
24 Hillberry. I'm a ranch owner at Hot Springs County,
25 particularly on the Cottonwood Creek drainage. And I've

1 provided to the council previously pictures of the
2 results of discharge water, the benefit to livestock and
3 crops in that drainage. I'm particularly concerned about
4 the comments of Dr. Reisbeck concerning the sulfates,
5 chlorides, TDS and sodium.

6 Now, in the last fifteen years, we personally
7 have been conducting an experiment on that drainage
8 because we use that water year-round. And we have yet to
9 have an identifiable case of any problem with all of
10 these issues in the levels of minerals that are going
11 into that water. And there's been several thousands of
12 head of livestock over this fifteen years that have used
13 that water. They also have consumed thousands of tons of
14 forage from production of that water. So we feel that
15 those limits that are currently established should remain
16 in place and not be reduced.

17 And we have offered our ranch as a site for
18 continued study on this. And as yet, we've not had any
19 response. But this would be a living on-the-ground
20 experiment to present that the results of this discharge
21 water is beneficial to not only our ranch, but 35
22 additional miles and families that are producing in that
23 area.

24 The main thing, as I think Dr. Wagner and
25 Dr. Cora -- or John Cora witnessed when they did the tour

1 of the Grass Creek drainage, they saw wildlife, antelope,
2 deer, sage grouse and a very good stream bank flora of
3 trees, cottonwoods, grasses, et cetera. So in our
4 estimation, and particularly mine, we can demonstrate the
5 total benefit of this discharge water and prove that it
6 is not a detriment to the production of forage and
7 livestock in this area.

8 Thank you.

9 MR. SUGANO: Thank you.

10 Any questions from our board?

11 (No response.)

12 MR. SUGANO: Any other commenters
13 from Worland?

14 MR. CAMPBELL: Yes. This is Lee Campbell,
15 the Hot Springs County planner. I had forwarded written
16 comments from our county commissioners that I believe
17 are -- have been received in Jackson.

18 First of all, I'd like to say that the quality
19 of the comments that we've heard today are just superior.
20 It's just been wonderful to listen in and see the way
21 that people have done such good, methodical, scientific
22 work.

23 I did pick up a terminology from Dr. Raisbeck's
24 presentation that kind of caught my ear. And he used the
25 terminology "geothermal watersheds." And I just lit up

TESTIMONY – JUNE 15, 2007

Waste & Water Advisory Board Meeting

CHAPTER 1 WATER QUALITY RULES AND REGULATIONS

Resubmitted by

WYOMING STOCK GROWER'S ASSOCIATION

August 26, 2008

1 constructive ways.

2 I think one of the things that was striking, and

3 I want to mention it, is the fact that there are certain

4 discharges that occur that if they were to fall underneath

5 the new Section 20 or the new Appendix H probably wouldn't

6 have been allowed at the time that they were discharged

7 and they occur today and people are using that water. And

8 I think it is a very important point from a public policy

9 perspective to keep that in mind.

10 CHAIRMAN SUGANO: All right. If there are

11 no further Board questions or comments, I will open the

12 floor to public comments. If you will come forward and

13 sit at the table, speak into the mike. And we do have a

14 court reporter with us, so could you please identify

15 yourself before you make your statement.

16 Is there anyone that would like to come forward

17 and address the Board?

18 MR. BRUG: My name is Robert Brug, B R U

19 G. I'm a rancher in the Powder River Basin. And the

20 rules and regulations that has brought down on us that

21 have totally split the state on our property we have to

22 live with as a landowner.

23 I've got some photos here of a storm event that

24 took place just a while back. It is not the last event

25 that occurred in that area. I would like to pass these

1 around and have you guys take a look at them. And some of
2 the rules and regs that was put down on us we have to live
3 with and they're not very desirable.
4 First of all, in bypass of reservoirs -- if you
5 permit this reservoir, you're allowed one fill a year on
6 it and if these reservoirs have got a bypass around them,
7 that means that you don't have the ability of that fresh
8 water polluting the discharge water that's already in
9 there. And that's a factor that's very near and dear to
10 my heart.

11 Now, those pictures, the first ones show water
12 running down a main channel there, how it is out of the
13 banks. This was a flood event that you're looking at
14 there. And then the rest as you go in to see these
15 washes, this is a bypass that was put around a couple of
16 impoundments of storm catches, one of the, I guess you
17 would call it, off-channel tributaries of LX Bar.

18 And the erosion that occurred there was
19 tremendous. Now, that doesn't include the last storm
20 event. That includes our first storm event. Our last one
21 occurred the 6th and 7th of June here this month.

22 So the amount of soil that's lost is tremendous.
23 And we're going to have to gather some soil up and stick
24 it in there. This happened on the Mad Gulf Ranch. It is
25 kind of a bad situation when you're in rough country to

1 try to figure out a bypass that will be effective that
2 won't cause a whole lot of soil erosion.
3 And I think those pictures pretty well -
4 MR. OLSON: Robert, I think we got one of
5 your other things with this.
6 MR. BRUG: I'm just too free with my
7 information.
8 MR. OLSON: I don't want to read anything
9 I shouldn't.
10 MR. BRUG: I think there's going to be
11 some water right issues with this involved, and I believe
12 that it looks to me like this thing wasn't thought out too
13 well and there should be more thought put in it.
14 As a landowner and totally split estate, this
15 bothers me somewhat -- not somewhat, but a whole bunch. I
16 guess that's the reason I'm here today. That has to do
17 with Mad Gulf. They were in a branding and couldn't get
18 away today.
19 Now, this is my test that I took. If you can
20 hand that out there so they each have a copy of that there
21 and we will kind of go through that.
22 You can see the date when this -- on this first
23 page when this sample was taken and the water was
24 received, that was March 9th. That was shortly after a
25 spring thaw. Now the ground was froze. What water run

1 into this reservoir was about as pure as you can get.
2 Now, you can see that the sodium adsorption
3 ratio in that reservoir, there was some discharge water in
4 it. We had pumped it pretty dry last fall for irrigating,
5 but there was some discharge water in it and that sodium
6 adsorption rate was .8, electrical conductivity was 87.
7 Now, you go back to the next page, another
8 sample was taken 5/8 of this year. The electrical
9 conductivity was 1120, sodium adsorption rate was 9.1.
10 And the reason for that is because this event, storm
11 event, that occurred brought down some of the minerals
12 that's in this soil and actually brought the SAR rate up.
13 And the back page shows where they take their water sample
14 off their WYPDES permit, and the normal range of that is
15 13 and a half to 14 and SAR 1660.
16 This is -- I irrigate out of this reservoir, so
17 you can see, I'm really interested in not having a bypass
18 around it because any storm event does affect the quality
19 of the water. It makes it more desirable.
20 Now, this is a reservoir that has had discharge
21 in it for a series of about five years. I would like to
22 have that handed out, if you would, please. This is a
23 reservoir initially was discharged into by Blaylock and
24 they sold out to Storm Cat, and they have been discharging
25 about six years in it now.

1 There has never been any irrigation out of it.
2 There's been quite a little evaporation. It is a pretty
3 good-sized reservoir. And this first event that took
4 place when the ground was froze, the SAR was 2.4,
5 electrical conductivity was 136. Now, you understand this
6 water -- there's never been any water pumped out of this
7 reservoir.
8 And then I took another sample at the next storm
9 event and it went up to 13.9. Now, a lot of that was
10 brought in off of erosion just passing over the soil after
11 it has been thawed out. It wasn't froze. And the
12 conductivity is 1250.
13 And on the last page, this is what comes out of
14 the discharge permit at the discharge there. And the
15 sodium adsorption rate is 21.2, conductivity is 1680. So
16 you can see that a bypass around my reservoir would really
17 be detrimental to me if I want to use it for irrigation.
18 One I'm irrigating out of, this one I haven't, but I
19 anticipate to irrigate out of it so bypass is not a
20 workable solution for me to handle water.
21 Have you got any questions?
22 CHAIRMAN SUGANO: Does the Board have any
23 questions or comments?
24 Bill Welles.
25 MR. WELLES: Robert, good to see you

1 again.

2 This is a good example -- I guess I will try and
3 not put words in your mouth. See if you agree with me -
4 of site-specific situation. It is not necessarily going
5 to be the same throughout the Powder River Basin. It is
6 not going to be the same throughout the state. This is a
7 perfect example of -- in my interpretation of why you have
8 difficulty with an encompassing rule that tries to fit
9 everyone. Is that -- am I putting words in your mouth?

10 MR. BRUG: You're right on. And there's a
11 lot of people that have discharge on them maybe don't have
12 the same interest in it as I do. And since I'm going to
13 be irrigating with it I watch it really closely because
14 what comes out of the discharge point isn't necessarily
15 what I pump out on my land. And that's the reason I'm
16 taking samples out of the reservoir, so I know what I've
17 got when I use it. And it is very site specific, you
18 know. And sometimes these rules that are brought down on
19 us and regulations don't fit.

20 MR. WELLES: Well, we thank you very much.

21 These are very illuminating and appreciate your time.

22 MR. BRUG: Thank you.

23 CHAIRMAN SUGANO: Yes, next. Go ahead.

24 MR. GRANT: Good morning, Mr. Chairman,
25 members of the committee. My name is Matt Grant with the

1 I realize this industry is important. I think
2 we all do. They provide a great economic benefit to our
3 state and our communities. But that doesn't mean there's
4 only one way to handle the produced water. If we are to
5 require landowners to take -- bear that impact and that
6 cost -- those costs are being externalized on us and
7 instead of our uses being protected, they're being
8 destroyed. It is a taking, essentially.
9 There are viable and real alternative methods
10 for managing this produced water rather than pushing the
11 costs and the impacts off onto the landowner. And I think
12 that we ought to raise that bar for industry to be able to
13 do that. Rather than going to the lowest common
14 denominator, we should try to achieve the highest possible
15 potential for this industry and for our future
16 sustainability.
17 Again, I'm happy to provide you with more
18 information, more photographs, be happy to take you out in
19 the field to look at some of the impacts and the issues.
20 And I just thank you again very much for your time.
21 CHAIRMAN SUGANO: Thank you, Jill.
22 Questions, comments?
23 Anyone else want to approach?
24 Yes, ma'am.
25 MS. TWEEDY: Good morning. I just arrived

1 so I'm trying to get myself organized here. My name is
2 Joanne Tweedy. I'm from Campbell County, a rancher from
3 Campbell County, and I am here to speak for myself as well
4 as for quite a few others which I will name. I represent
5 in the area of 200,000 acres of land and within these
6 confines these people are Rice -- Betty Rice, Tom Harriet,
7 Ed Knutsen, Faye Mackey, Jayne Harris, Gene Litton, Jerry
8 Geer, Joel Ohman.

