

# **COMMENTS – 2006**

## **Environmental Quality Council Hearings**

### **CHAPTER 2 WATER QUALITY RULES AND REGULATIONS**

*Resubmitted by*

WYOMING STOCK GROWER'S ASSOCIATION

*August 26, 2008*

THRONE RANCH COMPANY  
P.O. BOX 1056  
SHERIDAN, WYOMING 82801-1056

February 10, 2006

VIA HAND & ELECTRONIC DELIVERY

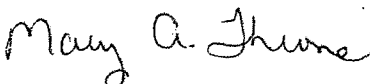
Mr. Mark Gordon  
Chairman  
Wyoming Environmental Quality Council  
Herschler Building—1st Floor West  
122 W.25<sup>th</sup> Street  
Cheyenne, WY 82002

Re: Throne Ranch Company Comments on the  
Petition to Amend Water Quality Rules and  
Regulations, Chapter 2, Appendix H

Dear Mr. Gordon:

Enclosed please find a copy of Throne Ranch Company's comments regarding the Petition to Amend Chapter 2, Appendix H, of Wyoming's Water Quality Rules and Regulations. Please include these comments as part of the record for the Council's consideration at its February 16, 2006 meeting. I also hope to attend in person.

Sincerely,

  
Mary A. Throne

Enclosure

THRONE RANCH COMPANY'S COMMENTS ON  
THE PETITION TO AMEND WYOMING  
WATER QUALITY RULE, CHAPTER 2, APPENDIX H

February 10, 2006

INTRODUCTION

I am writing on behalf of Throne Ranch Company (Throne Ranch) to express our company's opposition to the Petition to Amend Wyoming Water Quality Rule, Chapter 2, Appendix H. Throne Ranch appreciates this opportunity to comment and believes that it is important for the Environmental Quality Council (Council) to consider a variety of landowner experiences in evaluating the pending Petition. Fundamentally, the issue of what to do with coalbed produced water is one of water management of the resource, not one of water quality. Although the Petition somewhat acknowledges this distinction, its ultimate solution is to regulate the management of coalbed water through stricter water quality regulations that would make it more, not less difficult to manage the water resource. Landowners and operators working together, with appropriate regulatory oversight, are in the best position to develop management plans for the coalbed water. Landowners and operators working cooperatively are also in the best position to manage the coalbed water to avoid the damage alleged in the Petition.

**COALBED PRODUCED WATER HAS BENEFITTED  
THRONE RANCH OPERATIONS**

My brother, Tom, and I are the sole shareholders of Throne Ranch. Most of our property is located on Wild Horse Creek, approximately 15 miles West of Gillette. The land on Wild Horse Creek has been in our family since 1945. While the land has been excellent for grazing, maintaining a sufficient and reliable supply of water for livestock purposes has always been difficult. The presence of coalbed water has eliminated this concern.

Our ranch has never had a year round supply of surface water available and has always depended on stock water wells to provide water. These wells are notoriously undependable and expensive to maintain. Drilling additional wells was also expensive and generally, not cost effective, but currently because of the availability of coalbed water, ranch operations no longer rely exclusively on stock wells. For the last few years, various operators have discharged water onto our property. Some of this water has been discharged into stock ponds and some has been discharged into ephemeral drainages, such as Bekebrede and Jeffers Draws en route to Wild Horse Creek. The operators have channeled the water down those draws to minimize any surface disturbance or impacts on native

vegetation. The coalbed water also supplies some existing reservoirs as well as new reservoirs.

In fact, the coalbed water has allowed our lessees to maintain livestock on our land when due to the extreme drought; this would not otherwise have been possible. In the absence of coalbed water, there would have been little or no water for livestock or wildlife on our property, other than that from stock water wells.

By working with our operators to manage the water and to build stock ponds, we have enhanced livestock production on our land. We have been able to expand grazing opportunities by asking operators to transport coalbed water to areas where there is grass, but no livestock water. A large portion of our summer pasture—well over a section of land—where our cattle grazed for as much as five months of the year, never had a steady supply of water. My father's efforts to have a shallow water well drilled in the area failed and it was cost prohibitive to drill a well to the coal seam. As a consequence, this portion of the pasture was never grazed fully by livestock or wildlife. Historically, this has been a source of frustration for us and our lessees. Now, there is a constant supply of water to this area and it is available for wildlife and livestock grazing.

In a different area of our ranch, we allowed an operator to irrigate a section of land. During the spring and summer of 2004, this was the only place on our ranch that had any green grass. This grass was enjoyed by cattle and wildlife alike. We tested the soil before the irrigation began and monitored the soil during the irrigation to prevent any damage.

We have not observed any substantial loss of vegetation due to discharge down either Bekebrede or Jeffers draw. Our lessees have not complained to us that the presence of water in either of these historically dry draws has in any way affected their ability to graze cattle. In fact, a steady supply of water is a relief to our lessees. Now, on those hot August days, there is no need to do a daily water check because the water supply is guaranteed.

**THE PROPOSED RULE WOULD NOT ALLOW OPERATORS AND LANDOWNERS TO MANAGE THE COALBED WATER**

If anything, the existing regulatory burdens associated with containment have made it more difficult for Throne Ranch to effectively manage the coalbed water, which in turn has led to more discharge down ephemeral drainages. Our lessees have wanted more containment so that they could make better use of the coalbed water. We have encouraged

our operators to do so, but with limited success due in large part to regulatory impediments. The Petition proposes a rulemaking change that would not help resolve these difficulties, but would interfere with the ability of landowners and the operators to beneficially use the water.

The proposed rule appears to convert the Water Quality Division into a wildlife and agricultural regulatory agency. This is beyond the agency's expertise and would not result in effective water management. The Division should not be expected to determine whether a landowner's reservoir plan will demonstrate "actual" beneficial use within the meaning of the proposed rule. This is a role that neither the Division, nor the landowner will relish. The rule would simply increase the regulatory responsibilities of the Division with little or no increased protection of the environment.

#### CONCLUSION

Many would agree with the Petitioners that coalbed produced water could be more effectively managed to enhance its beneficial use. The Petitioners, however, are proposing a rule that would only make the situation worse. Their proposed changes to Appendix H of Chapter 2 will not enhance the ability of any of the entities involved, particularly the landowners, to manage the coalbed water

for beneficial use. For this reason, Throne Ranch respectfully requests that the Council reject the Petition.

Dated this 10<sup>th</sup> day of February, 2006.

THRONE RANCH COMPANY

*Mary A. Throne*

Mary A. Throne  
Secretary/Treasurer



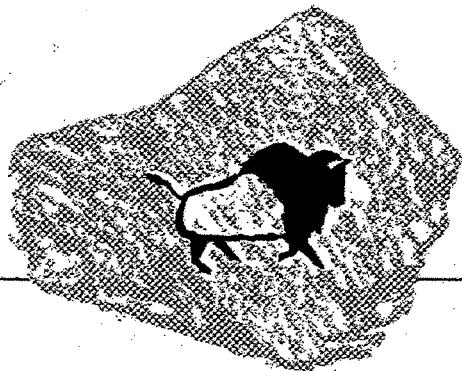
# Sussex Ranch Company LLC

February 13, 2006  
Powder River Conservation District  
Box 48

**Kaycee, WY 82839**

Twenty years ago I testified at a DEQ hearing on impaired streams and related the history of the Salt Creek of Powder River. Before 1860 it was often called "Dry Fork" and probably for a good reason as a main route to the gold fields of Montana went up its dry stream bed. After that date and also for a very good reason it was referred to as Salt Creek. This very saline creek was often so salty that neither livestock or wildlife would drink it, and when forced to would often become sick or die. When oil fields began discharging water into the stream, it started to run all year long and became a good source of water for livestock and wildlife. Any attempt by regulatory agencies to suppress the discharge water from oil production will certainly have an adverse affect on the environment. I certainly endorse the efforts of the Conservation District to obtain 319 grant monies to do this very important study.

Sincerely,  
Don Meike



# Legend Rock Resources, Inc.

February 10, 2006

**FILED**

**FEB 13 2006**

**Terri A. Lorenzon, Director  
Environmental Quality Council**

Mr. Mark Gordon, Chairman  
Environmental Quality Council  
Herschler Building 1W  
Cheyenne, Wyoming 82002

RE: Powder River Basin Resource Council Petition for Rulemaking, Chapter #2  
of the Water Quality Rules.

Dear Mr. Gordon:

I have received information as it pertains to the captioned. Even though our ranch is not located in the Powder River Basin any change to the Water Quality Rules for the State of Wyoming also directly effects our ranch and livelihood.

I continue to be disappointed that your agency would propose or consider regulations that will have significant short and long term effect on, not only the oil producer, but also the ranches and game animals in the effected areas.

We are the owners of a cattle ranch in the immediate area of Cottonwood Creek and the Hamilton Dome Oil Field. The discharge of the treater water from the Hamilton Dome Oil Field has been ongoing for at least twenty years that I know of with no adverse effect on the animals or fish that use the water from Cottonwood Creek. I know the State of Wyoming water quality personnel check the treater water on a regular basis and have found it to be safe for the animals that utilize this most important resource.

We pasture 350 mother cows and calves within the Hamilton Dome pasture during the winter months and without the treater water from the Hamilton Dome Oil Field there would be no water in Cottonwood Creek as it is usually dry by late fall. By putting this water into Cottonwood Creek, the Creek stays open year around and furnishes this valuable resource not only to our cattle but also the neighboring ranchers livestock and the abundant deer, antelope, water fowl and game birds in this immediate area.

The water that is discharged by the various oil companies within Wyoming has been treated and is good water for irrigation and use by livestock and game animals and birds. We have heard that there are some aquatic life that cannot live in the water, however, I doubt that they can live in sand either since that is all that would be left in some areas if it was not for the treater water.

No one realizes the importance of water in Wyoming more than the ranches located along the tributaries that are feed by the various treater water facilities. Any water in Wyoming is much too valuable for any special interest group to stop the beneficial use of this water.

PH. 307-472-5565



P.O. BOX 51110, CASPER, WY 82605-1110



(FAX) 307-472-5564

Mr. Mark Gordon  
February 10, 2006  
Page 2

Any restriction on industry that complies with the existing laws of the State would be very unfair. Each situation needs to be looked at as to its merits to the surrounding area and not just one aspect, i.e. aquatic life. These areas of Wyoming can certainly do without aquatic life before it can afford to loose the use of this water for domestic livestock, wildlife and small game in the given areas.