9 First of all, some of our concerns within the
10 policy that we're working on is -- sorry, now I can't find
11 it -- is we would like to see the policy remain a policy
12 versus a rule. We feel that many, many issues that come
13 forward are site specific, and the flexibility of a policy
14 to possibly work in that area would be much easier than
15 making a hard and fast rule. So we encourage you to keep
16 it as a policy.

17 The second thing that we are concerned about is
18 historic discharge. The way we read it, protecting
19 discharges before 1997 really doesn't help any of us on
20 this list in any way. We have coalbed methane water that
21 we are using. We have spent many, many dollars setting it
22 up, using the water on our ranch, and all of it has
23 started after 1997.

24 We believe that it should be considered historic
25 if it has -- if we are using it and it is up for a permit

1 such as five years, then that should be considered
2 historic discharge.
3 We have put a lot of time and energy in our
4 operation. We were allowed to use the water. Now we have
5 set it up to use the water, we certainly do not want it
6 taken away because of some onerous regulation that would
7 come after 1997.
8 Naturally irrigated lands is another concern
9 that we have. The effluent limits for naturally irrigated
10 lands are so strict that the natural quality of many of
11 the drainages does not meet those limits. This wording
12 means that even though a landowner would want the water in
13 the channel for beneficial use, this rule would trump a
14 landowner's needs.
15 The practical effect of this rule is that it
16 would eliminate a valuable source of our water that we use
17 for beneficial use. We're concerned that it would have to
18 apply to crop standards and we are not using it for crops.
19 We have never used it for crops, and we wish to continue
20 using it as we are using it now.
21 We thank you for your time and hope things work
22 out well for all of us, not just one small portion of an
23 area. Like I've told you before, I represent a lot of
24 people. We're behind in our work. It has been raining,
25 which is a godsend, without a doubt. But these people are

1 usually here and they are just unable to attend. I like
2 to see them come and represent themselves, but it is just
3 the spring of the year and that's hard to do.

4 Thank you for your time.

5 CHAIRMAN SUGANO: Joanne, where exactly is
6 your geographic area?

7 MS. TWEEDY: My geographic area, I live
8 approximately as a crow flies 20 miles south-southwest
9 from Gillette. Tom Harriet is up by Buffalo, Powder
10 River, if you will. Knudsen, Powder River. Faye Mackey
11 would be in the Gillette area. Harris has a large ranch
12 north of Gillette. Gene Litton has a large ranch south of
13 Wright, Wyoming. Joel Ohman is about 30 miles south of
14 Gillette and his land runs all the way over to Highway 59.

15 CHAIRMAN SUGANO: Great, that helps.

16 Thank you very much.

17 Questions or comments?

18 Thank you, Joanne.

19 Anyone else that would like to come forward?

20 MR. PALMA: Good morning, members of the
21 Board. My name is Jack Palma. I'm an attorney in
22 Cheyenne. I represent Williams Production Company/RMT and
23 I appreciate the opportunity to present some testimony
24 this morning which is basically to highlight the written
25 comments that we provided and filed with the DEQ earlier

1 would be more than happy to write the names down or e-mail

2 you. Do you have any questions?

3 CHAIRMAN SUGANO: Questions?

4 Thank you. Thank you for your time.

5 Do we have someone else that would like to come

6 forward?

7 MR. JELLIS: Mr. Chairman, ladies and

8 gentlemen of the Board, my name is Rich Jellis, J E L L I

9 S. I come from Sheridan, Wyoming. We are on the edge of

10 the natural gas -- the CBM play. We're right directly

11 north of Sheridan. And we've got a fair amount of wells

12 on our ranch. We've been trying for a number of years,

13 since about 2001, to be able to get to use the water. We

14 have done a number of tests with the companies. They're

15 running some water on there.

16 We had great results on growing upland, dryland

17 grass. We didn't see any problems with the soils. The

18 soils didn't change and start changing to get sodic.

19 We also use the water in our pivots. We don't

20 get a lot of water, like I say, because we get a lot of

21 water out of Goose Creek which is below Sheridan, so we

22 get a lot of the water which is runoff from Sheridan and

23 ranches up above us. As far as I'm concerned, water is

24 water. We know how to handle it. We check our soils

25 yearly. If I was -- if I was trying to be like some other

1 people I understand, you know, it is pretty hard -- you
2 know, we talk about controlling the water up above us,
3 but, you know, how can we even control what is done with
4 the water and the lands? You know, there's so much of the
5 irrigation, your towns -- we can't talk to them about not
6 using different types of fertilizer, insecticides,
7 pesticides which that could harm people down below.
8 I listened to the people who have vegetable
9 gardens and stuff, you know, how do we know, can we put a
10 finger on what the neighbor up above you, what his
11 practices are.
12 I don't have a lot more to say. Don't want to
13 keep beating a dead horse on this. This water for us has
14 been very good. We store it in a large reservoir. We
15 don't do any flood irrigating with that water. But where
16 we use it with our pivots, we grow some of the best
17 alfalfa in the country. It is just -- it has been a
18 really good, good thing for us, and even with the water,
19 you know, the rains that we've had up in Sheridan this
20 year, I'm looking forward to when we start on our second
21 cutting to be able to use that water.
22 We do take -- we do have a mixing method because
23 we take so much water out of the creek and then we have
24 also got our water that comes off the mountain. It is
25 mixed very, very lightly. I don't see ever, ever seeing

1 it change.

2 But one thing that I do know, and since this has
3 started, and before the coalbed methane, I worked with a
4 number -- a company that has been doing stuff around the
5 world and they called me about how do you handle these
6 waters that you're using in Wyoming.

7 I use a number of different products that work
8 with high salt content because some of the parts of the
9 country they're working in -- like in Vietnam, they flood
10 with saltwater. They flush their soils. And there's ways
11 of doing that. You know, it is like the ephemeral
12 drainages.

13 It is the irrigation practices, too, that make
14 the difference how you're handling that water. You know,
15 a lot of these naturally irrigated fields, well, they're
16 naturally irrigated but also the ranchers also put
17 spreader dikes across them to spread that water out. If
18 they had -- if they had streams and springs that are
19 continually going over that before the coalbed methane
20 water they would divert that water so it wouldn't go over
21 their ground.

22 I just think that there's good practices of
23 using this water without hurting the neighbor up above or
24 below. I believe that this should stay as a policy and be
25 able to deal with land and ranch and farm owners as these

1 so-called problems arise.

2 But if it was up to me, I wish I could take the
3 water that has come across us and put a pump at the bottom
4 and pump it back up and use it all over again. So thank
5 you very much for your time.

6 And you are also welcome to come to the Wrench
7 Ranch. I would be more than happy to show any one of you
8 or all of you how we developed and how we handle water.
9 So you're welcome to come. Thank you.

10 CHAIRMAN SUGANO: Bill, go ahead.

11 MR. WELLES: Mr. Chairman, Mr. Jellis,
12 could you tell us, the pivots that you're irrigating the
13 alfalfa, are they on a well system and then you're mixing
14 produced water with that or how does that work?

15 MR. JELLIS: The three main pivots on that
16 ranch, we use two of them that we use the coalbed methane
17 water. The water is being pumped from reservoirs on the
18 east side of the ranch, they pump it over into a large
19 reservoir that we have on the west side. That water is
20 fed down into the two pivots.

21 We are also -- we also get runoff water from the
22 drainage up above. It is a large drainage. We also put
23 our mountain water in there, too.

24 MR. WELLES: So it is a blend of
25 irrigation water coming by ditch from the mountain,

1 natural runoff, and coalbed methane produced water.

2 MR. JELLIS: Yes, sir.

3 MR. WELLES: And do you have just a

4 ballpark figure as to what percentages?

5 MR. JELLIS: Somewhere our mixing ratio,

6 what we had our engineers look at it, it is going to be

7 somewhere between 8 to 10 to 1. It is going to be pretty

8 light.

9 MR. WELLES: The 1 being the produced

10 water?

11 MR. JELLIS: 1 being the produced water.

12 MR. WELLES: Great. Thank you.

13 MR. JELLIS: You're welcome. Thank you.

14 CHAIRMAN SUGANO: Thank you, Rich.

15 Next.

16 MS. SABEC: Mr. Chairman and members of

17 the Board, my name is Margo Sabec. I represent Devon

18 Energy today.

19 I want to talk about a few things that haven't

20 been mentioned or discussed in detail yet this morning.

21 But these issues and many other issues have been discussed

22 and developed and commented on at great length in the

23 record on the Section 20 policy/rule in its many

24 iterations.

25 The reason the record related to Section 20, I

COMMENTS – FEBRUARY 15 & 16, 2007

Environmental Quality Council Hearing

CHAPTER 1 WATER QUALITY RULES AND REGULATIONS

Resubmitted by

WYOMING STOCK GROWER'S ASSOCIATION

August 26, 2008

12 Feb 2007
RECEIVED
FEB 14 2007

Bill Di Ruiss,

FILED
FEB 14 2007

Terri A. Lorenzon, Director
Environmental Quality Council

I would urge you not
to make any changes
to your rules concerning
coal bed methane water at
your hearing on Feb. 15th
and 16th.

A 50 year storm event
seems a little unreasonable
and would result in a lot
more dirt work and expense
with a loss of more top
soil.

The methane water has
been a big help on my
ranching operation and I
would hate to lose it.

Carleton F Perry
337 Lower Prairie Blvd.
Sheridan Wyoming
82801

FILED

FEB 14 2007

Mark Gordon, Chairman
Wyoming Environmental Quality Council
122 West 25th Street, Herschler Building, Rm 1714
Cheyenne, Wyoming

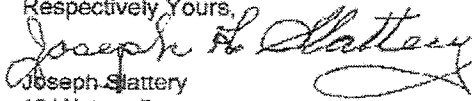
Terri A. Lorenzon, Director
Environmental Quality Council

Dear Sir,

Our family has been ranchers in Campbell County since 1916, so we know the value of water both for livestock and wildlife. We are very much against what is being proposed with the CBM water. We are going into the eighth year of drought so the CBM water has really been a benefit to the stock producers, without this water a good share of them would have had to sell out to only a few head.

The main issue is so many times people sitting on Committees and Councils don't realize that better decisions can be made by the landowners and the companies on site than those who have an agenda. So I strongly recommend working with the ranchers and oil companies on this matter so that everybody comes out a winner instead of a few that their only concern is to hobble our economy and way of life.

Respectively Yours,


Joseph Slattery
16 Waters Dr,
Pine Haven, Wy 82721-9761

February 14, 2007

Susan James
P.O. Box 2813
Gillette, WY 82717

FILED

FEB 14 2007

Terri A. Lorenzon, Director
Environmental Quality Council

Mr. Mark Gordon, Chairman
Wyoming Environmental Quality Council
122 W. 25th St.
Herschler Bldg. Room 1714
Cheyenne, WY 82002
Fax - 307-777-6134

Mr. Bill DiRienzo
Wyoming Department of Environmental Quality
Water Quality Division
Herschler Building, 4th Floor West
122 West 25th St.
Cheyenne, WY 82002

RE: Policy/Rulemaking on Chapter 1, Section 20 - "Ag Use Protection Policy"

Dear Mr. Gordon,

I am a landowner in the Powder River Basin and I am opposed to Appendix H because I feel it would eliminate the use of a very important water resource which we currently utilize for livestock and irrigation. With the current drought conditions, eliminating water usage would be devastating to area ranchers, livestock and wildlife that currently use the CBM water. This existing Policy and proposed Rulemaking (if passed) has the potential of affecting current discharges already in use as well as future discharges. Existing reservoirs will be affected and may have to be abandoned and construction of new reservoirs or facilities will cause unnecessary disturbance on our lands. I feel that it should be up to us as private property landowners to establish water management plans that are acceptable and useful with our CBM Service providers to meet our individual needs.

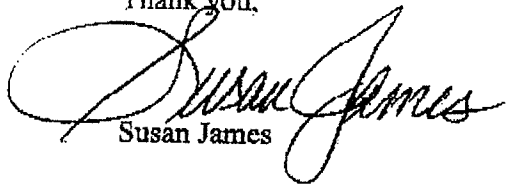
Containment of the 50 year event could result in partially filled reservoirs and this would not benefit any landowners, wildlife or livestock. Landowners would lose their right of choice. The majority of the CBM wells in the basin have a stock water appropriation, filed with the State Engineer, associated with them. This rule infringes upon that right and I am not in favor of this.

The limits proposed have been currently based on California studies and not the more appropriate Bridger study. Would it not be more beneficial to use the Bridger study that addresses our soil types and vegetation, than that of California soils and vegetation?

This rule will not solve any problems, but will create new ones. If this is passed, it will deny us as private property landowners the ability to make decisions concerning our own land and it will eliminate a valuable resource that should be available to us.

Thank you for allowing me to comment on the issue and to express my concerns.

Thank you,


Susan James

James A. Wolff
148 Recluse Road
Gillette WY 82716

FILED

FEB 14 2007

Terri A. Lorenzon, Director
Environmental Quality Council

February 14, 2007

Mr, Mark Gordon Chairman
Wyoming environmental Quality Council
122 W. 25th Street
Herschler Bldg., Room 1714
Cheyenne, Wyoming 82002

And

Mr. Bill DiRienzo
Wyoming Department of Environmental Quality
Water Quality Division
Herschler Bldg., 4th Floor West
122 West 25th Street
Cheyenne, Wyoming 82002

Re: Proposed Section 20, Appendix H – Agricultural Use Protection

Dear Sir:

The proposed Appendix H will take away the much needed water for wildlife and livestock. If it wasn't for CBM water the past 7 years, all of our reservoirs would have been dry. This would have created another hardship to go along with the drought. The use of CBM water has been a blessing, to lose this use would be devastating to our operation. We feel this new rule would infringe on our property rights and take away our right to operate our ranch. Good stewardship of our ranch is top priority for us, and managing the use of the water to beneficial use for our cattle and the wildlife is just one of many tools we need to operate our ranch.

In summary we do oppose this proposed Section 20, Appendix H – Agricultural Use Protection. If it does pass our ranch will suffer along with Campbell County and the state of Wyoming.

Thank You.

James A. Wolff

James A. Wolff

Martha Joan Wolff

Mitch Burley
23 Stacy Rd
Gillette WY 82718
307-686-3141

February 14, 2007

FILED
FEB 14 2007

Mr. Mark Gordon, Chairman
Wyoming Environmental Quality Council
122 W. 25th St.
Herschler Bldg, Room 1714
Cheyenne, WY 82002

Teri A. Lorenzon, Director
Environmental Quality Council

Dear Sir:

My name is Mitch Burley, I have a small place that has three methane wells on it and have been there for several years as my place is small I opted to have the water piped on to my neighbors place and they have utilized it for watering their livestock, their place is very typical as it has a vast amount of acreage but limited sources for watering their livestock. Their pastures our being utilized and cause our weighing more because of the added water locations that have been developed through CBM. Livestock will only go so far from their water source so a lot of the pasture land was not being utilized until water was developed in different parts of the pasture. This would not be affordable for my neighbor to do by himself. The impact of CBM has been for the most part very good for the range, there is more than enough regulation to protect the environment. The upcoming Citson petition will kill most CBM projects and a lot of Ranchers will not only lose the great benefit of the water distribution that is being done on their places, they will also lose revenue from surface use agreements as well as mineral royalties. This petition if passed will have a major effect on every person in the state, jobs will be lost, companies will go broke etc. The PBERC has said they our not against CBM development, but their unreasonable demands speak for its self. In closing my personal belief is that the benefits of CBM development out weight the negative. I also work for a Company that has CBM development underway and talk regularly with the ranchers in the area and most have really appreciated the benefits from CBM. I ask you for the sake of the Rancher, the CBM employees and the companies they work for and the state itself to turn down the unreasonable demands of the PBERC.

Thanks Mitch Burley

Mitch Burley

Barish Land, LLC
29255 Old Hwy 87
Buffalo, WY 82834

Barish Land, LLC

February 14, 2007

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

FILED

FEB 14 2007

Terri A. Lorenzon, Director
Environmental Quality Council

Dear Mark:

This letter is coming from a landowner, rancher, coinsurer of the land, and presently working with a CBM company.

With this in mind I have viewed the CBM industry from all sides of the table as you have also. This industry along with all other industries, organizations, teaching staffs, political staff, so on and so forth are tied into the 80/20 rule. Eighty percent being the ones that enjoy our great state, take care of the lands within our state and want to see this state remain, somewhat, the same for our children and grandchildren. The twenty percent are the ones that don't care of the items mentioned above. They only care of producing an income to benefit them.

Unfortunately the 20 percent, as we know, have blackened the eye of the CBM industry, but as you and I also know, there are twenty percent of the business that claim to be making a living utilizing the land in the state, such as some ranchers, land developers, outfitters, etc. that are also abusing the lands within the state of Wyoming. Are these businesses going to be filtered and scrutinized like the CBM industry? If this water quality requirement is adopted I feel that one is pointing a finger at only one industry that can and will benefit the State of Wyoming for sometime. Not all businesses in the state, which also benefit from the use of the land, are having the same scrutiny.

Camino and Sons have land in the Powder River Basin. It is no secret that this land can be very, very dry most times of the year. I remember when my Granddad and Dad would state how nice it would be to have live running water for the livestock. Especially those years when we didn't have enough reservoirs water to maintain the livestock and had to depend on windmills. A windmill is only guaranteed to work until you are out of site; therefore we never really had a stable water source.

How far will the Wyoming DEQ go in taking away the rights of the surface owner? This is a possibility if these water requirements are passed. Ranchers may find themselves having to come up with other water sources for their livestock because their present water doesn't meet these stringent regulations. The DEQ may at some point say what is good for the CBM industry has to be effective for all folks, including the rancher.

We all have a vested interest in the state; some have longer vestments, such as the Camino's four generations of ranching. I feel that with reasonable recognition of water usage the state and its citizens can benefit from the CBM industry to help with the economy along with the utilization of "our" lands within this state.

Please consider these points in making a justified decision.

Dennis Camino
Dennis Camino

Dudley and Marilyn Mackey
8466 N. Hwy. 14-16
Gillette, WY 82716

FILED

FEB 14 2007

Terri A. Lorenzon, Director
Environmental Quality Council

February 14, 2007

Mr. Mark Gordon, Chairman
Wyoming Environmental Quality Council
122 W. 25th St.
Herschler Bldg., Room 1714
Cheyenne, WY 82002

RE: Citizen Petition for Rulemaking-Powder River Basin Resource Council
Proposed Chapter 1, Section 20, Appendix H-Agricultural Use Protection

Dear Mr. Gordon;

We would like to comment on the WDEQ's proposed Chapter 1, Section 20, Appendix H-Agricultural Use Protection proposed rule and how it will affect our ability to effectively manage our ranching operation.

Water is the lifeblood of any operation and a precious resource in this often drought-impacted region. We have several CBM operators in production on our ranch and have worked closely with them to design and implement a water management plan that will enhance the forage resources for our livestock and the wildlife on our ranch, both now and for the future. Through working with these operators, we have managed to make more effective use of forage and have been able to sustain our ranching operation through some very severe drought years recently. We have worked to contain the produced water on our own lands in order to not impact landowners downstream from us and cause them management problems not of their making.

Reservoirs, pipelines, and watering tanks are all tools we have used to make good, beneficial use of this water. We are also exploring potential irrigation uses to improve carrying capacity, and tree planting to improve wind protection, snow capture, and wildlife habitat.

One of the frustrations we have encountered is the inability to make better, beneficial use of this water resource due to the ever increasing regulatory atmosphere regarding the produced water. We have been limited in our ability to use reservoirs due to water quality concerns by state agencies which has resulted in pastures that have all the water concentrated in one area, while there is no water in the rest of the pasture. Water supplies to cattle have been shut off due to the CBM producer's fear of fines for water over-flowing reservoirs.

We share with you these facts as background to why we do not support the proposed Appendix H rulemaking you are considering. The rule, as it is proposed, would not allow most our existing reservoirs to continue in use due to the 50 year/24 hour requirement. We live on Wildcat Creek


and in our lifetime there have been two lawsuits in this drainage regarding water. One of our downstream neighbors sued over a reservoir that was built on our ranch because it did not allow naturally occurring flood waters to reach the hay fields on his ranch. He won the lawsuit and the reservoir was breached. The second lawsuit involved the same neighbor who sued over CBM water coming down and "negatively" impacting his hay fields. A settlement was reached and now the CBM operators do timed releases of CBM waters in this drainage. Based on this past history, where is the logic and sense in a 50 year/24 hour containment rule and where does it fit in with our water laws of this state? We are of the understanding that naturally occurring rain events are **not** to be held up in order for downstream water rights holders to be able to receive those flood waters. This proposed rule seems to violate that water law principle, as well as make it economically unfeasible to build and use many reservoirs.

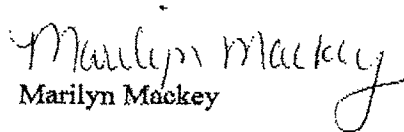
We believe the standards that this rule making will impose on CBM waters will negatively affect our ability to work with operators to make beneficial use of the water on our lands. The proposed standards are so artificially high that we will lose our ability to use the water to improve forage utilization and provide for a well-watered ranch for livestock production. We are also concerned that this rule making will negatively affect current livestock wells in existence and may pave the way for litigation which could shut down many of our existing stock wells and agricultural uses of those wells.

While we don't believe there should be no regulation of this industry, this proposed rule-making will create severe restrictions on landowners and CBM operators being able to work together to develop good, beneficial water management plans which will enhance agriculture operations and wildlife habitat in our state. The flexibility of individual landowners and operators to maximize use of this precious resource should not be lost in over-zealous use of regulations brought on by environmental groups with hidden agendas using a few disgruntled landowners as their cover.