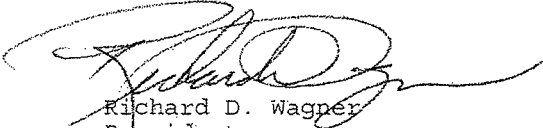
Our ranch and neighboring ranches, are dependent on this water discharge in an attempt to maintain a profitable ranch and any interference to change this type of discharge is not acceptable.

Each individual situation should be reviewed and the determination made on the overall value of the water not just for one phase of such use or to make changes to satisfy a group of people not affected by the loss of this treatr water or water discharged from the CBM wells.

It is also pointed out that rules requiring oil companies to reinject the water back into the ground would make many of the operations uneconomical and force the oil companies to abandoned the field. This certainly is not to the best interest of the people of Wyoming or the nation in a time of oil and gas shortages and dependance on foreign oil.

Thank you for your consideration and understanding in this matter.

Sincerely,



Richard D. Wagner  
President

cc: John Corra, WDEQ  
John Wagner, WDEQ  
Todd Parfitt, WDEQ  
Office of the Governor

February 13, 2006

Mr. Mark Gordon  
Environmental Quality Council  
Herschler Building 1W  
Cheyenne, Wyoming 82002

**FILED**

**FEB 14 2006**

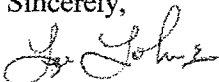
Terri A. Lorenzon, Director  
Environmental Quality Council

Dear Mark,

I am writing you in concern of the petition of the PRBRC to amend the Wyoming Water Quality Rule, Chapter 2, Appendix H. After reading this petition I can see there would be more far reaching circumstances that would effect more livestock producers other than just the areas where CBM is developed. Our ranch is very dependent and has been for the past 50 years on discharge water from the Linch and Midwest oilfields. These discharges into Meadow Creek and Salt Creek are for the most part our only reliable water for our livestock on a year round basis. The quality and quantity have been good for our livestock, wildlife and aquatic life in these streams. Our operation would be very negatively effected without the quantity we now have from these discharges.

I would hope that you and the rest of the EQC council members take and look at the effects that this petition could have on other parts of the state other than just where the CBM water is. Please use some common sense and look at the big picture before considering this petition. Thank you.

Sincerely,



Lee Lohse  
Diamond N Livestock, Co.  
Linch, Wyoming

**FILED**

**FEB 13 2006**

**Terri A. Lorenzon, Director  
Environmental Quality Council**

Astrid Schneller Davis  
4365 HWY 14-16  
Clearmont, WY 82835  
February 10, 2006

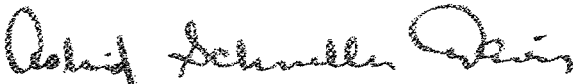
Environmental Quality Control  
122 West 25<sup>th</sup> St.  
Herschler Bldg., Rm. 1714  
Cheyenne, WY 82002

Re: Powder River Basin Resource Council Petition

Water is precious for the state of Wyoming. The semi-arid climate has often caused stress to Wyoming's environment in periodic times of drought. Bearing this in mind it is important for the state to insist that Coalbed Methane Water not be wasted, either flowing out of the state in great quantities and/or ruining native forages and wildlife in the draws and streams with low flow. The EQC must plan for the future of our state and not support the immediate demands of the mineral industry.

For this reason I support the Powder Resource Council's petition for stopping the damage caused by the discharge of CBM water.

Sincerely,



Astrid Schneller Davis

**FILED**

**FEB 14 2006**

February 11, 2006

Mr. Mark Gordon, Chairman  
Environmental Quality Council  
Herschler Building 1 W  
Cheyenne, WY 82002

Terri A. Lorenzon, Director  
Environmental Quality Council

Dear Mr. Gordon,

Mark, as you know the Shepperson family ranches in the Salt Creek drainage near Howell's Salt Creek field. My family has been ranching here for four generations. This letter is a response to you concerning the recent (December 7<sup>th</sup> 2005) petition of the PRBRC to the Environmental Quality Council; PETITION TO AMEND WYOMING WATER QUALITY RULE, CHAPTER 2, APPENDIX H. Our ranches are concerned with the content and outcome of this petition. We are opposed to any component of it and recommend that you do not agree to consider any portion of it for Rule making, as it would obviously lead to a curtailment of this source of valuable water that we depend on for the sustenance of our ranch. Enactment of this initiative into law would unnecessarily do harm to many ranchers livelihood.

The petitioners seek to have the WDEQ control the quantity of discharge to that which the cattle that I have today can drink. So, with the ice formation, evaporation or the movement of wildlife into the area, there could be no water for my cattle, ducks, or geese. (Salt Creek field has become a major duck and goose hunting area because of the open water). We are opposed to any decrease in water quantity. When decreases in Howell's discharges have occurred in the past, the water became saltier and it was not good for livestock. In fact, the natural waters in Salt Creek, Castle Creek and Teapot Creek are naturally very salty and high in sulfates. Ben Schiffer has monitored Salt Creek, Castle Creek and Teapot Creeks above and below the discharge points. Ben said that Castle Creek above the discharge point was the poorest quality water he had ever monitored. I depend on the produced water to dilute this water and be a source of high quality water for my livestock.

Ranchers in this area must test natural water in reservoirs and creeks during these dry years because the naturally occurring sulfates and minerals get so high it kills livestock and game (except antelope which has an unbelievable tolerance).

The Powder River Conservation District and ranchers in this area have spent time, money and resources (with help from grants) to evaluate the problems with this watershed and hopefully come up with a workable watershed management plan. We hope we can continue to evaluate the scientific evidence collected and finish the plan we have started.

This petition could adversely affect ranchers, wildlife, recreation and our community.

Thank you for your consideration.

Respectfully,



Frank Shepperson

P.O. Box 206  
Cheyenne, WY 82003  
113 East 20<sup>th</sup> Street



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President- Lois Herbst, *Shoshoni*  
Region I Vice President- Mike Lohse, *Kaycee*  
Region III Vice President- Gene Vleh, *Casper*  
Region V Vice President- Joe Thomas, *Meteetse*

First Vice President- Jon Kirkbride, *Cheyenne*  
Region II Vice President- Mark Eisele, *Cheyenne*  
Region IV Vice President- Jody Bagley, *Auburn*  
Executive Vice President- Jim Magagna, *Cheyenne*

February 15, 2006

**FILED**

FEB 15 2006

Mr. Mark Gordon  
Chairman  
Environmental Quality Council  
Herschler Building, 1W  
Cheyenne, WY 82002

Terri A. Lorenzon, Director  
Environmental Quality Council

RE: Water Quality Rule Petition to Amend

Dear Mr. Gordon:

The Wyoming Stock Growers Association (WSGA) appreciates this opportunity to comment on the Petition to Amend Water Quality Rule, Chapter 2. WSGA represents over 1,000 Wyoming cattle producers and landowners. Many of our members are impacted by water discharges associated with development of the state's minerals. Our comments today are limited to that portion of the petition that requests that Appendix H of the rule be amended by adoption of a quantity parameter.

WSGA recognizes that there are numerous examples, in particular in the Powder River Basin of significant and severe damage to grazing and agricultural lands from large water flows. At the same time, many of our members throughout the state, including the Powder River Basin, have been the beneficiaries of discharge water flows. In fact, particularly during recent times of drought, some landowners have been highly dependent on such waters.

WSGA does not believe that a one-size-fits-all regulatory approach to addressing produced water flows is appropriate. Significant progress on this matter has been made since the early days of CBM development through proactive planning and the fostering of cooperative relationships between landowners and CBM producers. Unfortunately, not all producers and not all landowners have come to the table in good faith. Increased regulation that can impact all landowners and producers is not an acceptable method to address these cases.

The amount of water that is "actually used" by wildlife and livestock is not easily quantifiable. Is this the amount that is actually consumed by the animal? Is it the amount that is necessary to provide a minimal flow to assure a readily available supply from which the animals can

**Guardian of Wyoming's Cow Country Since 1872**

Mark Gordon  
February 15, 2002  
Page 2

comfortably drink? Or is it the amount that contributes toward a more favorable habitat for the animals? These questions are not easily answered. The answers may not be the same in all cases.

Finally, it is WSGA's position that DEQ lacks both the statutory authority and the professional expertise to address water quantity issues. This field is appropriately left to the jurisdiction of the State Engineer.

WSGA urges that the petitioners request to include a quantity parameter under beneficial use of produced water be denied. Petitioner's second request, to amend effluent limits, should be addressed using the best available peer-reviewed scientific data regarding potential impacts on livestock and wildlife.

Thank you for your careful consideration of our comments.

Sincerely,



Jim Magagna  
Executive Vice President





# WYOMING FARM BUREAU FEDERATION

P.O. Box 1348  
Laramie, Wyoming 82073 • (307) 745-4835

**FILED**

**FEB 15 2006**

Terri A. Lorenzon, Director  
Environmental Quality Council

February 14, 2006

Environmental Quality Council  
Mark Gordon, Chairman  
Herschler Building, 1<sup>st</sup> Floor West  
Cheyenne, Wyoming 82002

Re: Petition of the Powder River Basin Resource Council to Amend  
Wyoming Water Quality Rule, Chapter 2, Appendix H

Dear Mr. Gordon:

## INTRODUCTION

The Wyoming Farm Bureau Federation (WyFB) welcomes this opportunity to comment upon and respond to the Petition filed by the Powder River Basin Resource Council (PRBRC) to amend Chapter 2, Appendix H of the Wyoming Water Quality Rules (Petition). It is clear that to amend the Wyoming Water Quality Rules in the manner requested would be to violate the Wyoming Constitution and Wyoming Statutory requirements. For that reason, the PRBRC's Petition for rulemaking should be summarily denied.

The WyFB represents the educational, economic, and social interests of more than 2,800 agricultural producers throughout the State of Wyoming, including many members who reside, farm, and ranch within the Powder River Basin. The WyFB and its members have a substantial interest in ensuring that the regulation of water resources in Wyoming is conducted pursuant to the Wyoming Constitution and proper Statutory authority.