We urge you to **NOT** adopt this proposed rule and to give us flexibility to manage this water resource to benefit our business, the environment and the economy of our state.

Sincerely,


Dudley Mackey


Marilyn Mackey

cc: Mr. John Corra, WDEQ
Governor Dave Freudenthal
Senator John Hines
Senator Michael Von Flatern
Representative Erin Mercer
Representative Tom Lubnau
Representative Sue Wallis
Representative Tim Hallinan
Governor's Coalbed Task Force

Faye Mackey

Box 2015, Gillette, WY 82717

February 14, 2007

FILED

FEB 14 2007

Mr. Mark Gordon, Chairman
Wyoming Environmental Quality Council
122 W. 25th St.
Herschler Bldg., Room 1714
Cheyenne, WY 82002

Terri A. Lorenzon, Director
Environmental Quality Council

Dear Mr. Gordon:

I am writing to PROTEST the Citizen's Petition brought before you by the Powder River Resource Council. The standards that the Petitioners want are too restrictive and will virtually make the CBM industry a thing of the past. I would like you to consider some things that could happen to me as a rancher if you put the petitioners request into play. I as a rancher will loose most of my water for my livestock. I will then have to drill my own wells and if I had to do that then my livestock will be drinking the same water that you restricted for CBM. Does that make sense to you? I have windmills now that produce water, are you saying to me that you can shut those in with the standards that the PRBRC is asking for? Who is going to monitor these producing wells that arc livestock wells? Common sense must intervene in this situation. The PRBRC has targeted only one industry and that is the CBM industry.

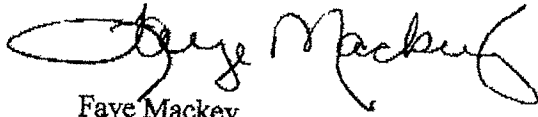
Eric Barlow is my neighbor. His father Bill Barlow came to my father, Bob Force, in 1996 and asked him not to let any methane companies on my father's place because Bill Barlow stated then that the methane companies would do nothing but ruin our ranch and the water would pollute and destroy our grass. Well we developed our ranch with the help of good methane operators and we have no water problems. Our water does not leave our ranch. But I do not find it not odd at all that Eric Barlow, and his mother Dornie Barlow, have problems with the water. They predicted it in 1996 that they would, long before any drilling tower ever stood in the air. Coincidence, NO, Choice, YES. They made a choice then that they would "fight" this methane. Bill Barlow passed away several years ago and shortly after that word came through the neighborhood that the Barlow's were getting some of their wells drilled. Huh! How did that happen? Well now they are enjoying the check in the mail every month from royalties, while on the other hand they are speaking out about how much the water has ruined their place. Well remember, that I am the neighbor and I know differently.

I ask you to consider the truth here. Deny the Petitioners request and put to rest this atrocity brought on by PRBRC who want nothing more than to put a stranglehold on industry. Remember that's what they preached in 1996. Marge West is nothing more than the poster child for the PRBRC. Her testimony in Canada, paid for by the PRBRC, was a lie in the biggest way, when she claimed that the "whole Powder River Basin is

laying wasteland because of the CBM water". Well I live here drove up and down her creek for years hauling kids on my school bus and I can tell you that those trees she is "claiming" the CBM water killed, have been dead for 20 years. Would you find that odd that CBM water can kill already dead trees? These are some of the things that you need to know as you consider this petition.

I thank you for giving me the opportunity to testify before you in January and now hearing me through this medium. The water is vital to our ranching operations, please consider what you will do to the ranching community. Vote NO on the petition as a whole, there are not effluent standards that need to be changed. The WDEQ is doing a good job now, leave it alone.

Respectfully,



Faye Mackey
Box 2015
Gillette, WY 82717-2015

Cc: Wyoming Department of Environmental Quality
Attn: Bill Dirienzo
Cc: Governor's Office
Cc: Governor's Coalbed Task Force
Cc: Campbell County Senate and House Representatives

Wyoming Department of Environmental Quality
Water Quality Division- Attention Bill Dirienzo
122 W. 25th St.
Herschler Bldg., Room 1714
Cheyenne, Wyoming 82002
Fax- 307-777-5973

FILED

FEB 14 2007

Terri A. Lorenzon, Director
Environmental Quality Council

Dear Sir(s),

As Ranchers/Managers, we are very concerned that if Appendix H is allowed to pass with the proposed affluent limits, that it would not only stop CBM produced water but that it would stop all water being pumped to the surface. This would have a Huge impact on our business! This PRBRC citizen petition, if adopted into Appendix H, not only limits water production from CBM, but also could determine the outcome of current and future stock water wells. The new limits could mean shutting our wells down and/or not being permitted for ranch use. This brings to mind several questions such as:

1. "Where will DEQ go next to enforce their water quality standards as per Appendix H"?
2. Would the Ag Use Protection language present a legal problem for DEQ as either a rule or a policy in implementation?
3. Will this policy/rule affect the limiting jurisdiction of the State Engineer?
4. Who is going to compensate rancher who are negatively impacted by loss of water use or by additional acreage required to build reservoirs capable of containing the 50 year/24 hour event?
5. Can you tell me how much rain or snowfall is in a 50 year /24 hour event?

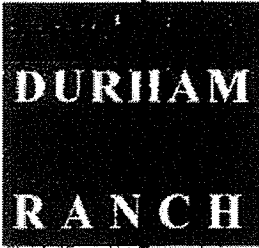
The affluent limits are way out of reason, they are far and above the limits that are currently set for our states drinking water. Additional regulations are creating more work for the DEQ, which in turn requires more labor, which we as tax payers are paying for.

We already have enough government regulations in place! This along with other issues is increasingly taking away our rights as private citizens, land owners and entrepreneurs.

Thank you for your time and we urge you to carefully consider your decision on the Appendix H matter.

Sincerely,

Gib and Kyle Bell
Riata Ranch LLC- Nisselius Ranch Co.
220 Napier Road
Gillette, Wyo. 82718
(307) 685-3754 gib820@hotmail.com



DURHAM RANCHES, INC.

RANCH: 7835 HIGHWAY 59, GILLETTE, WY 82718
307-939-1271 FAX 307-939-1271

BUSINESS OFFICE: P.O. BOX 26158, SAN JOSE, CA 95159
408-291-3600 FAX 408-298-5861

2/14/2007

FILED

FEB 14 2007

Mr. Mark Gordon
Wyoming Environmental Quality Control
122 W. 25th St.
Herschler Bldg., Rm. 1714
Cheyenne, WY 82002

Terri A. Lorenzon, Director
Environmental Quality Council

Dear Mark,

The purpose of this letter is to express my deep concerns over the proposed changes concerning CBM discharges on our property here in Campbell County. It appears to me that if these proposed changes to Appendix H as well as Chapter 1, Section 20 were to go into affect, we would lose the much appreciated water discharge we have been utilizing. I am not clear on all the details but, I can tell you that we have made great use of the water that has been discharged here on my family's Durham Ranch. Mainly for livestock and wildlife use, especially through this extended drought we have been experiencing. We would be very disappointed if we were to lose this resource.

To sum this up, I see some of these changes causing considerable harm to the way we have been operating our ranch. I hope you take these comments into serious consideration.

Sincerely,

A. J. Flocchini III
Durham Ranches, Inc.

MEMBER
NATIONAL BISON ASSOCIATION

MEMBER
NATIONAL MEAT ASSOCIATION

Butch & Debbie Knutson
P.O. Box 2604
Gillette, WY 82717

FILED

February 13, 2007

FEB 14 2007

Mr. Mark Gordon
Wyoming Environmental Quality Council
Herschler Building, Room 1714
Cheyenne, WY 82002
Fax # 307-777-6134

Terri A. Lorenzon, Director
Environmental Quality Council

Dear Mr. Gordon,

We attended the Landowners, CBM Contractors, CBM Service Providers, CBM Producer Employees meeting held in Gillette on February 13, 2007, and are very concerned about the future rights of landowners and CBM Producers. There were approximately 300-400 people in attendance. The meeting was virtually on CBM water discharge and the new policies that the Powder River Basin Resource Council has submitted.

We, as ranchers in Campbell County, are very concerned about what was presented as far as the "Tale of Two Discharge Permits", the "50 Year/24 Hour Standard" and the "12 Stream Miles discharge down stream".

We negotiated with four different Coalbed Methane Companies in regards to Surface Damage, Access and Water Disposal. We believe the agreement reached between a landowner and a producer should remain just that. "Between the landowner and the producer" as long as the future of the land and the environment remain a top priority.

We see the additional water as a blessing for our total ranching operation. Examples: watering livestock and wildlife, additional grass in lower areas and reservoir water that we never had before. Prior to methane water, some of our pastures required our cows to walk 2 to 3 miles to get a drink and now we have an abundance of water spread throughout the ranch.

We feel like we are excellent stewards of our land, that we worked so hard to acquire. What right does a government agency have to dictate or manipulate water usage on our private property. It is our belief, that as long as the water is produced from our land and stays on our land, it should be our decision as to whether the water goes into a reservoir, stock tank or spread out on the soil for irrigation.

Methane water has been discharged on our land for the past 7-8 years and we have seen nothing but positive effects. If there are some ranchers who do not want methane water discharged on their land, that should be their preference and they do not have to agree to it. However, for the landowners who wish to utilize the methane water, that is also their preference and they can make their own agreement with the producers. No one needs the government telling them what they can or cannot do with their privately owned land.

What would a ranch be without water? No cattle..... No wildlife.....No birds.....No livestock. No grass.....No trees. Virtually nothing.

We appreciate your taking the ranchers perspective into consideration in the decision making process.

Sincerely,

Butch Knutson
Debbie Knutson
Butch & Debbie Knutson
(307)686-1207

FILED

FEB 14 2007

Terri A. Lorenzon, Director
Environmental Quality Council

February 14, 2007

Mr. Mark Gordon
Wyoming Environmental Quality Council
122 W.25th St.
Herschler Bldg. Room 1714
Cheyenne, Wy. 82002

Dear Mr. Gordon:

It is of my opinion that the petition by PRBRC be completely rejected for consideration. There are far to many regulations on water discharge now.

I am a landowner in the Spotted Horse Area with that particular creek extending three miles through my property. I have NOT had any damage to my land in regards to water discharge or flooding in the past 5 years that Methane has been produced there.....

My land has become more valuable to me because of the water that is available for my livestock. Due to the placing of the reservoirs my livestock can make better use of the grazing and therefore have increased their weight gain and reproduction.

I willingly leased those minerals for the production of methane gas. And I feel it is between me and the company as to how my property is used. The rules and regulations are becoming far to strict for the benefit of both me the landowner and the company's that are trying to produce..

I feel It is time to put a halt to all of these unnecessary rules and regulations. The Water is of better Quality than most stock and irrigation wells in the State of Wyo.