The WyFB is sympathetic to landowners' concerns regarding the impacts of water discharges on the surface estate, and recognizes that there

are potential problems associated with such discharges. The PRBRC's Petition and proposed amendments, however, are both legally and factually insupportable to sustain the dramatic changes that are being proposed. The PRBRC's Petition and proposed amendments are also wrong-headed, and Petitioners have failed to provide sufficient factual or technical support to sustain the proposed rulemaking. In summary, the PRBRC's Petition must be denied for three reasons:

1. The Environmental Quality Council (EQC) lacks the Constitutional and Statutory authority to adopt the proposed amendments as they relate to the beneficial use of water as proposed by Petitioners.
2. The Petition and supporting documents do not provide the necessary scientific and technical data to support such dramatic changes to effluent limits of sulfates, total dissolved solids (TDS) in Chapter 2, Appendix H, nor to establish a limit for barium.
3. The Petition and supporting documents confirm that there is already a process in place to address the Petitioner's alleged concerns.

Each of these reasons are described in greater detail below.

### **DISCUSSION**

1. **The EQC Lacks the Constitutional and Statutory Authority to Grant the Petition or to Adopt the Proposed Amendments**

The Wyoming Constitution clearly places the administration and regulation of water quantity with the State Engineer and the Board of Control. The Wyoming Constitution identifies the State Engineer as the person who is responsible for the "general supervision of the waters of the state." Wyo. Const. Article 8, Section 5. The Constitution also provides that the State Engineer and the Board of Control "shall, under such

regulations as may be prescribed by law, have the supervision of the waters of the state and of their appropriation, distribution and diversion.” Wyo. Const. Article 8, Section 2.

Wyoming Statutory law draws a clear line between the jurisdictions of the EQC and the State Engineer. The Environmental Quality Act (EQA or Act) specifically states that nothing in the Act “limits or interferes with the jurisdiction, duties or authority of the state engineer [or] the state board of control.” Wyo.Stat. 35-11-1104(a)(iii).

“Beneficial use” is a term of art in Title 41 of the Wyoming Statutes, and is defined as “the basis, the measure and limit of the right to use water at all times.” Wyo.Stat. 41-3-101. Beneficial use defines the criteria by which the State Engineer permits and administers water rights and water *quantity*. It is not a term used by the EQC or the Department of Environmental Quality (DEQ) in the regulation of water *quality*. That “beneficial use” has no place in the management of water quality is confirmed by the fact that it is not included or defined in the definitions section of the EQA. W.S. 35-11-103.

A similar distinction between regulation of quantity and quality is made in the Clean Water Act, contrary to assertions made by the Petitioners on page 5 of the Petition. Congress specifically addressed this distinction in Section 510 of the Clean Water Act, which states “[e]xcept as expressly provided in this chapter, nothing in this chapter shall . . . be construed as impairing or in any manner affecting any right or jurisdiction of the States with respect to the waters . . . of such States.” 33 U.S.C. Section 1370(2). In fact, Wyoming’s own Senator Malcolm Wallop successfully proposed an amendment to confirm that water quality regulation doesn’t interfere with state water law determinations. It states, in part “[I]t is the . . . policy of Congress that nothing in this chapter shall be construed to supersede or abrogate rights to quantities of water which have been established by any State.” 33 U.S.C. Section 101(g).

Wyoming’s Constitution clearly places the authority to regulate quantities of water and determinations of beneficial use to the State Engineer. The Petition seeks to confer upon the EQC and DEQ authority that they do not have and that they cannot assume without Legislative action.

The Wyoming Constitution and Statutory law prohibit the requested relief. The EQC is created by the Legislature, and, as such, is limited in its authority. It cannot adopt rules that violate the Constitution, and it cannot adopt rules that violate its Statutory mandate. The EQC cannot adopt rules that are addressed to matters outside of its legal purview and jurisdiction. Importantly, the EQC cannot assume the legal authorities and responsibilities that have been granted to sister agencies, in this case the State Engineer.

**2. The Petition Lacks the Necessary Scientific and Technical Support**

The Petitioners have filed a Petition and twenty-three (23) exhibits to support their contention that the DEQ is not properly regulating discharges from coal-bed methane (CBM) development. Neither the Petition nor the supporting exhibits, however, provide the certain, scientific data necessary to establish that the requested amendments are appropriate. We are troubled by the lack of scientific data submitted by the Petitioners to support the dramatic changes requested.

Two of the Petitioners do not claim, and apparently cannot establish, that they are currently affected by discharges from CBM development (Petitioners Mitzel and LaResche). Petition at 2. Of the four Petitioners who allege damage from CBM discharges (Petitioners Barlow, Clabaugh, Rogers and West), they have provided no evidence to support their claims of injury. Petition at 1-2. For example, although Petitioner Barlow claims that "CBM discharge water coming down Dead Horse Creek has already altered the ephemeral nature of the stream, damaged their meadows, and caused foot rot in their cattle," there is no documentation or photographs to support that claim. Petition at 1. While there are similar allegations made by the others who claim damages, they have similarly failed to produce any documentary evidence to support their claims. These Petitioners are in the best position to document any actual damage that they may have suffered and they should be required to do so prior to the EQC considering such broad amendments to Chapter 2, Appendix H.

The Petition proposes to dramatically amend the Rules and to grant to the EQC and DEQ the authority to manage water quantity for the first time

in State history. In arguing for such a dramatic shift in responsibility, Petitioners have been able to muster very little technical support. Rather than providing hard data to support their Petition, they have attached draft reports and non-specific information to support their proposition to radically change the amount of sulfates and total dissolved solids, to request the establishment of a barium standard, and to quantify prospective (and alleged) damage to ephemeral streams and land. For example, Petitioners' Exhibit 2, a study prepared by the Ruckelshaus Institute of Environment and Natural Resources, is offered to support their predictions about undeveloped CBM resources in Wyoming. That study, however, is not only marked as a "DRAFT" on each page, but the title page proclaims: "[p]lease do not cite or distribute." Petition, Exhibit 2, title page.

The Petitioners make numerous statements of fact that are unsupported. For example, the Petition states that "Wyoming CBM production to date is just a fraction of what is to come" and "[w]ater high in TDS or specific conductance will reduce crop production." Petition at 4, 11. Petitioners provided no scientific study or data specific to Wyoming lands that support these claims.

The Petition and supporting documents lack certainty in terms of the assertions being made. Following is a partial list of such uncertain conclusions:

- "Salinity *may also cause* micro-nutrient deficiencies in crop plants." Petition at 11.
- At very high levels, salinity *may cause* direct toxicity to plants." Petition at 11.
- "In a semi-arid climate, regular additions of even small increments of water *may redistribute* natural salinity on the landscape." Petition at 12.
- "The surface disposal of CMB-produced water *may result* in erosion or damage to drainages and associated vegetation within the area." Petition at 14.

- "Some of the ephemeral streams *may be converted* to year around flow and this *may present* a situation where ice damming will cause flooding of land along the stream with undiluted product water." Petition Exhibit 6 at 1.
- "This study demonstrates the *potential problems* that *might arise* due to land application of saline-sodic CBNG waters." Petition Exhibit 8 at 10.
- ". . .the way in which irrigation is done *may* have significant effects on crop production." Petition Exhibit 9 at 3.
- "Changes in the conductivity and sodium absorption ration *may occur* as increased flows move sediment from channel bottoms and increase erosion of floodplains." Exhibit 15 at 2. (Emphasis added).

The Petitioners propose to reduce the sulfate limit by more than 80%, from 3,000 mg/l to 500 mg/l. To support this drastic reduction, the Petitioners provide Exhibits 19 and 20, which provide little information related to current sulfate limits. The University of Utah Extension fact sheet provides one paragraph as an explanation for its adoption of sulfate limits. Petition Exhibit 19 at 3-4. It is not possible to determine the relevance of Exhibit 20, as it appears to be the results of an individual water test. Petitioners provided no information regarding the location of the test or the sampling methods used. Again, no information or scientific study is included to justify the statements on suitable sulfate levels. Petition Exhibit 20 at 1, 2.

The Petitioners propose to reduce the total dissolved solids limit by 60%, from 5,000 mg/l to 2,000 mg/l. To support this drastic reduction, the Petitioners rely on studies conducted by South Dakota State University Extension Service and the University of Utah. The South Dakota State University Extension Service study concluded that a TDS between 2,000 and 3,000 mg/l *may* reduce performance, and over 3,000 mg/l *may* reduce performance and affect health. Petition at 24, emphasis added. It appears that Exhibit 19 may be one of the studies used to support these assertions. It

is not possible to determine, however, because the study referenced in the Petition is from the University of Utah, while the study attached as Exhibit 19 was conducted by Utah State University Extension. It is unclear whether Exhibit 19 is accurately described as a "study," as it is entitled an "Animal Health Fact Sheet." Petition Exhibit 19 at 1. This fact sheet states that the limit for TDS for cattle is 10,000 mg/l, which is more than twice Wyoming's current limit and which is substantially higher than the TDS limits proposed by Petitioners.

The Petitioners also propose that the EQC adopt a barium limit for CBM discharges. Petitioners' data to support this new standard is wholly inadequate to provide the necessary foundation for adding such a limit. In fact, the Petitioners have provided the EQC with only two documents to support their contention that the EQC should adopt a barium standard – a definition from the Dictionary of Agricultural Sciences (Petition Exhibit 22) and a one-page website printout that is unidentifiable (Petition Exhibit 23).

It is clear that the Petitioners have failed to provide the necessary scientific information to support the adoption of such drastic changes to the sulfate and TDS limits, let alone adopt a barium limit.

The materials provided by the Petitioners are completely inadequate to support the proposed amendments. They are either in draft form, are clearly outdated, or simply do not address the issues at hand. There is no indication that the "draft" studies have been peer reviewed or, if they have, what those peer reviewers found. The question before the EQC at this point in the proceedings is whether the rulemaking process should proceed. That is a legal issue, with the primary focus being upon whether the EQC has the legal authority to adopt the proposed amendments. As described above, the Wyoming Constitution and Statutory law have not granted to the EQC or the DEQ the authority to manage water quantity in the manner requested by the Petitioners. For that reason, the WyFB does not believe that it is appropriate at this point to fully critique each of the "studies" provided by the Petitioners. The WyFB hereby respectfully reserves the right to provide such a technical analysis if the rule-making proceeds.

3. **The Existing Process is Adequate to Address Petitioners' Concerns**

Four of the Petitioners (Packard, Rowley, Sorenson and Adami) currently have CBM development occurring on their ranches. Petition at 1-2. What the Petition fails to address, however, is any mention of how the existing Surface Use Agreements address discharges. The WyFB believes that the use of Surface Use Agreements provides the most effective means for addressing the manner by which discharges will be made. In other words, these are contractual considerations to be resolved by the landowner and CBM operator. In Use Agreements, the landowner has the ability to negotiate the method and quantity of discharge, whether reinjection is appropriate, or what type of treatment will be required.

When describing alternatives to surface discharge of CBM produced water, the Petitioners admit that “[a]ll of these are being done in Wyoming today, and the technology to do them more and more cost-effectively will certainly develop with demand.” Petition at 20. Those activities are being undertaken pursuant to the Surface Use Agreements that are already in effect. The demand referenced by the Petitioners is more appropriately made at the landowner level, through the use of Surface Use Agreements, which allow the impacted parties to determine how best to deal with produced water. For the EQC to dictate the method for dealing with produced water would be to interfere with one of the most basic property rights that the landowners possess – the right to enter into a contract that benefits their operations so that they may use this additional source of water to their advantage.

The Petitioners admit that “WYPDES permits do in fact contain a limit to the quantity of water discharged under the permits.” Petition at 14. That statement is further supported by Exhibit 4, which is a partial WYPDES permit. Petition, Exhibit 4 at 1. That permit clearly states that “[t]he guideline . . . requires that discharges of produced water be used for agricultural production and/or wildlife propagation.” Id.



Petitioners claim that "the Wyoming DEQ has allowed the unrestrained production" of water being produced with CBM. Petition at 7. This statement is untrue. Exhibit 3 includes a document attached to a letter dated April 25, 2005, from John Corra, the Director of the DEQ, to Stephen Tuber, providing a lengthy history and explanation of the methods used by the DEQ to issue WYPDES permits. Exhibit 3 confirms that the DEQ has developed and implemented a comprehensive procedure that is reviewed and updated based upon experience, as well as an extensive data collection effort. Petition, Exhibit 3 at 1-8.

The DEQ's diligence in CBM permitting and oversight is further demonstrated by Exhibit 17, which is a letter to the Montana Board of Environmental Review. In that letter, Director Corra states that "[t]he careful management of discharge permits in Wyoming has been successful in protecting and maintaining the water quality standards of both states, including protection of designated uses." Petition, Exhibit 16 at 1.

In addition to issuance of the WYPDES permits, The Petition Exhibits establish that there is a constant dialogue between the Environmental Protection Agency ("EPA") and the Wyoming DEQ on these matters. Petition, Exhibits 3 and 5.

It is apparent that after preparing a draft WYPDES permit, there is some ability to comment on draft permits. An example is provided in Petitioners' Exhibit 15, in which the Wyoming Game & Fish Department (WGFD) took advantage of its opportunity to comment to the DEQ on a pending WYPDES permit. Petition, Exhibit 15 at 1-3. Although Petitioners did not provide the DEQ's response to the WGFD's comment, Exhibit 15 demonstrates that there are substantial and numerous "checks and balances" in place to ensure that specific CBM development projects are being permitted in a way that protects livestock and aquatic communities.

If there are federal resources involved in a CBM project, either surface or mineral estates, another layer of analysis and environmental review is conducted related to the quality and quantity of discharges. This additional analysis provides additional opportunities for citizen and

landowner input – after the publication of both a Draft and Final Environmental Impact Statement (EIS). This fact is illustrated in Petitioners' Exhibit 11. In his comment letter to the Bureau of Land Management (BLM), Dr. Munn expressed his concerns regarding the modeling conducted to evaluate the environmental impacts of the proposed project, the amount of water discharged, and impacts to surface water quality in ephemeral streams. Petition, Exhibit 11 at 1-3.

Exhibit 16 provides an additional example of how landowners and concerned citizens may already participate in the regulatory process. Exhibit 16 includes comments made to the BLM on the Power River Basin Oil and Gas Project.

Once the WYPDES permit is issued, the Wyoming DEQ becomes the enforcement agency to ensure that discharge limits are being met and that the project is proceeding as contemplated by the permitting process. The DEQ is obviously investigating and issuing fines for unpermitted discharges of CBM water, as well as for any exceedance of effluent standards. Petition, Exhibit 10 at 1.

### CONCLUSION

The Petition at issue is legally insufficient and legally insupportable.

First, the Petitioners are requesting the EQC to undertake an illegal rulemaking – to regulate water quantity and beneficial use. In making such a request, they are asking the EQC to take action that is outside of its statutory authority.

Second, the proposed changes and additions to Chapter 2, Appendix H are substantial. In order to justify such modifications, the Petitioners must meet their burden of providing a solid and scientific basis for the amendments. They have utterly failed to meet that burden. The Petitioners' "supporting" documents are in draft form, are unsigned, are out of date, and fail to address the specifics of Wyoming CBM development.

Finally, the Petitioners have failed to demonstrate that the processes currently in place are insufficient to protect Wyoming's resources. It is not possible to determine whether Petitioners have entered into Surface Use Agreements that they now wish to rewrite, with the aid of the EQC, or whether they have failed to take advantage of the existing process, whether they have failed to participate in the permitting processes and are now seeking a "do over", or whether they are claiming that the DEQ's enforcement efforts are insufficient.

The process dictating CBM development in Wyoming certainly is not perfect. Some amendment and fine tuning of Chapter 2, Appendix H may be necessary to ensure protection, but such drastic changes as the ones proposed here cannot be made without a valid and defensible scientific foundation. When considering potential amendment of rules and regulations, the EQC must insist that they be provided the most recent, accurate scientific data available to best inform its decisions and to carry out its statutory duties.

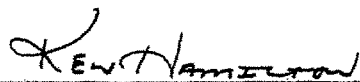
As in most cases, the "one size fits all approach" that Petitioners are advocating is neither appropriate nor legally supportable in the context of amending Chapter 2, Appendix H of the Wyoming Water Quality Rules. The overwhelming impact that such changes would have on CBM development within the Powder River Basin, as well as on other areas of the State have simply not been adequately addressed.

For the foregoing reasons, the EQC should deny the Petition to Amend Wyoming Water Quality Rule, Chapter 2, Appendix H.

Thank you for your consideration.

Sincerely,

WYOMING FARM BUREAU FEDERATION

  
\_\_\_\_\_  
Ken Hamilton, Executive Vice President

**FILED**

Mr. Mark Gordon, Chairman  
Environmental Quality Council  
Herschler Building 1W  
Cheyenne, Wyoming 82002

FEB 15 2006

February 10, 2006

Terri A. Lorenzon, Director  
Environmental Quality Council  
Howell

Salt Creek Field  
Sussex Field

Salt Creek  
Meadow Creek

Mr. \_\_\_\_\_ Rancher  
Sussex, WY

Howell

Dear Mr. Gordon,

I am \_\_\_\_\_ rancher in the Salt Creek drainage area near Howell's \_\_\_\_\_ Field. My family has been ranching here for three generations. This letter is a response to you concerning the recent (Dec. 7, 2005) petition of the PRBRC to the Environmental Quality Council; PETITION TO AMEND WYOMING WATER QUALITY RULE, CHAPTER 2, APPENDIX H. My ranch is very concerned with the content and outcome of this petition. We are adamantly opposed to any component of it and recommend that you do not agree to consider any portion of it for Rule making, as it would obviously lead to a curtailment of this source of valuable water that we depend on for the sustenance of our ranch. Enactment of this initiative into law would unnecessarily do harm to my livelihood.

The petitioners seek to have the WDEQ control the quantity of discharge to that which the cattle that I have today can drink. So, with ice formation, evaporation or the movement of wildlife into the area, there could be no water for my cattle. I am adamantly opposed to any decrease in water rates! When decreases in Howell's discharges have occurred in the past, the water became saltier (evaporation or ice formation), and it was not good for the cattle. In fact, the natural waters in Meadow Creek must be naturally very salty and high in sulfates because the cattle do not like it and in certain times of the year this natural alkaline water can kill cattle that drink it. I depend on the produced water to dilute this water and be a source of high quality water for my cattle.

Additionally, limits are recommended for sulfate and barium in the produced water. We have high sulfates naturally in the groundwater and surface waters already. Would these natural waterways be out of compliance with the recommended new rules? Additionally, the recommended limit for sulfate is 500 mg/L. Whoever generated that number has never raised cattle in this country. My cattle have been drinking water over 10,000 mg/L of sulfates for several decades, and without ill effects. In fact, they fatten up faster than on many other ranches. The limit for barium (0.2 mg/L) again does not consider the water that the cattle have been drinking for years with no ill effects. The barium can be several mg/L in the water and the cattle still fatten up at normal rates.

With all due respect Mr. Gordon, please use common sense and do not consider this harmful petition that has no basis, and will only cause harm to our livelihood.

Sincerely yours,  
John Q. Rancher

February 13, 2006  
Meike Ranch  
1916 Sussex Road  
Kaycee, WY 82639

**FILED**

**FEB 15 2006**

Terri A. Lorenzon, Director  
Environmental Quality Council

Environmental Quality Council  
Hershler Building 1W  
122 W. 25<sup>th</sup> Street  
Cheyenne, WY 82002

Re: Petition to amend Wyoming Water Quality Rule

Just today it was brought to my attention that the Power River Basin Resource Council has petitioned to amend the Wyoming Water Quality Rule, Chapter 2, Appendix H. This amendment would work counter to the efforts of our ranch and the Salt Creek water users by restricting the use of produced water discharged into Salt Creek for livestock and wildlife use. The advantage of produced water discharge into Salt Creek is to dilute the unusable naturally saline water with a water of a higher quality. (Please see a copy of a January 6, 2005 letter to the DEQ addressing our position.)

The petitioners may have a valid complaint but the solution should not be a broad brush regulation that limits the amount of discharge to water that is actually used by livestock or wildlife. Please do not jeopardize the efforts that I and others have been working on for over thirty years.

Sincerely



Don Meike

**FILED**

**FEB 15 2006**

**Terri A. Lorenzon, Director  
Environmental Quality Council**

January 6, 2005

Meike Ranch  
1916 Sussex Road  
Kaycee, WY 82639

Wyoming DEQ/WQD  
Hershler Building  
122 W. 25<sup>th</sup> Street  
Cheyenne, WY 82002

Attn: Bill DiRienzo

Our family has ranched on the Powder River and Salt Creek for over a hundred years. Water, or the lack of it, has been the primary concern of us and the rest of the ranchers in this area. Livestock water in the Salt Creek drainage was generally limited to runoff from rains, generally in the spring. Salt Creek itself, as its name suggests, was highly saline and not usable for livestock water much of the year. About fifty years ago when oil companies began discharging produced water into the creek we found that livestock were able to use the now flowing stream year around. This was a real help to both livestock and wildlife. We never had antelope in this area until Salt Creek started running all year.