In summary the rules and regulation are becoming far to complex for the benefit of anyone.

Sincerely,



Orville Carson
219 Werner Rd.
Arvada, Wyo. 82831

FILED

FEB 08 2007

Terri A. Lorenzon, Director
Environmental Quality Council

To. DEQ Water Quality Division

I am writing this letter on behalf of MANTHER Oil & Gas and my ranch located on the Arvada Powder River Area Sheridan & Johnson County. It has been brought to my attention that there is a new bill being addressed to Chapter 1 Quality Standards for Wyoming surface water quality rules & regulations. I was handed a stack of papers to read over on this new bill and to be honest with it is so thick I don't have the next six weeks to go through it all. What I really want to state here is that my ranch needs the C.B.M. water we have had small wells on literally no water on this ranch for 100 years. We have become very dependent on the new water, and I don't think we would make it without it. Especially being that we have had seven droughts in the past decade. I don't know how the surface and you how much we need the water. Our cows don't have to travel 3 miles for water anymore, we have never done so well. Thank God for our water.

TESTIMONY – FEBRUARY 15 & 16, 2007

Environmental Quality Council Hearing

CHAPTER 1 WATER QUALITY RULES AND REGULATIONS

Resubmitted by

WYOMING STOCK GROWER'S ASSOCIATION

August 26, 2008

1 And sitting here listening to the people that are coming up
2 and giving scientific approaches, it's pretty -- pretty
3 difficult sometimes for me to understand that.

4 One of the greatest ones I heard today was
5 Mr. Lowham and some of the things he was saying there,
6 which means it all -- it's common sense. It's something
7 how the oldtimers took care of their ground. And some of
8 these irrigated valleys, they've changed over the period of
9 years from when we come into these valleys. Some of these
10 valleys were able to get rid of their water, you know,
11 naturally, but some due to farming or ranching operations,
12 you know, leveling, it changes the course of the water, so
13 it's understandable we can't get rid of it and it sours
14 some of the soils, but any kind of water's going to do
15 that.

16 I feel that some of the things that are going
17 on -- I'm not taking -- I'm not picking specifically on
18 anybody in the environmental group, but one thing that I'd
19 like to say, the industry, I don't know how much more they
20 can afford when people say, well, they can afford to do
21 this. I don't believe they can. I believe that things
22 that happen, as a few years ago, when this development
23 started in Wyoming, the price of propane, the price of
24 natural gas was probably about one-third of what it is now.

25 Everybody was pretty happy. The industry was

1 stringent rules that are going to affect not only here
2 forever and ever, but the rest of the United States.

3 And I had a nightmare the other day. I was
4 watching Fox or they had something about -- and here come
5 across with people from PETA, and they were trying to --
6 they were trying to stop the unethical killing of chickens.
7 And all the sudden I sit there and I'm kind of writing some
8 notes and I go holy mackerel, all the sudden they're
9 standing there taking their clothes off in front of the
10 American flag, and I thought, golly, wouldn't that be
11 something, if some of these people got to go so low to get
12 the attention of the rest of the country, that that would
13 happen in Wyoming?

14 You know, thank you very much for your time.

15 CHAIRMAN GORDON: Any questions?

16 Butch, thank you.

17 MR. MORRIS: You're not trying to get our
18 attention, are you?

19 CHAIRMAN GORDON: Butch, thank you very
20 much.

21 We're going to recess here for about 10 minutes.

22 Thanks. You guys, we're through page 2 now, only got a few
23 more.

24 (Hearing proceedings recessed
25 3:06 p.m. to 3:24 p.m.)

1 saying we can make money if the gas -- if our gas comes in
2 at such and such, you know, a dollar 80 to \$2. I've seen
3 gas that was down to a dollar 20. With these prices going
4 up, we are setting things here in this state that are going
5 to affect people throughout the rest of this nation,
6 whether in Wisconsin or Minnesota. The price of gas,
7 everything has gone up.

8 The people who are in Pumpkin Center or South
9 Dakota, who are maybe 67, 68 years old, they don't know
10 what's going on in Wyoming, but they know the money they
11 have to spend, they don't have it because of the cost. And
12 these companies, the more they spend, I believe the price
13 is going to continue to go up.

14 Another thing, let's --

15 CHAIRMAN GORDON: Butch, I'm going to give
16 you a minute, okay? Go ahead.

17 MR. JELLIS: Let's don't -- let's don't put
18 any rules into effect that when the methane industry is
19 gone that is going to put more restrictions on the ranchers
20 that are out there in 10 years or so when they're gone from
21 Sheridan, or 15 years or whatever. If I want to go out and
22 permit a well or to do something for irrigation or for use,
23 I don't want to have to come down and spend six months
24 trying to talk with the DEQ. You know, I don't feel that
25 should be right. You know, let's don't make some kind of

1 CHAIRMAN GORDON: I'm going to call us back
2 to order.

3 I'm going to accommodate Joan Carlson, who
4 apparently can't be here for that long today. And I would
5 hope she can enlighten us about bacteria.

6 So can you identify yourself.

7 MS. CARLSON: My name is Joan Carlson. I'm
8 a hydrologist for the U.S. Forest Service out of the Rocky
9 Mountain Regional Office in Denver. And I want to thank
10 you, Mr. Chairman, for allowing me to speak now so I can
11 get home tonight and don't have to come back tomorrow.

12 CHAIRMAN GORDON: We're all about service.

13 MS. CARLSON: Thank you.

14 We provided written comments. They were
15 delivered to DEQ yesterday. And I'm not sure if you have
16 them in front of you, but I didn't want to go through all
17 that, but just to make you aware we have provided written
18 comments.

19 I'm here to support the proposed revisions to the
20 pathogen criteria in Section 27 of Chapter 1. We feel
21 these proposed changes are necessary to better manage water
22 quality for protection of recreational use in Wyoming
23 waters by focusing available resources to those locations
24 where primary contact recreation use is actually occurring
25 or can potentially occur.

1 MS. FLITNER: Or else I've got scary voices
 2 in my head.
 3 UNIDENTIFIED MALE: It's coming through the
 4 PA.
 5 CHAIRMAN GORDON: This is all music to our
 6 ears. Thanks.
 7 Go ahead, Wendy, please ask your questions.
 8 MR. DIRIENZO: Mr. Chairman.
 9 No, the text of the rule contains the advisory
 10 board's recommendation. We have -- and then that is
 11 footnoted with DEQ's disagreement. There are footnotes for
 12 each of those points.
 13 MS. HUTCHINSON: Okay.
 14 MR. MORRIS: What is DEQ's recommendation?
 15 MR. DIRIENZO: DEQ's recommendation is we
 16 use the USDA salt tolerance database as the primary
 17 reference for soil salinity tolerance values, and that we
 18 set a default cap for SAR in the Tier 1 procedure at 10.
 19 MR. MORRIS: Have those numbers been set?
 20 MR. DIRIENZO: Have they been set?
 21 MR. MORRIS: Yeah, you said using those
 22 numbers. What are those numbers again?
 23 MR. DIRIENZO: The numbers are the SAR
 24 default of 10, and the salt tolerance values would depend
 25 on what plant we're looking at, so there's a whole list of

1 outfall, we would write limits and adjust those limits as
 2 necessary based on what we know about how far that water's
 3 going to travel, what's going to happen to that water as it
 4 travels, how it might be managed, look at all those things
 5 and decide what that limit at the end of pipe needs to be
 6 to achieve those values that I just talked about on the
 7 field. So sometimes they could be higher than 10,
 8 sometimes they -- they may have to be lower. That will
 9 depend on the circumstance.
 10 MR. MORRIS: Thank you.
 11 CHAIRMAN GORDON: Further questions,
 12 Council members?
 13 Sorry about the music.
 14 MS. FLITNER: Maybe, but I can't remember.
 15 MR. DIRIENZO: Mr. Chairman, during the
 16 break my boss reminded me of something and I'd just like to
 17 respond again to Mr. Moore's questions on the wildlife/
 18 livestock issue.
 19 I was reminded that the Game & Fish also has an
 20 opportunity -- these would be an opportunity to comment on
 21 every one of our applications, on every one of our permits,
 22 where we would be proposing to apply a higher value than is
 23 contained and they could -- we could consider those
 24 comments at that point.
 25 CHAIRMAN GORDON: Okay. Is this music as

1 values for different plants. And the advisory --
 2 MR. MORRIS: Based on 10? Go ahead.
 3 MR. DIRIENZO: I don't know what you mean
 4 based on 10. We look at the salt tolerance for the crop
 5 being grown, and that comes off -- out of the database off
 6 the list of plants, and that's EC value. And then from
 7 that EC value, we calculate an SAR based on that graph
 8 relationship. And we would calculate it on Tier 1 -- if
 9 you follow the graph, there will be at higher salinities,
 10 you would see allowable SARs of all the way up to 20 or --
 11 20, 25, but we would limit that at 10. We would never go
 12 above 10, is what we mean when we're setting a cap. The
 13 advisory board recommendation was that that cap be set at
 14 16.
 15 MR. MORRIS: Where are the measurements
 16 taken?
 17 MR. DIRIENZO: The measurements would --
 18 they're taken of -- they're intended to represent the
 19 quality of the water that is applied on the land.
 20 MR. MORRIS: That's where the measurement
 21 would be taken?
 22 MR. DIRIENZO: That's where we would, yeah.
 23 MR. MORRIS: Not the outfall?
 24 MR. DIRIENZO: Well, the outfall is where
 25 we would enforce. What we are trying to achieve at the

1 distracting to the audience as --
 2 THE AUDIENCE: Yes.
 3 CHAIRMAN GORDON: I'm going to recommend we
 4 turn off our microphones to see if that --
 5 MS. LORENZON: The maintenance guy is out
 6 there working on it.
 7 CHAIRMAN GORDON: Let's see what happens if
 8 we turn it off, if it goes away. Nope, that's not it.
 9 Wait.
 10 (Off-the-record discussion.)
 11 CHAIRMAN GORDON: All right. Well, are
 12 there any further questions from the Council members for
 13 Mr. DiRienzo?
 14 Well, hearing none, I will move to the public
 15 comments section. And I have, I think, four -- yeah, four
 16 sign-up sheets here. I'm going to start with the first
 17 one.
 18 Would this be from the Manigault Ranch? Thank
 19 you. And when you get here, would you identify yourself,
 20 too. Yes, sir.
 21 MR. COX: Yes, sir. Kendall Cox, Recluse,
 22 Wyoming.
 23 CHAIRMAN GORDON: Thank you, Kendall.
 24 MR. COX: I represent the Manigault Ranch.
 25 Mr. Chairman, Board, I've been sent by the Manigault Ranch

1 to voice our opinions on the ag use policy.
 2 The ag use policy, as it stands, seems good so
 3 far, but what troubled me, I thought we had this, you know,
 4 wound kind of healed over, and then I heard the comment
 5 about the Game & Fish commenting on discharges. And my
 6 problem with the thing on that is if we sign and want the
 7 water for our discharges, the Game & Fish comes in and
 8 says, no, we don't want that, they're actually making a
 9 taking of our land. And if our livestock can't live -- or
 10 our livestock can live on the water, if their wildlife
 11 can't live on it, something's wrong. They've always
 12 cohabitated together.

13 And we're good stewards of the land. Everybody
 14 in Wyoming, stewards of the land. They manage the Game &
 15 Fish's wildlife for them. If they want to, you know, say
 16 we don't want the water for our wildlife, my suggestion
 17 would be for the Manigault Ranch, which is 43,000 acres,
 18 come get your wildlife. Thank you.

19 CHAIRMAN GORDON: Thank you, Mr. Cox.
 20 Any questions for Mr. Cox from the Council?
 21 Thank you very much.

22 MS. FLITNER: Thank you.

23 CHAIRMAN GORDON: I have Jess Anderson.
 24 Could you identify yourself?

25 MR. ANDERSON: Yes. My name is

1 use the bird steps as a possible example or comparison of
 2 that. You folks may be familiar with what we refer to as
 3 the bird steps, and it's a period of time in the spring
 4 where we cannot be in certain areas working as to not
 5 distribute -- disturb the birds as they mate and have their
 6 young, but I think as that probably started, similar to a
 7 lot of these things, everybody looked at it as a good idea.
 8 I mean, we're protecting the wildlife. Who can really
 9 argue with that? So it started out as probably a good -- a
 10 good thing, but down the road three years it's essentially
 11 shut down the industry up there for that four- or five-
 12 month period of time.

13 As a personal example, back in December, I mean,
 14 the business has been -- or the coal-bed business has been
 15 going real well. As it affects me personally, on
 16 December 17th I employed 33 people and I had a payroll -- a
 17 weekly payroll of \$53,000. On December 24th, I had the
 18 same 33 people and a weekly payroll of 86,000, and that
 19 included Christmas bonuses. I mean, we've been prosperous,
 20 we can do that kind of thing. On February 4th, in
 21 comparison, I'm down to 28 people with a payroll of
 22 \$19,000. So the effect that the bird steps has had, I
 23 mean, it's just killed our business.

24 CHAIRMAN GORDON: At the risk of shutting
 25 you off, I appreciate your comments, but I'm not sure

1 Jess Anderson. I'm from Gillette. I'm a landowner in
 2 Johnson County, Wyoming on Dead Horse Creek just south of
 3 I-90. I also operate a methane service company out of
 4 Gillette, employing people in Gillette area working
 5 exclusively in methane.

6 I'll be real brief on my agriculture operations.
 7 Most of that you folks have heard before. I am a proponent
 8 of the CBM development. I'm like many of the ranchers. I,
 9 too, want the water. That's part of what you've heard all
 10 before. To me the regulation -- there seems to be more
 11 than enough regulation already. I've been trying to get a
 12 center pivot project put together with our operator. We
 13 totally missed last season just due to the bureaucracy of
 14 getting that permit approved to use the water in a
 15 beneficial use. To complicate that further doesn't seem
 16 very productive. It's hard to use the water for beneficial
 17 use already.

18 I wanted to take a little turn today and talk
 19 about something different besides that I want the water.
 20 I'd like to look to a larger issue and that would be an
 21 economic issue. If these regulations become more and more
 22 stringent or conservative in nature, I see it where it
 23 potentially threatens the industry in general, the whole
 24 industry.

25 And I'm going to try to be real briefly here, to

1 they're -- the bird steps really are not before us today.

2 MR. ANDERSON: I agree with that. And
 3 I understand that you have, you know, nothing to do with
 4 that. I guess the point I hoped to make by referring to
 5 that is that you have decisions before you that can and
 6 potentially will have the same impact on the industry as a
 7 whole. The upside to bird steps, if there is one, it's
 8 temporary. Your decision possibly could be much more
 9 permanent.

10 And, as I say, you have nothing to do with that,
 11 but I do feel like your decisions can have a very far-
 12 reaching impact. It's -- you know, the systems we have in
 13 place out there are not perfect. As much as I've had, you
 14 know, good experience with CBM, others, it may not have
 15 been that well. I still can't believe that the only
 16 solution to what I would look at as a few isolated problems
 17 is to make decisions that are so stringent or so
 18 conservative that it would shut down a whole industry to
 19 solve potentially a few problems.

20 CHAIRMAN GORDON: Okay. Thank you. Thank
 21 you, sir.

22 MR. ANDERSON: Thank you for your time.

23 CHAIRMAN GORDON: Any questions for
 24 Mr. Anderson?

25 Thank you very much for your comments.

1 Tom Harriet. It's nice to see a neighbor down
2 here.

3 MR. HARRIET: Yes, how you doing? Glad to
4 see everybody here today, and thank you for your time.

5 CHAIRMAN GORDON: Can you identify
6 yourself.

7 MR. HARRIET: My name is Tom Harriet,
8 landowner, Johnson County.

9 And I have -- I read through this policy and I
10 have a good -- I know what we can do with this to help
11 solve a lot of these problems. I'd throw it in the
12 garbage. I believe that we have -- you know, there's a few
13 people out there that are behind this policy and I think
14 there's enough agencies -- regulatory agencies out there
15 with the BLM and the DEQ that can handle some of these
16 problems.

17 I don't believe we need a new policy to -- I
18 think it's a waste of our time. I think what is in place
19 now, we have the laws, and we have the people to take care
20 of these problems. There's a few people that don't want
21 the development, but, you know, they can go to court over
22 it. I just -- I think this is taking up a lot of time that
23 does not need to be taken up for us.

24 So that's my opinion on this and I know it won't
25 go that way, but I just don't agree with -- with it. It

1 they're against the water, they could work with -- I don't
2 know what the answer is, but I go to the operator, our
3 operator, we have problems and we solve them, the operator
4 and I. And if I need a lawyer, we'll get an agreement, you
5 know. We all have surface use agreements on everything.

6 And I'll bet if 10 lawyers go through this,
7 you'll get 10 different opinions on 10 different
8 language -- on some of the language in it.

9 You know, I think the effluent standards are fine
10 that are in place today. I don't think we need to change
11 anything. We've had irrigation on our land and we're right
12 on the Powder, and we've had good luck with the water and I
13 don't -- I just don't agree with this policy making. It
14 just -- I think it's a waste of time. We've been at this
15 for how long trying to come up with a good solution. And
16 there won't be a solution after this. I'll guarantee this
17 will be appealed.

18 CHAIRMAN GORDON: So, Tom, if I understand
19 correctly, you're saying the system, as is, is working?

20 MR. HARRIET: Yes, it is working. And why
21 do we need another policy? Create more laws for more --
22 you know, it just muddies up the water, people can't -- you
23 know, and it does, it slows down industry. It slows down
24 everybody. We're just -- you can't accomplish anything.
25 I'm on the watershed committees for -- been on a couple of

1 has a lot of holes in it. It's going to end up in
2 litigation, I'm sure. It will be appealed. And if
3 industry or somebody doesn't appeal it, I'll appeal it. I
4 just don't think it's -- it doesn't have any merit.
5 There's a lot of --

6 CHAIRMAN GORDON: Miss Flitner.

7 MS. FLITNER: Would you mind commenting
8 specifically -- and for those of you commenting, I can't
9 see you behind the reporter, so if you would sit where I
10 can --

11 MR. HARRIET: You bet.

12 MS. FLITNER: Thank you. Could you comment
13 specifically on what you would litigate. For instance,
14 what -- I'm following the theme, here it would be really
15 helpful to me to be educated by you all about specific
16 things that are bothering you or you find helpful, you
17 know, the data --

18 MR. HARRIET: The effluent levels and the
19 data, we don't have all the data in yet.

20 MS. FLITNER: What kind of data?

21 MR. HARRIET: You know, the Coal-Bed
22 Methane Alliance they're putting together more data on the
23 soils and everything. I think we need time on this. And
24 I -- I believe the people that are against it and don't
25 want the water -- they're not really against it, but

1 them, and I think those committees we try to work through
2 things and it takes a lot of time to get some of these
3 problems solved and I don't think this will solve anything.

4 CHAIRMAN GORDON: Are there questions for
5 Mr. Harriet from the Council? Anything?

6 Thank you, Tom.

7 MR. HARRIET: Thank you guys.

8 CHAIRMAN GORDON: I have down here -- I'm
9 going to make sure that people don't want to comment. I
10 have Phil Turner from Western Land Services here and I
11 don't -- it says he doesn't want to make a statement, but
12 I'm just confirming that.

13 MR. TURNER: Yeah, I would like to make a
14 statement real briefly. I'm water management specialist --

15 CHAIRMAN GORDON: When you come up here can
16 you identify yourself. Thank you.

17 MR. MOORE: Excuse me. Since we have the
18 mike, go ahead and turn the chair around.

19 MR. TURNER: My name is Phil Turner. I'm a
20 water management specialist with Western Land Service. I'm
21 also a former administrator for the EPA.

22 MR. MOORE: Would you move the microphone
23 now. Thank you.

24 MR. TURNER: Can you hear me now?
25 There's several things here that I think when

1 I'm pronouncing that wrong. They are chloridic soils or
2 chloride is the primary source of salinity, whereas in the
3 Montana -- the Bridger, Montana studies, the soils are
4 predominantly sulfatic soils. In other words, there's a
5 lot of sulfates in the soils that we have here in the
6 Powder River Basin.

1 chairman of the Meeteetse Conservation District. I have
2 statements here from the district, a short piece that I
3 will read to you and then one that -- another longer one
4 that I will hand to you. Re: comments on EQC draft
5 Chapter 1, December 2006, Section 20, Agricultural Use
6 Protection Policy. Dear Mr. DiRienzo and the Wyoming EQC,
7 the Meeteetse Conservation District appreciates the
8 opportunity to provide additional comments on the proposed
9 revisions to Chapter 1, Section 20, Agricultural Use
10 Protection Policy.

7 And for that reason, and that reason and that
8 reason alone, what we see from the Bridger studies would be
9 much more representative of what we can expect here rather
10 than what we see in the more regional studies available
11 from the ARS.

11 As local government, the Meeteetse Conservation
12 District recognizes and appreciates the efforts expended by
13 DEQ, WQD in the field visits to discharge sites and
14 affected water bodies as well as in conducting the public
15 meeting in Worland.

12 CHAIRMAN GORDON: So what -- I guess what
13 I'm trying to get at is are you suggesting that soils in
14 Bridger, Montana are going to be similar -- the formation
15 of the soils was similar?

16 Comment 1, the current revision of Chapter 1
17 should proceed with the revision of Section 20 set aside.
18 This would allow the remaining provisions of Chapter 1 to
19 be implemented in a timely manner.