We are very supportive of the efforts of the Powder River Conservation District and the Salt Creek Watershed Assessment group to secure this now live water creek as a "live water creek" and not the intermittent salty and often death trap that it was fifty years ago.

Our ranch is very dependent on a good livestock water program. We have found the oil industry to be very good partners in this arena. The Salt Creek Watershed assessment group is another example of how working together improves our quality of life in this near desert environment. We certainly support the continuation of this very valuable monitoring program. We have reviewed Anadarko's UAA and support their efforts to set practical requirements for the waters of Salt Creek.

Sincerely

Pete Meike

**FILED**

FEB 16 2006

Terri A. Lorenzon, Director  
Environmental Quality Council

Floyd Land & Livestock, Inc.  
Fred Jr., and Darlene Floyd  
2600 West Echeta Road  
Gillette, WY 82716

February 7, 2006

Mr. Mark Gordon, Chairman  
Environmental Quality Council  
Herschler Building, 1W  
122 West 25<sup>th</sup> Street  
Cheyenne, WY 82002

**RE: Statement of Floyd Land and Livestock, Inc. in Opposition to Petition to Amend Water Quality Rules and Regulations, Chapt. 2, Appx. H**

Dear Chairman Gordon:

My name is Darlene Floyd. My husband Fred and I operate Floyd Land and Livestock, Inc. Our ranch is located in the Wild Horse Creek drainage.

Floyd Land and Livestock has been advised of the Petition filed by the Powder River Basin Resource Council (PRBRC) and others (including a landowner in the Wild Horse Creek Drainage), requesting a change in the Wyoming Department of Environmental Quality Rules and Regulations, Chapter 2 Appendix H, seeking to limit the volumes of CBM produced water that may be discharged. I am writing to oppose any rule change and to express our support for continued permitting of surface discharges of CBM produced water as provided for under the current regulations, as these discharges are beneficial to our ranch operations. In particular, I would like to advise the EQC of several important facts pertaining to discharges of CBM water in the Wild Horse Creek Drainage through our ranch.

We have experienced numerous benefits to our crop and livestock operations because of the availability of CBM water flowing in Wild Horse Creek. For example, the discharged water is of a benefit in the following ways:

1. Water is available throughout the length of Wild Horse Creek. This benefits our livestock operation by allowing better disbursement of livestock throughout different pastures since there is water available in more locations. This results in better pasture utilization, which would not occur if the water were not predictably and continually available throughout the creek. In addition, increased flows of water through the creek channel have increased available forage along the creek-bottom, which is a benefit to both livestock and wildlife.
2. Water has been made available in various locations throughout the ranch on upland pastures using stock tanks and reservoirs. This water also allows for better

pasture utilization and is a benefit to livestock production. The increased supply of water throughout the ranch has also been of benefit to wildlife which also frequent the same watering locations as livestock.

3. We have irrigation water rights in Wild Horse Creek, both above and below the Clabaugh ranch. CBM water increases our irrigation potential. In addition, we are working with a CBM operator to try to establish a managed irrigation project on my irrigated land using CBM discharge water conveyed through Wild Horse Creek. If this project is successful, I will need to have water conveyed through the creek to reach my point of diversion.

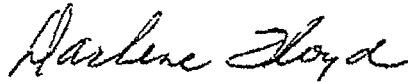
4. The quality of CBM discharge water is typically better than the quality of natural water in the creek, especially later in the summer, since under low flow water tends to pool, evaporate and stagnate. CBM flows augment the flow in the creek and live water continues to be available throughout the year.

I am also aware that the Petitioners allege that CBM water flowing through natural drainages is causing damage to vegetation, bottom lands and meadows, and is causing problems with crossing livestock. I want to advise the EQC that I have not experienced these problems and when problems arise, the CBM operators have been responsive in addressing my concerns.

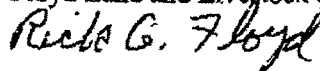
In particular, our cattle have not experienced foot rot from CBM discharge water. In addition, when I have concerns about flooding, crossings, or water going outside the banks of the stream, the operators I work with have been timely in their response to address my concerns and correct any problems. In particular, CBM companies have cleaned debris and deadfall from the creek channel, improved crossings for machinery and livestock, maintained and improved spreader dams, installed culverts and taken other actions necessary to ensure that water is properly managed through the length of the creek on our ranch. This requires occasional coordination with the CBM operators, but to date they have been responsive to our concerns and addressed problems to our satisfaction. I have not observed damage to our bottom lands or vegetation from CBM water effects. To the contrary, the CBM water has benefited and improved the productivity of these areas.

In conclusion, Floyd Land and Livestock has benefited from the increased volumes of water available in Wild Horse Creek due to CBM activities and we would not want to see restrictions on the amount of water that can be discharged to an arbitrary volume that the Petitioners believe can be beneficially used. Thank you for considering our views.

Sincerely,



Darlene Floyd  
Floyd Land and Livestock Company





**FILED**

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL    FEB 16 2006**  
**STATE OF WYOMING**

Terri A. Lorenzon, Director  
Environmental Quality Council

IN RE: THE PETITION TO AMEND            )  
WYOMING WATER QUALITY RULE,        )  
CHAPTER 2, APPENDIX H                )

**LANDOWNER COMMENT OPPOSING PETITION TO**  
**AMEND WQR CHAPTER 2, APPENDIX H**

**To the Chairman of the Environmental Quality Council:**

The undersigned landowner(s) ("Respondents") in the Wild Horse Creek Drainage, submit this comment letter to oppose the Petition of the Powder River Basin Resource Council and others seeking to amend the Water Quality Rules and Regulations, Chapter 2, Appendix H ("Petition").

Respondents benefit from the water produced by coal bed methane ("CBM") operations within the Wild Horse Creek Drainage in their agricultural and livestock operations. Respondents are aware that Petitioners allege that CBM produced water discharges are adversely affecting bottom lands and meadows, causing difficulty with crossings and various other problems, and that it is of inadequate water quality for livestock use. Respondents do not agree with Petitioners allegations, and to the contrary advise the Environmental Quality Council of the following:

- The presence of CBM discharge water in the Wild Horse Creek drainage, both in the creek channel and in reservoirs in upper draws and tributaries, is a benefit to our ranching operations. The water is utilized for livestock and wildlife watering and forage enhancement along the channels of tributaries and the creek.
- CBM companies have worked with Respondents to place reservoirs and outfalls in locations that optimize land use. For example, pastures that have historically been unusable or minimally usable due to inadequate stock water or high cost stock water are now fully utilized because of the predictability and reliability of CBM produced water in otherwise dry locations.
- In many instances, livestock and pasture management has been made easier due to the disbursement of water throughout our land. In addition, because CBM discharges are constant, we don't need to check water in remote locations as often, because it is more certain that water will be available and flowing from CBM production. Further, our maintenance and upkeep of water facilities is substantially minimized because the CBM companies routinely maintain the water flow so that it is constantly on and available.

- The difficulties with crossing and flooding of bottomlands stated in the Petition have not been difficult to address. The CBM companies have been responsive to our requests to construct adequate crossings for livestock or equipment and to do channel cleaning, culvert installation and other maintenance when necessary to prevent or resolve such issues. With appropriate lines of communication with the companies these are not issues that have caused us undue concern and such issues are typically easy to resolve.
- We have not noted any adverse effect on our livestock or on wildlife due to the quality of CBM water. In fact, because CBM water keeps the creek from drying out or going stagnant, water quality is often better than what is available from natural flows.

We oppose any rulemaking effort aimed at limiting discharges of CBM produced water into the Wild Horse Creek Drainage, since limitations such as are proposed by the Petitioners would negatively affect our livestock and agricultural operations. It would also be detrimental to wildlife which also benefit from the increased water supply and numerous locations where water is available.

For the foregoing reasons, Respondents respectfully request the EQC to DENY the Petition and not proceed with rulemaking as requested by the Petitioners. Thank you for considering our views on these important matters.

Sincerely,

*Gates-Yonkee Family Land LP*  
*Nancy G. Yonkee, S. Carol Yonkee* Date: 02.09.2006  
 Signature  
 GATES YONKEE FAMILY LAND LP  
 Printed Name NANCY G YONKEE  
 S CAROL YONKEE  
 Address:  
PO Box 3197  
1359 W ECHETA ROAD  
GILLETTE, WY  
82717

**FILED**

**FEB 16 2006**

Feb. 13, 2006

Dept. Of Environment Quality  
Water Quality Division  
Herschler Building  
Cheyenne, WY 82002

Terri A. Lorenzon, Director  
Environmental Quality Council

To Whom It May Concern

This letter is for the beneficial uses of discharge water from oil or gas production. My family has owned land on Cotton Wood Creek in Hot Springs county since 1936 witnessed, and continue to see, the benefits of the discharge water from Merit Oil Company at Hamilton Dome. The discharged water reduced erosion by providing nutrients for native grasses, shrubs, trees and many other riparian plants. We use the water for irrigation which increased the yield of the crops (alfalfa grass hay) by 300%, also the pasture flourished. The water is used for cattle as well as deer, prong horn, pheasants, ducks, cranes, fish, sheep, and many other wildlife and domestic animals. The steady stream of water has decreased diseases such as selenium (causes abortion, blindness, and death in cattle) and increased the wildlife population. With the current amount of production water in stream, a steady flow of water continued to trickle down the creek, even during the drought years as we have experience in the last 5 years. This water supplied the riparian areas, wildlife, reservoirs, ranchers, hay fields, etc. with water to survive the drought.

With out the production water the land value will decrease, we will have disease problems (due to such strong alkali found naturally in the soil), have less hay for our cattle, and there will be less wildlife. There are numerous of other ranches on this creek, and in the entire county, that depend on production water. Without it ranches will experience severe economical repercussions. By making the oil and gas companies inject the water back down hole, you will be putting a big financial burden on them as well as the farmers and ranchers. There will be a financial burden on the economy as a whole. Gas and oil production companies such as Merit Oil at Hamilton Dome provides jobs to every community that will be lost, taxes to the county and state will be lost, many ranching jobs and irrigation jobs will be lost this in turn causes less money for the schools, law enforcement, roads and many other entities .

The production water is more beneficial , improving the quality of our lives, the wildlife, plants, and domestic animals, flowing down the creeks then being injected into the ground.

Respectively submitted,

Paul Ward



**FILED**

FEB 16 2006

Department of environmental Quality

Terri A. Lorenzon, Director  
Environmental Quality Council

My family own's a ranch on the Lower Cottonwood creek and have been using the discharge water from the Hamilton dome operation to irrigate our alfalfa fields and water our livestock and were very happy with the quality of water coming from them we just wish there was more of it. If they are not allowed to discharge there water into the creek it's not only going to negatively affect our operation it will also deteriorate the quality of the creek bed and the wild life that benefits from it.

Jim Butterfield

347-8232

Hoodoo Ranch  
P.O. Box 850  
Cody, Wy. 82414  
307-587-8223

George Brown - Manager

**FILED**

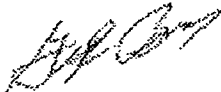
FEB 16 2006

Terri A. Lorenzon, Director  
Environmental Quality Council

To Whom It May Concern:

Treater water has been discharged for so many years it has changed the whole ecology of much of Wyoming. It has created year round water in miles and miles of what would otherwise be dry stream beds. And, it has created miles of riparian areas and numerous wet lands.

To lose this water would have a "Tremendous Impact" on not only livestock but wild life including many migratory birds.



Sincerely,  
George Brown

**FILED**

FEB 16 2006

Terri A. Lorenzon, Director  
Environmental Quality Council

Floyd Land & Livestock, Inc.  
Fred Jr., and Darlene Floyd  
2600 West Echeta Road  
Gillette, WY 82716

February 7, 2006

Mr. Mark Gordon, Chairman  
Environmental Quality Council  
Herschler Building, 1 W  
122 West 25<sup>th</sup> Street  
Cheyenne, WY 82002

**RE: Statement of Floyd Land and Livestock, Inc. in Opposition to Petition  
to Amend Water Quality Rules and Regulations, Chapt. 2, Appx. H**

Dear Chairman Gordon:

My name is Darlene Floyd. My husband Fred and I operate Floyd Land and Livestock, Inc. Our ranch is located in the Wild Horse Creek drainage.

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2. Water has been made available in various locations throughout the ranch on upland pastures using stock tanks and reservoirs. This water also allows for better

pasture utilization and is a benefit to livestock production. The increased supply of water throughout the ranch has also been of benefit to wildlife which also frequent the same watering locations as livestock.

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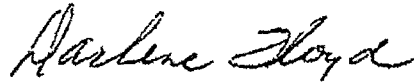
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I am also aware that the Petitioners allege that CBM water flowing through natural drainages is causing damage to vegetation, bottom lands and meadows, and is causing problems with crossing livestock. I want to advise the EQC that I have not experienced these problems and when problems arise, the CBM operators have been responsive in addressing my concerns.

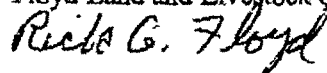
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Sincerely,



Darlene Floyd  
Floyd Land and Livestock Company



**FILED**

**FEB 16 2006**

Terri A. Lorenzon, Director  
Environmental Quality Council

**GUARDIANS OF THE RANGE  
217 ROAD 8EH  
CODY, WY 82414**

**FEBRUARY 16, 2006**

**Office of the Executive Director**

**February 16, 2006**

**Mr. Mark Gordon  
Chairman  
Environmental Quality Council  
Herschler Building 1W  
Cheyenne, Wyoming 82002**

**RE: Powder River Basin Resource Council Petition For Rulemaking**

**Dear Mr. Gordon:**

**The Guardians of the Range is a 501c3 non-profit organization dedicated to the use of sound science and community partnership in public land management.**

**Guardians of the Range supports continued surface discharge of conventional oil and gas produced water in the Big Horn Basin of Wyoming. Guardians of the Range recognizes the benefit of this produced water for livestock, irrigation, and wildlife beneficial uses.**

**Oil field discharge water is very important to many livestock operators. Presence of this discharge water allows for more flexibility in livestock operations, by providing a perennial water source in pastures and allotments, which do not have other sources of natural water. The presence of this water also helps improve range conditions, as it better distributes livestock across the landscape. Improved economics exist because operators do not have to haul water to many pastures.**

**The water is generally warm, which keeps it from freezing in all but extreme conditions. This helps the cattle maintain body condition in the winter because they do not have to use as much energy to warm this water to body temperature. They also maintain weight better because they do not have to travel long distances to find a water source.**

**The value of many ranches and farms is directly related to the presence of this water. Several ranchers have filed and received water appropriations, for this**



discharge water, from the State Engineer's Office. A loss of this water will result in reduced property values and taxes paid to the state and counties.

Conventional oil field water discharges have historically provided a significant and perennial source of water, for many areas of the Big Horn Basin. This is particularly true for the interior of the basin, where perennial water sources are limited. In several drainages, this discharged water is an important source of irrigation for alfalfa and other grassy meadows. These fields and meadows provide an important food source for cattle as well as wildlife. This is especially true in the lower Cottonwood and Gooseberry Creek drainages. These discharges also provide ribbons of riparian habitat and significant wetlands, which are beneficial to livestock, wildlife, fish, and migratory birds.

We encourage the Environmental Quality Council and the Wyoming Department of Environmental Quality, to consider this important water source, when setting water quality standards for waters of the state. Water quality standards should not be set at such strict limits, which will cause the elimination of these important historical water sources and associated uses. Wildlife and agriculture water standards need not be as restrictive as aquatic life or human consumption standards. This was the rationale in originally providing the beneficial use exemption under the Clean Water Act.

The Guardians of the Range request that the PRESEC Petition for Reinstating be denied. The rulemaking proposed in this petition would result in elimination of historic surface discharge of produced water from conventional oil and gas fields in the Big Horn Basin. Loss of these historic water supplies would be detrimental to livestock operators, irrigators, and wildlife in the Big Horn Basin.

Sincerely,



cc: John Corra - WDEQ  
John Wagner - WDEQ  
Todd Parfitt - WDEQ  
Office of the Governor

February 15, 2006

**FILED**

**FEB 16 2006**

Terri A. Lorenzon, Director  
Environmental Quality Council

Mr. Mark Gordon  
Chairman  
Environmental Quality Council  
Herschler Bldg 1W  
Cheyenne, WY 82002

Dear Mr. Gordon,

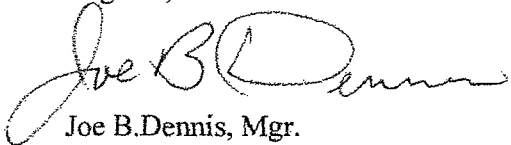
It is my understanding that the Environmental Quality Council is considering proposing rules that would require that water produced in conjunction with oil and gas extraction would have to be injected back into the ground. Although the production of this water might be a problem in some parts of the state, in the Big Horn Basin where I ranch this water is a valuable asset.

My neighbors and I have pastures where this water is the only reliable year round water source for our livestock. These sources of water were crucial during the recent drought years. Loss of this water would cause me significant financial loss in that my grazing would be greatly curtailed, or I would have to spend significant dollars in an attempt to develop alternate water sources.

Besides water for my livestock, water produced by oil wells on my property provides a year round water source for wildlife in an area that is prime winter habitat for deer and elk. Loss of this water source might have significant impact on their numbers.

I understand the great amounts of water produced by coal bed methane production represent a serious problem for Powder River Basin area; however, it should be possible to address that problem without denying a valuable source of water to other regions of the state.

Regards,



Joe B. Dennis, Mgr.  
Dennis Ranch Ltd., LLC  
375 E Pavillion Rd.  
Pavillion, WY 82523

**FILED**

FEB 16 2006

Terri A. Lorenzon, Director  
Environmental Quality Council

February 12, 2006

Department of Environmental Quality  
Water Quality Division  
Herschler Building  
122 West 25<sup>th</sup> Street  
Cheyenne, Wyoming 82002

To whom it may concern:

I am writing in regards to the treater water in the Big Horn Basin.

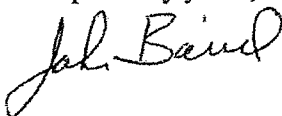
My dad bought a ranch on Cottonwood Creek in Hot Springs County in 1936. Some of my family (living there after 70 years) still depend on Cottonwood Creek for raising winter feed and livestock water.

The first few years on the Baird ranch was tough going because of the high amount of selenium in the natural water in the creek during the late summer and early fall. This high selenium count would sometimes cause abortions, paralysis, and/or blindness in the cattle. With the steady flow of water from the oil wells this malady to the cattle was pretty much eliminated.

With the increase of water in the creek the riparian habitat improved immensely. The creek banks are much more stable with much less erosion. With steady water in the creek the water fowl and minnows benefit as do the beaver and muskrats. There is much more grass and tree protection for the pheasants, the deer and other wildlife.

The treater water in the arid part of the Western United States is not causing anyone any harm as long as the treated water remains at the same quality as it is now! It is better water in the creeks than what was here previously. Leave it alone, please! I know it is a lot better now than it was 70 years ago when my dad moved to the ranch on Cottonwood Creek. It is much better for livestock, irrigation, and wildlife. Thank you for your time.

Respectfully yours,



John Baird

# MOONEY RANCH

1985 West Echeta Road

Gillette, Wyoming 82716

X  
T

2-09-06

**FILED**

**FEB 16 2006**

To: Members of the Environmental Quality Council

From: Mooney Ranch

Terri A. Lorenzon, Director  
Environmental Quality Council

Reason: CBM water discharges

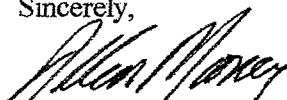
My family and I also own and operate a family ranch on Wildhorse Creek ( a four-generation ranch). While we may not necessarily agree that an unlimited amount of water should be released into this drainage we do agree that the water that has been released to date has been quite beneficial. We also lease from a neighbor a 2200 acre pasture that has been very poorly watered for livestock use. We used to check the two wells in that pasture on a daily basis during the heat of the summer. We now check the livestock in that pasture on a weekly basis and are quite relieved not to have to worry about the livestock water.

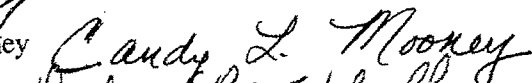


We have two methane companies operating on our ranch. The company who has the government mineral leased has been more than cooperative putting in rocked livestock crossings, rubber tired livestock tanks and have built or rebuilt many reservoirs. We are also working with both companies to develop some irrigation systems to enhance or hay meadows. We have even put fish into two of the reservoirs to entertain our grandchildren (the fifth generation).