16 MR. GILMER: The geology of the Bridger,
17 Montana area is much more similar to the geology of the
18 Powder River Basin than what the geology of, say,
19 Riverside, California is. Similarly, the soils in those
20 areas, Bridger is more similar to the Powder River Basin
21 than Powder River Basin is to Riverside.

20 Comment 2, the MCD is opposed to the revised
21 Section 20 as written.

22 CHAIRMAN GORDON: Okay. Okay.

22 Comment 3, now more than ever the MCD believes

23 Mr. Moore.

23 that the draft revised Section 20 threatens the future
24 ability to use water produced and discharged in conjunction
25 with extraction of hydrocarbons. Section 20 must provide

24 MR. MOORE: Remind me of a follow-up
25 question.

1 Do you understand that one of the reasons DEQ
2 staff is recommending that we not use the Bridger is that
3 this is a statewide rule and not specific to the Powder
4 River Basin, and my understanding is that they're not
5 comfortable -- it's been demonstrated that the Bridger
6 values are appropriate for a statewide application?

1 local flexibility to develop and utilize future water
2 resources associated with mineral development.

7 MR. GILMER: No, I was not aware that it
8 was proposed as a statewide standard; however, from the
9 standpoint of similarity of geology across the entirety of
10 Wyoming versus, say, compared to Montana, and those are
11 quite similar in terms of the underlying rocks as well as
12 the soils, whereas there is not a great similarity between
13 the rocks and the soils of California or Arizona to what we
14 have up here.

3 Comment 4, local soil and vegetative conditions
4 coupled with the ambiguity and subjectivity of determining
5 and defining measurable decrease in crop production on,
6 quote unquote, naturally irrigated lands will lead to a
7 myriad of lawsuits and will also lead to a game of
8 controlling watersheds through control of strategic land
9 parcels. This will be exacerbated by the ability of
10 unaffected third parties to sue on behalf or against public
11 land management agencies.

15 MR. MOORE: Okay. Thank you.

12 Effects on, quote unquote, naturally irrigated
13 lands must be determined in some other manner with the
14 ability for local considerations to be incorporated.

16 MR. GILMER: You're welcome.

15 Comment 5, public review of Section 20 needs to
16 be extended. The ability of Wyoming residents to actively

17 CHAIRMAN GORDON: Thank you.

17 participate on a statewide basis has been limited. A
18 process used by the EQC has not properly satisfied the

18 Any further questions?

19 requirements of Wyoming Statute 35-11-302 requiring the
20 state to consider and evaluate social and economic impacts

19 Thank you, Mr. Gilmer.

21 of proposed rules or regulations, to wit, the statute

20 So I am now moving on to is it Clara M. Yetter?

22 citation 6 in recommending any standards, rules,

21 MS. YETTER: Yes.

23 regulations or permits, the administrator and advisory

22 CHAIRMAN GORDON: Thank you, Clara.

24 board shall consider all the facts and circumstances

23 We did much better that time. That was only
24 11 minutes. So I'm going to start trying to keep us going.

25 bearing upon the reasonableness of the pollution involved,

25 MS. YETTER: Clara M. Yetter, supervisor,

1 including, A, the character and degree of injury to or
2 interference with the health and well-being of the people,
3 animals, wildlife, aquatic life and plant life affected.

4 B, the social and economic value of the source of
5 pollution. D, the technical practicability and economic
6 reasonableness of reducing or eliminating the source of
7 pollution.

8 Comment 6, the proposed revisions are very
9 important, and while revision may be needed to ensure
10 practical water quality management, Chapter 20, as written,
11 falls short of protecting the agricultural industry and
12 actually jeopardizes agricultural producers on a local
13 basis.

14 The MCD appreciates the opportunity to comment on
15 Chapter 1 Water Quality Rules and Regulations, Section 20,
16 Agricultural Use Protection Policy.

17 Respectfully submitted, Steve Jones, Resource
18 Management Coordinator of the Meeteetse Conservation
19 District. Thank you.

20 CHAIRMAN GORDON: Thank you.

21 Any questions from Council members?

22 MS. HUTCHINSON: No, those were good
23 comments.

24 CHAIRMAN GORDON: Those are good comments.
25 I just wanted to point out we're taking testimony. Thank

1 benefit from discharge waters in ephemeral streams. It
2 would not be prudent to allow one landowner to have veto
3 power over the entire drainage.

4 The language of the ag use protection document
5 would also prevent any new sources of discharge water,
6 either from traditional or coal-bed natural gas production.
7 I believe this would be detrimental to agriculture
8 throughout the state. I would encourage you to carefully
9 consider all the repercussions of this document. And it is
10 signed Kelly Graham, the Larsen Ranch Company.

11 In addition to those comments, as I said, I am a
12 landowner in Hot Springs County. I live near the Hamilton
13 Dome oil field, and I feel I am speaking for a lot of my
14 neighbors here because they were unable to take two, three
15 or four days away to come this far to speak to you as they
16 are in the middle of calving.

17 My first thought would be to request that perhaps
18 you could hold hearings in other parts of the state where
19 it's maybe more central or easier for more people to get
20 to. I believe that this should also be a policy, not a
21 rule. This was put forth as a policy to the Water and
22 Waste Advisory Board. They have reviewed it, they have
23 talked about it and they have unanimously said that it
24 should be a policy, not a rule. That would give much more
25 flexibility to the DEQ.

1 you.

2 MS. YETTER: Thank you.

3 CHAIRMAN GORDON: I have Carol Jones. Can
4 you identify yourself, please?

5 MS. JONES: I'm Carol Jones. I'm a
6 landowner in Hot Springs County. I have a letter from
7 Larsen Ranch, which is up near Meeteetse. Ladies and
8 gentlemen, I would recommend that you make the Agricultural
9 Use Protection document a policy rather than a rule. I
10 attended your January 17th and 18th, 2007 meeting and heard
11 a great deal of testimony concerning the proposed changes
12 to Appendix H and I.

13 One of the common threads of that testimony was
14 that there needs to be some flexibility available to the
15 DEQ so that unique situations can be dealt with on a
16 case-by-case basis. I believe that by making the document
17 a policy, rather than a rule, the DEQ will have the
18 flexibility to interpret and apply the document in the best
19 manner possible as the situation warrants.

20 Another area of concern in the currently written
21 ag use protection document is the language that would allow
22 a single landowner in an ephemeral drainage to deprive all
23 downstream landowners of the use of discharge water in the
24 channel. As we heard at the January meeting, many
25 downstream landowners and countless numbers of wildlife

1 Produced water in ephemeral drainage is critical
2 to many, many ranches in the Big Horn Basin, as well as
3 across the state. This policy would be very damaging to
4 ranchers, as well as to Hot Springs County's economic
5 viability. I remind you of County Commissioner Brad
6 Basse's facts that he presented in testimony last month, as
7 well as representative Lorraine Quarberg's very eloquent
8 comments. It would be just totally detrimental to Hot
9 Springs County economy.

10 Your decisions will affect all of agriculture in
11 this state. By leaving this a policy you give the DEQ some
12 flexibility to be site specific. Sometimes it is better to
13 not change than to just change for the sake of change. The
14 existing ag policy does work.

15 Thank you.

16 CHAIRMAN GORDON: Thank you.

17 Any questions, Council?

18 Thank you very much.

19 I have Robert Brug.

20 MS. HUTCHINSON: Thank you for stating
21 right up front what you want.

22 MS. JONES: Thank you.

23 CHAIRMAN GORDON: Everybody's doing pretty
24 well right now, so, Robert, don't break that. Speed it up.

25 Another neighbor.

1 MR. BRUG: My name is Robert Brug. I'm
 2 speaking on behalf of our ranch. We live on the Bitter
 3 Creek Divide. Our water flows into the Little Powder
 4 through Spring Creek, Squaw Creek and Olmstead, flows into
 5 the Big Powder through SA Creek and Bitter Creek. So we're
 6 at the top of the divide, and we're in a situation -- I
 7 think kind of unique situation. I'm interested in IA
 8 policy, not a rule, because I'm going to be sitting on
 9 those guys' doorstep because I've got a bunch of dry
 10 reservoirs that I think it can utilize, plus we're going to
 11 do some surface injection, I guess is what you'd call it.

12 And the key, as far as I'm concerned, is water
 13 management. And I think I'm capable of doing it. I've got
 14 an irrigating project on one part of the ranch, got another
 15 one on another part of the ranch, and possibly a
 16 subirrigated tree deal I'd like to have down in Kaycee and
 17 I'm watching that pretty close.

18 And I've done a lot of outside research on maybe
 19 cleaning up water. I've worked with Dr. Eppley, who is the
 20 back water -- got me frustrated, but anyhow he's out of
 21 Pennsylvania. He's done a lot of cleanup water down there
 22 in that area. And then there's I believe it's Stover,
 23 Stover Group out of Oklahoma that's done a lot of cleanup
 24 water across the United States, and also in the world. And
 25 I got in contact with those people and I'm looking for a

1 his head, because he couldn't see any damages done there
 2 either.

3 So Dr. Schladweiler, she's checked it out, took
 4 some soil samples. In fact, I've have had various soil
 5 scientists work on the place. As of yet I've never
 6 questioned even to find out what Pennaco soil samples are
 7 where I'm irrigating, because I have other scientists take
 8 soil samples for me. It's not I don't trust them, I just
 9 feel better when I have somebody independent take care of
 10 it. And that's the reason for that.

11 But we have a variety of grasses and alfalfa in
 12 our fields we are irrigating. We use a lot of Paiute
 13 orchardgrass. It's probably the most salt-sensitive
 14 species that I have. GI astinaria, so we go out and check
 15 it, you know, and count the plants.

16 And, of course, I'm rotating my irrigating
 17 project. It's just like on your place, Mark, three
 18 irrigations. We move on the next year -- I fall irrigate,
 19 which would be a fourth irrigation. I fall irrigate and
 20 move on to another area next year. And if my water holds
 21 up, I might be back to the original spot in eight years.
 22 So I'm not impacting that soil and the soil tests show that
 23 it's working out really great.

24 MR. MORRIS: What are the salt content of
 25 your --

1 way to maybe do a better job on the water in a natural-type
 2 setting.

3 So far we have -- nothing's come up, but they're
 4 all working on it. They all heard of the Powder River
 5 Basin and it's in the back of their minds. They're trying
 6 to get some answers.

7 But -- I guess I just run out of gas.

8 CHAIRMAN GORDON: God, I hope not.

9 MR. BRUG: I thank you for your time, but
 10 we intend to keep all the water on our place. We're at the
 11 top of the watershed. And we got neighbors that don't want
 12 the water on them, and I respect their wishes. And, in
 13 fact, I want to use the water, so I don't think it's going
 14 to be an issue. Thank you.

15 CHAIRMAN GORDON: Thank you.

16 Any questions.

17 MR. MORRIS: Yeah, just one.

18 Have you ever noticed any adverse effects from
 19 the discharge water on your --

20 MR. BRUG: No. We got a deep well that has
 21 an SAR of 22 that's 3200 feet deep that they use for water
 22 injection in commercial conventional oil and gas, and it's
 23 run down a draw for about 17 years straight and we couldn't
 24 see anything detrimental to it. I had Jerry Schuman out,
 25 Dr. Schuman. Dr. Schuman, he walked up and kind of shook

1 MR. BRUG: My SAR on my water is 13 into
 2 14. The original water sample we took was 14 out of that
 3 outfall. The last known sample we got was 13, decline 1
 4 percent. Why, I don't know, but that EC is running right
 5 around 17.

6 CHAIRMAN GORDON: Any other questions?
 7 Thank you, sir.

8 MR. BRUG: Thank you.

9 CHAIRMAN GORDON: Sure appreciate it.
 10 Liberty Blain. Can you identify yourself?

11 MS. BLAIN: I can. Thank you,
 12 Mr. Chairman.

13 My name is Liberty Blain. I'm the water
 14 specialist for the Laramie County Conservation District.
 15 And we have submitted some written comments earlier this
 16 week, but I wanted to highlight a few of our priorities for
 17 you.

18 I am not here to talk about Section 20. I'm here
 19 to talk about Section 27, which is pages 23 and 24 of the
 20 rules, specifically the E. coli bacteria, primary contact
 21 recreation, secondary contact recreation and the variances.
 22 The conservation district supports the Department's
 23 proposal to designate primary and secondary contact
 24 recreation uses. We believe that establishing that
 25 criteria for secondary contact will better represent

1 Wyoming surface waters and recognize that all -- not all of
2 Wyoming's waters are suitable for primary contact
3 recreation.

4 And we think that the approach that Bill DiRienzo
5 has taken with the default using Table A is appropriate.
6 We think if you establish a new criteria you need to have a
7 means to handle that administratively. We looked at Table
8 A and we think that table includes all the major perennial
9 streams in the state that are used for primary contact
10 recreation. So we support the Department's approach to
11 that issue. We also support reintroducing the recreation
12 season where primary contact recreation is a seasonal
13 designation from May 1st to September 30th. We think that
14 this allows the Department to use the highest standards at
15 the time when the people -- at least the public are most
16 likely to have contact with that water. So we think that
17 is a reasonable proposal.

18 We also -- catch up to where I'm at here. We
19 also support variances. We think allowing temporary or
20 permanent variances for bacteria standard gives the
21 Department a tool to address waters looking at the local
22 issues or those special circumstances or characteristics of
23 the water for that watershed. We don't think that this
24 compromises the water quality of those streams, but we just
25 feel it would be a tool for the Department to address those

1 streams.

2 Our office has been involved with this triennial
3 review from the very beginning. And, as I said, we don't
4 have any specific comments to the Ag Use Protection Policy
5 because we don't have a lot of input from our residents in
6 Laramie County on this issue. It's not that big of an
7 issue for most landowners here.

8 In light of that, we understand, we appreciate
9 the seriousness of the Ag Use Protection Policy. We think
10 the Council needs to spend as much time as necessary to
11 address those issues and that -- concerns of the public,
12 but we are very anxious to see the rest of Chapter 1 acted
13 on. We have streams, we do watershed planning, do
14 watershed -- you know, water quality monitoring and we are
15 anxious to see those proposed rules for E. coli bacteria to
16 be acted on.

17 Any questions?

18 CHAIRMAN GORDON: Thank you.

19 Any questions, Council members?

20 MS. HUTCHINSON: Great comments.

21 MS. FLITNER: Thank you.

22 CHAIRMAN GORDON: Thank you very much.

23 We're on a roll now.

24 Jerry Geer.

25 MR. GEER: Mr. Chairman, my name is

1 Jerry Geer. I'm here to represent my mom, who cannot make
2 it, and our ranch. I'm going to make it real brief.

3 She wrote a letter. It's all been said. I'm not
4 going to reiterate everything. You guys don't want to hear
5 a bunch of redundancy. Just want to let you know that we
6 feel that there has been nothing wrong. We've had water on
7 our place for seven years. We have not had one bit of
8 problem. I see that you do have problems around -- so I
9 really just want to stop in and say hello again. I think
10 this is the fourth time I've testified in front of this
11 Council. And I, too, feel these meetings need to be moved
12 so you guys get a little bit better representation.

13 Like I said, I just stopped in here.

14 MS. FLITNER: Thank you.

15 MR. GEER: I drove a lot of miles over a
16 lot of crappy roads. And these problems are in the Powder
17 River Basin, and I think that if you -- you know, like I
18 said, I've testified four times. I've never seen one of
19 you up on any of the places up there to see how it's going,
20 so let's -- let's pack some peanut butter and jelly
21 sandwiches and go on a field trip and we can go around and
22 we can see that the problems are real minor. This isn't
23 horrible waste water. It's really beneficial. We want it.
24 We don't want a bunch of stuff changed.

25 I just want to get this in to the Council so it's

1 on record. That's it.

2 CHAIRMAN GORDON: Thank you.

3 MS. HUTCHINSON: Can I comment?

4 CHAIRMAN GORDON: Any questions?

5 MR. MORRIS: Keep it as a policy or a rule?

6 MR. GEER: I'd like to keep it as a policy.

7 I think policies, the way I understand it, has some
8 flexibility, rules don't. We've got plenty of rules.
9 Let's -- let's treat this like we need to and if we have
10 problems in certain areas, deal with them. Where there's
11 problem -- where there isn't problems, like our areas,
12 let's not change much stuff.

13 MS. HUTCHINSON: I just wanted to state
14 some of Council members have been out to see some of these
15 areas and in some cases we've been told by the AG we cannot
16 go out and look. So --

17 MR. GEER: Okay. Off the record come out
18 and we'll give you a tour.

19 CHAIRMAN GORDON: We don't do that in
20 Wyoming. Thanks.

21 Okay. I have Joanne Tweedy and I -- I also
22 have -- I'm just confused. Did the CF Ranch have someone
23 here that they -- were you marking down you had a comment
24 you wanted to make or --

25 MR. COX: Well, Mr. Lowham is over on his

1 side, so I'll use my time to catch him up.
 2 CHAIRMAN GORDON: You already testified.
 3 I'm sorry. I didn't recognize you. Okay.
 4 Thanks, Joanne. Another long drive.
 5 MS. TWEEDY: Yes, another long drive.
 6 Good afternoon, members of the Board. My name is
 7 Joanne Tweedy. And I, like Jerry Geer, have been here
 8 numerous times and it is a long way and a lot of our
 9 members that came last time were unable to come due to bad
 10 roads, a death in the neighborhood, calving and numerous
 11 other things and they would like to be here. It just seems
 12 like it just goes on and on and really hard, so I do
 13 encourage you, the whole Council, not individually, to come
 14 to Gillette and hold the meeting. I think it would be
 15 really helpful. And if that is not possible, possibly in
 16 Casper, to where there's more of a middle ground.
 17 I'm a rancher, as you know, land manager, mineral
 18 owner in the Powder River Basin. And as a rancher and
 19 manager, I would like to thank you for the opportunity to
 20 let me speak again. And I want to say that I support the
 21 Ag Use Protection Policy as a policy. I work every day to
 22 balance resources on the land that I have stewardship over.
 23 I am concerned that the proposed rule will reduce the
 24 flexibility I currently have to choose where water will be
 25 beneficially used on my land.

1 I don't support building reservoirs that will
 2 contain all the produced water plus the 50-year, 24-hour
 3 rain event as I believe the additional disturbance to
 4 grazing land could be very substantial.
 5 I'm concerned about setting default limits for
 6 produced water that could reduce and possibly eliminate
 7 their use for our -- for my ranch and other ranchers like
 8 me.
 9 It's interesting that a portion of this proposed
 10 rule, Appendix H, is called, quote, agricultural use
 11 protection; however, water discharge permits being renewed
 12 under the ag use policy, as it exists, now are placing
 13 effluent limits on current discharges that the produced
 14 water cannot meet, at least in some places.
 15 The net result really can be a loss of
 16 agriculture use or produced waters and a decrease in the
 17 agriculture productivity of our grazing lands. Seems to me
 18 we need to open more doors to beneficial use of produced
 19 water, not close them.
 20 The coal-bed methane industry's worked hard to
 21 build infrastructure and water management systems on
 22 hundreds of ranches throughout Powder River Basin,
 23 including on my land and those of my neighbors. The
 24 management plans we arrived through corroborative work,
 25 some negotiating, and to second-guess those water

1 management plans now that are in place by changing these
 2 permits and the rules, or the policies, the -- I think
 3 that's wrong, just plain wrong.
 4 We used to call that kind of an action swapping
 5 horses in the middle of the stream, and I don't think you
 6 want to start doing that.
 7 Thank you for your time.
 8 CHAIRMAN GORDON: Thank you, Joanne.
 9 Any questions?
 10 MS. HUTCHINSON: Huh-uh.
 11 CHAIRMAN GORDON: Thanks very much.
 12 I have Butch Jellis. Butch, I think he's sitting
 13 over there.
 14 Butch, how quick can you be, because I got people
 15 that are --
 16 MR. JELLIS: You got to go to the bathroom?
 17 That was your sign language, that's good.
 18 CHAIRMAN GORDON: We'll go through you
 19 quickly and that's all right. No pun intended. Have a
 20 discharge permit, I know.
 21 MR. JELLIS: My name is Butch Jellis. I'm
 22 from Sheridan. I'm partner on the Wrench Ranch and other
 23 lands that I own.
 24 Mr. Chairman, Council, I'd like to read a letter.
 25 Mr. Chairman and Council members, the Wrench Ranch is

1 expressing our sincere objection to limiting our rights in
 2 utilizing the produced water on this ranch. Specifically
 3 we support the position that the Ag Use Protection Policy
 4 should remain a policy with the necessary flexibility to
 5 make the site-specific decisions rather than a rule
 6 restricting judgment.
 7 Further the Wrench Ranch absolutely disagrees
 8 with draft Section 20 policy to permit future discharge of
 9 produced water. The flow of produced water is critical to
 10 the economic viability of this ranching operation. DEQ
 11 must use steady guidelines based on soil types found in
 12 Wyoming, not on completely different comparisons of soils
 13 found in California.
 14 Finally, there are numerous technical issues for
 15 consideration, but the bottom line is the agricultural use
 16 production policy should be a flexible standard ensuring
 17 the best use of the water, utilizing historic data to
 18 enhance the productivity of our lands. Respectfully,
 19 James Jellis, Butch.
 20 Thank you.
 21 Just briefly. You know, when I got up here
 22 today, and the last couple of weeks getting ready for this
 23 and trying to get some information from industry and people
 24 and landowners around our part of the state up there, I get
 25 a lot of different mixed feelings and a lot of confusion.