We also had two cows that come down with foot rot, one that prolapsed and several that had pinkeye but we think it would be a real stretch to conclude that any of it was caused by the CBM water. We also have eaten several beef that have been drinking this same water and to date we have not suffered from any serious physical or mental disorders.

There may be some areas where CBM water is of such poor quality that it should not be released into our creeks but most of the water being produced in our area is a better quality than what we have piped into our homes. Our livestock and wildlife are doing extremely well on CBM water.

Sincerely,

  
Allen and Jan Mooney

**FILED**

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL    FEB 16 2006**  
**STATE OF WYOMING**

Terri A. Lorenzon, Director  
Environmental Quality Council

IN RE: THE PETITION TO AMEND            )  
WYOMING WATER QUALITY RULE,        )  
CHAPTER 2, APPENDIX H                )

**LANDOWNER COMMENT OPPOSING PETITION TO**  
**AMEND WQR CHAPTER 2, APPENDIX H**

**To the Chairman of the Environmental Quality Council:**

The undersigned landowner(s) ("Respondents") in the Wild Horse Creek Drainage, submit this comment letter to oppose the Petition of the Powder River Basin Resource Council and others seeking to amend the Water Quality Rules and Regulations, Chapter 2, Appendix H ("Petition").

Respondents benefit from the water produced by coal bed methane ("CBM") operations within the Wild Horse Creek Drainage in their agricultural and livestock operations. Respondents are aware that Petitioners allege that CBM produced water discharges are adversely affecting bottom lands and meadows, causing difficulty with crossings and various other problems, and that it is of inadequate water quality for livestock use. Respondents do not agree with Petitioners allegations, and to the contrary advise the Environmental Quality Council of the following:

- The presence of CBM discharge water in the Wild Horse Creek drainage, both in the creek channel and in reservoirs in upper draws and tributaries, is a benefit to our ranching operations. The water is utilized for livestock and wildlife watering and forage enhancement along the channels of tributaries and the creek.
- CBM companies have worked with Respondents to place reservoirs and outfalls in locations that optimize land use. For example, pastures that have historically been unusable or minimally usable due to inadequate stock water or high cost stock water are now fully utilized because of the predictability and reliability of CBM produced water in otherwise dry locations.
- In many instances, livestock and pasture management has been made easier due to the disbursement of water throughout our land. In addition, because CBM discharges are constant, we don't need to check water in remote locations as often, because it is more certain that water will be available and flowing from CBM production. Further, our maintenance and upkeep of water facilities is substantially minimized because the CBM companies routinely maintain the water flow so that it is constantly on and available.

- The difficulties with crossing and flooding of bottomlands stated in the Petition have not been difficult to address. The CBM companies have been responsive to our requests to construct adequate crossings for livestock or equipment and to do channel cleaning, culvert installation and other maintenance when necessary to prevent or resolve such issues. With appropriate lines of communication with the companies these are not issues that have caused us undue concern and such issues are typically easy to resolve.
- We have not noted any adverse effect on our livestock or on wildlife due to the quality of CBM water. In fact, because CBM water keeps the creek from drying out or going stagnant, water quality is often better than what is available from natural flows.

We oppose any rulemaking effort aimed at limiting discharges of CBM produced water into the Wild Horse Creek Drainage, since limitations such as are proposed by the Petitioners would negatively affect our livestock and agricultural operations. It would also be detrimental to wildlife which also benefit from the increased water supply and numerous locations where water is available.

For the foregoing reasons, Respondents respectfully request the EQC to DENY the Petition and not proceed with rulemaking as requested by the Petitioners. Thank you for considering our views on these important matters.

Sincerely,

Allen Mooney  
Signature  
ALLEN MOONEY  
Printed Name

Date: 2-09-06

Address:  
1985 W. Echeta RD  
Gillette, WY 82716

*Janice Mooney*  
\_\_\_\_\_  
Signature  
*Janice Mooney*  
\_\_\_\_\_  
Printed Name

Date: 2/9/06

Address:  
*1455 W Echota Rd*  
*Gillette, WY*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

Address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

Address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Delano B. Gladky  
Signature

Date: 2-9-06

DELANO B. GLADKY  
Printed Name

Address:

5 SURPRISE LANE  
GILLETTE, WY 82716

Margaret Ann Gladky  
Signature

Date: 2-9-06

Margaret Ann Gladky  
Printed Name

Address:

5 Sunrise Lane  
Gillette, Wyo. 82716

\_\_\_\_\_  
Signature

Date: \_\_\_\_\_

\_\_\_\_\_  
Printed Name

Address:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**FILED**

FEB 16 2006

Terri A. Lorenzon, Director  
Environmental Quality Council

February 15, 2006

Mr. Mark Gordon  
Chairman  
Environmental Quality Council  
Herschler Building 1W  
Cheyenne, Wyoming 82002

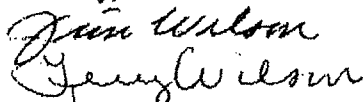
RE: Powder River Basin Resource Council Petition For Rulemaking, Chapter #2 of The  
Water Quality Rules

Dear Mr. Gordon:

We are ranchers who benefit from the usage of discharge water from oil fields. We have a BLM allotment of 19,000 acres, which adjoins the Gebo oil field and their discharge water allows us maximum usage of this allotment. We would also like to note that since this discharge water has been allowed to flow down Sand Draw to the Big Horn River, there has been an increase in the wildlife in the area. Namely, Mule Deer and Antelope. We have also noticed a huge improvement in the riparian development, with beavers coming to the area and building dams.

Thank you for your time.

Sincerely,



Jim Wilson  
Terry Wilson  
V Ranch  
Box 31  
Kirby, WY 82430  
307-864-2009; [vranch@rtconnect.net](mailto:vranch@rtconnect.net)

Cc: Office of the Governor  
200 West 24<sup>th</sup> Street  
State Capitol Building  
Cheyenne, WY 82002  
Attn: Ryan Lance

**FILED**

**FEB 16 2006**

Terri A. Lorenzon, Director  
Environmental Quality Council

February 13, 2006

Mr. Mark Gordon  
Chairman  
Environmental Quality Council  
Herschler Building 1W  
Cheyenne, Wyoming 82002

RE: Powder River Basin Resource Council Petition For Rulemaking,  
Chapter #2 of The Water Quality Rules

Dear Mr. Gordon:

I am writing this letter to express the importance of oil field discharge water to my ranch, the wildlife of the area, stream channels, wetlands, and the economy of the Big Horn Basin.

I am a 53 year old, fourth generation rancher who can attest to the benefits of oil field discharge water to my ranching operation. Oil field discharge water from three small oil fields provides livestock and wildlife water to four pastures on our ranch. Oil field discharge water has always been a major water source for these pastures. It has been the only water source since the drought hit our area in 2000. Our livestock and the wildlife of the area drink water from the streams year around. In addition to using stream flow, I currently pipe oil field discharge water approximately 3 miles to fill 5 reservoirs which provide water in two pastures.

Creek channels which have oil field discharge water on our ranch are in far better condition than the ephemeral creeks. The year-around oil field discharge water allows wetlands vegetation to grow abundantly in the channels thus stabilizing the creek channel and reducing the erosion. The wetlands that develop around these creeks increase the water table of the surrounding areas. This in turn provides additional feed and habitat for wildlife and livestock.

Oil production is the major tax base for Hot Springs County. Oil production is also the economic base for the county. Everyone in Hot Springs County benefits from an economically viable oil industry. Hot Springs County oil fields are some of the oldest in the state. They produce large amounts of water in order to extract the oil from the ground. A change in the rules

which will force these oil companies to reinject discharge water is unnecessary, unwarranted, and could lead to oil fields shutting in wells and closing fields. Hot Springs County needs these oil companies. My ranching family needs the water they produce. The environment is enhanced and the wildlife thrives because of the oil field discharge water.

Sincerely,

A handwritten signature in cursive script that reads "Matt M. Brown". The signature is written in black ink and has a long, horizontal flourish extending to the right.

Matt M. Brown

Cc: John Corra- WDEQ  
John Wagner- WDEQ  
Todd Parfitt- WDEQ  
Office of the Governor

**FILED**

**BEFORE THE ENVIRONMENTAL QUALITY COUNCIL FEB 16 2006  
STATE OF WYOMING**

Terri A. Lorenzon, Director  
Environmental Quality Council

IN RE: THE PETITION TO AMEND )  
WYOMING WATER QUALITY RULE, )  
CHAPTER 2, APPENDIX H )

**LANDOWNER COMMENT OPPOSING PETITION TO  
AMEND WYOMING CHAPTER 2, APPENDIX H**

**To the Chairman of the Environmental Quality Council:**

The undersigned landowner(s) ("Respondents") in the Wild Horse Creek Drainage, submit this comment letter to oppose the Petition of the Powder River Basin Resource Council and others seeking to amend the Water Quality Rules and Regulations, Chapter 2, Appendix H ("Petition").

Respondents benefit from the water produced by coal bed methane ("CBM") operations within the Wild Horse Creek Drainage in their agricultural and livestock operations. Respondents are aware that Petitioners allege that CBM produced water discharges are adversely affecting bottom lands and meadows, causing difficulty with crossings and various other problems, and that it is of inadequate water quality for livestock use. Respondents do not agree with Petitioners allegations, and to the contrary advise the Environmental Quality Council of the following:

- The presence of CBM discharge water in the Wild Horse Creek drainage, both in the creek channel and in reservoirs in upper draws and tributaries, is a benefit to our ranching operations. The water is utilized for livestock and wildlife watering and forage enhancement along the channels of tributaries and the creek.
- CBM companies have worked with Respondents to place reservoirs and outfalls in locations that optimize land use. For example, pastures that have historically been unusable or minimally usable due to inadequate stock water or high cost stock water are now fully utilized because of the predictability and reliability of CBM produced water in otherwise dry locations.
- In many instances, livestock and pasture management has been made easier due to the disbursement of water throughout our land. In addition, because CBM discharges are constant, we don't need to check water in remote locations as often, because it is more certain that water will be available and flowing from CBM production. Further, our maintenance and upkeep of water facilities is substantially minimized because the CBM companies routinely maintain the water flow so that it is constantly on and available.

- The difficulties with crossing and flooding of bottomlands stated in the Petition have not been difficult to address. The CBM companies have been responsive to our requests to construct adequate crossings for livestock or equipment and to do channel cleaning, culvert installation and other maintenance when necessary to prevent or resolve such issues. With appropriate lines of communication with the companies these are not issues that have caused us undue concern and such issues are typically easy to resolve.
- We have not noted any adverse effect on our livestock or on wildlife due to the quality of CBM water. In fact, because CBM water keeps the creek from drying out or going stagnant, water quality is often better than what is available from natural flows.

We oppose any rulemaking effort aimed at limiting discharges of CBM produced water into the Wild Horse Creek Drainage, since limitations such as are proposed by the Petitioners would negatively affect our livestock and agricultural operations. It would also be detrimental to wildlife which also benefit from the increased water supply and numerous locations where water is available.

For the foregoing reasons, Respondents respectfully request the EQC to DENY the Petition and not proceed with rulemaking as requested by the Petitioners. Thank you for considering our views on these important matters.

Sincerely,

Thomas S. Ferguson  
 Signature  
THOMAS S. FERGUSON  
 Printed Name

Date: 2-9-06

Address:  
EATONS RANCH  
2310 W. LEBETH RD  
GILLETTE WY 82716

UP TO THIS POINT THE AMOUNT OF WATER HAS BEEN MANAGEABLE & THE CBM COMPANIES HAVE BEEN COOPERATIVE. I DO HAVE CONCERNS ABOUT AN UNLIMITED AMOUNT OF WATER BEING DISCHARGED FURTHER UPSTREAM.

BEFORE THE ENVIRONMENTAL QUALITY COUNCIL  
STATE OF WYOMING

**FILED**

FEB 16 2006

IN RE: THE PETITION TO AMEND )  
WYOMING WATER QUALITY RULE, )  
CHAPTER 2, APPENDIX H )

Terri A. Lorenzon, Director  
Environmental Quality Council

**LANDOWNER COMMENT OPPOSING PETITION TO  
AMEND WQR CHAPTER 2, APPENDIX H**

**To the Chairman of the Environmental Quality Council:**

The undersigned landowner(s) ("Respondents") in the Wild Horse Creek Drainage, submit this comment letter to oppose the Petition of the Powder River Basin Resource Council and others seeking to amend the Water Quality Rules and Regulations, Chapter 2, Appendix H ("Petition").

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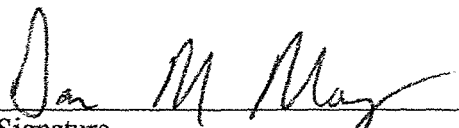
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We oppose any rulemaking effort aimed at limiting discharges of CBM produced water into the Wild Horse Creek Drainage, since limitations such as are proposed by the Petitioners would negatively affect our livestock and agricultural operations. It would also be detrimental to wildlife which also benefit from the increased water supply and numerous locations where water is available.

For the foregoing reasons, Respondents respectfully request the EQC to DENY the Petition and not proceed with rulemaking as requested by the Petitioners. Thank you for considering our views on these important matters.

Sincerely,

  
Signature  
DAN M. MOONEY  
Printed Name

Date: 2-9-06

Address:  
1875 W. Echeta Rd.  
Gillette, WY, 82716  
307-736-2322

Candy L. Mooney

Signature

CANDY L. MOONEY

Printed Name

Date: 2-9-06

Address:

1875 W. ECHETA RD.  
BILLETTE, WY 82716

\_\_\_\_\_

\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

Signature

\_\_\_\_\_

Printed Name

Address:

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Date: \_\_\_\_\_

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Signature

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Printed Name

Address:

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**FILED**

FEB 21 2006

Terri A. Lorenzon, Director  
Environmental Quality Council

P O BOX 249  
THERMOPOLIS WY 82443-0249  
February 15, 2006

MARK GORDON CHAIRMAN  
ENVIRONMENTAL QUALITY COUNCIL  
HERSCHLER BUILDING 1W  
CHEYENNE WY 82002

Dear Mr. Gordon:

I am writing to express my concern about the proposed rule changes pertaining to oil field discharge water.

Wyoming has many small oil companies that may be adversely affected by these changes. If these companies are forced to re-inject their discharge water, it will create hardships in several areas including livestock water, wild game water, destabilizing creek channels, and a reduction of vegetation on creek banks.

These things are in addition to the hardships to oil companies and may result in shutting down some wells or entire fields that might be marginal during times of lower oil prices.

My family has seen the results of discharge water from four (4) oil fields in grazing areas in which we have run cows since 1948. We have not seen any damage, and a lot of gain, from this water in this time. Year-round water in our waterways is critical in this arid climate (11'-12' annual moisture).

Please consider carefully the consequences of the changes being considered.

Sincerely,

  
Michael W. Ready

McCarty Ranching, LLC

P.O. Box 1418  
Cody, Wyoming 82414

OFFICE TELEPHONE 307-587-6291  
OFFICE FAX 307-587-5547

RANCH TELEPHONE 307-587-2055  
RANCH FAX 307-587-4703  
RANCH CELL 307-899-1121

July 12, 2006

PRIORITY MAIL

Mr. Mark Gordon, Chairman  
Environmental Quality Council of Wyoming  
Herschler Building, 1 West  
122 West 25<sup>th</sup> Street, Room 1714  
Cheyenne, Wyoming 82002

**FILED**

**JUL 13 2006**

Terri A. Lorenzon, Director  
Environmental Quality Council

RE: Marathon/Oregon Basin, Park County, Wyoming – Requested Amendments to Appendix H of Chapter 2 of the Water Quality Rules and Regulations, Effluent Limits

Dear Mr. Gordon:

McCarty Ranching, LLC is a Wyoming family owned and family operated range cow operation.

We winter cows in Oregon Basin from November 20 to April 15<sup>th</sup>. Those cows are totally dependent upon Marathon's oil field discharge water for their water.

We have had this water tested by Patterson Nutrition. They have found the water to be acceptable for cattle. The warm water is favored by cows in the winter. Enclosed is a copy of a letter from Patterson Nutrition.

Our cattle that winter in Oregon Basin on the discharge water, perform as well, if not better, than our cattle that winter in other areas. They maintain a body condition score of 5 or better, have near a 94% weaned calf percentage, with an average weaning weight of 500 pounds. We start calving May 10<sup>th</sup>. This weaning weight is 50 pounds heavier than calves that we run under the same management in other parts of the County. We have no unusual sickness or death loss with these cows.

If Marathon discharge water was not available to us on our Oregon Basin BLM permits, it would substantially impair our ranching operation. The expense of obtaining other water sources would be tremendous.


Not only do our cattle, and the cattle of other ranchers, depend on this water, but literally hundreds of antelope winter in Oregon Basin and are dependent upon the discharge water.

Mr. Mark Gordon, Chairman  
July 12, 2006  
Page 2

Numerous waterfowl utilize the discharge water throughout the winter.

Therefore, I would respectfully request that amendments not be granted as requested.

Respectfully submitted,



MICHAEL McCARTY

MMC/kmk

Enclosure

cc: Mr. Mark McCarty (w/enc.)  
Dr. Trey Patterson (w/enc.)  
Mr. John Cora, Director, Water Quality Division (w/enc.) – PRIORITY MAIL  
Mr. John Wagner, Administrator, Water Quality Division (w/enc.) – PRIORITY MAIL  
Mr. Bill DiRienzo, Water Quality Division (w/enc.) – PRIORITY MAIL  
Governor Dave Freudenthal (w/enc.) – PRIORITY MAIL

**Patterson Nutrition Company, Inc.**

Bud Patterson: 970-522-0264

Dr. Trey Patterson: 307-461-1001

July 10, 2006

Michael McCarty  
McCarty Ranching, LLC  
P.O. Box 1418  
Cody, Wyoming 82414

Dear Mr. McCarty,

It has been brought to my attention that there are proposed regulations to lower the sulfate standard in oil-field discharge water from 3000 to 500 mg/L. It is my professional opinion that such a change in the standard would be unnecessary and would potentially exclude useful livestock water from productive use in the Oregon Basin in Wyoming.

As you know, I have sampled water that your cattle were consuming in that location that was over 2200 mg/L sulfates. As a professional nutritionist, I viewed the cattle before and after they were consuming that water. The cattle actually increased in body condition score over the period of time and were in good nutrition and health status. Production numbers that you shared with me were consistent with the cattle being in both good nutrition and health.

There is no question that high sulfates in water are a concern for animal nutrition and health. We conducted a series of experiments when I was on faculty at South Dakota State University that showed the critical level of sulfates in water to be approximately 3000 mg/L. In other words, we concluded that water below 3000 mg/L was suitable for cattle. We considered water to be toxic if it contained 4000 mg/L or greater sulfate concentration.

There are some special nutritional considerations for cattle when sulfates are present. Sulfates can reduce the bioavailability of some trace minerals. By specially designing a mineral product that addressed this trace mineral concern, we were able to utilize the water on McCarty Ranching's operations while keeping production and cattle health at high levels.

I believe that it is important to consider the alternative to using the discharge water for your operations and for other ranches in the state....the alternative in many cases is no water at all. That goes for livestock or wildlife. I am not aware of any problems with wildlife consuming water in the range of sulfates in question. With some minor and inexpensive changes to the mineral program for cattle, the water with

approximately 3000 mg/L or less can be used for productive purposes. I have worked with ranches that used water with over 4000 mg/L sulfates. That is not ideal and surely there were some problems associated with sulfates in those instances, but it beat the alternative of no water. Interestingly, cattle will show similar symptoms when subjected to water deprivation as they do when subjected to toxic levels of sulfates in water. In addition, appropriate forage utilization, and thus efficiency of land use, is reduced with less water.

It would not be appropriate to discontinue use of water ranging from 2000 to 3000 mg/L sulfates for the sole reason that the sulfates are present. There are certainly management practices that can reduce if not eliminate the negative effects of sulfates in water if they are within that range. For instance, producers can make sure the cattle are not water deprived when first using the water source, they can use the water in the cooler months when water requirements are reduced, and they can use good mineral nutrition to preclude deficiencies in trace minerals. I know that oil-field discharge water is of value to your operation and others throughout the state. With good nutrition and management, I believe that that water can continue to enhance the productivity and profitability of your operation. The water is a benefit, not a detriment, to the state of Wyoming.

Please call if you have any questions.

Sincerely,

Dr. Trey Patterson  
Patterson Nutrition Company, Inc.  
307-461-1001