

ENCOURAGING RESPONSIBLE DEVELOPMENT TODAY ~ FOR TOMORROW

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DEQ, Water Quality Division  
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Cheyenne, WY 82002  
Submitted via facsimile to 307-777-7610

**FILED**  
JUN 28 2010  
Jim Ruby, Executive Secretary  
Environmental Quality Council

RE: Draft regulations governing the underground injection and storage of carbon dioxide

Dear Mr. Frederick,

Thank you for the opportunity to provide additional comments on the draft regulations governing the underground injection and storage, commonly called "geologic sequestration," of carbon dioxide. As you know, our organization advocates for responsible use and development of our state's valuable natural resources. We have been active in carbon sequestration issues in the state and nationally and we bring the perspective of our members, many of whom are rural landowners whose property may be directly impacted by carbon sequestration projects in Wyoming. Our members have a keen interest in the development of these rules and in the state's overall efforts to promote a clean energy economy that decreases our contribution to global climate change.

In many regards, we believe the state has taken the appropriate approach in developing these regulations. We thank you and your division, and the Water and Waste Advisory Board, for your hard work researching and developing these rules. Carbon sequestration is an emerging field and thus the task of developing these rules was not an easy one, but the DEQ willingly and ably took on the challenge and deserves public commendation for its efforts. With some adjustments, we feel these rules will be ready to move forward as the first regulatory step towards a new industry in the state, provided that all parties remain flexible and open to changes that may become necessary.

With that said, we have several comments and questions for you and the Environmental Quality Council to consider in this next round of revisions.

**Relationship with Enhanced Oil Recovery**

We remain concerned that the state has not appropriately addressed the relationship between enhanced oil recovery (and potentially enhanced natural gas activities) and permanent sequestration. If the rules now allow sequestration in depleted oil and gas reservoirs, which are promising formations for sequestration, we believe it is necessary to squarely address the



question of what happens when an enhanced oil recovery project turns into a sequestration project (or acts as one simultaneously during EOR operations). Will the carbon dioxide be allowed to stay underground even if the site does not meet the criteria for a Class VI permit? How would an enhanced oil recovery operation trigger the definition of "geologic sequestration project" as the operation might have a double purpose of sequestering carbon dioxide and recovery of oil?

We renew our comments in March, which stated:

It is possible that sequestration could be occurring concurrent with an EOR project; however, the fields in which EOR is occurring were selected because of the hydrocarbon resources not because their suitability for long-term carbon dioxide sequestration. Thus, in order to ensure the long-term benefits of sequestration operations (e.g. keeping carbon dioxide underground while protecting groundwater), we believe that the more rigorous site characterization, monitoring, and reporting requirements of Class VI should apply anytime carbon dioxide is being sequestered.

We urge DEQ to work with the Oil and Gas Conservation Commission to clarify these issues and if necessary, to seek legislative authority to develop solutions to these difficult questions.

In response to these questions and comments, DEQ stated:

"Conversion of an enhanced oil recovery project (EOR) to a geologic sequestration project will require the operator to conform to the regulatory requirements of the proposed rule in order to obtain a permit. In the event that the operator cannot meet those requirements, we believe the operator would remain subject to the Class II EOR requirements administered by the Wyoming oil and gas conservation commission (WOGCC). It is possible that EOR operators may wish to obtain carbon credits that can accrue from CO<sub>2</sub> sequestration during the EOR process. New statutory provisions or clarification may be needed before rules and regulations can be developed to address that scenario."

We appreciate this response; however, it appears that DEQ's interpretation is that an operation "would remain subject to the Class II EOR requirements" if they cannot meet the more rigorous Class VI requirements, even if the operator is sequestering carbon in a manner that would make them technically subject to the Class VI requirements. This is concerning. All carbon sequestration projects – regardless of whether they started off as EOR projects – should be subject to the new Class VI requirements because they include provisions that the legislature, DEQ, and various stakeholders have decided are necessary to protect public health and the environment.

#### **Financial Assurance**

The rules are still without sufficient protections for the public in terms of bonding and financial assurance. While we understand that the bulk of these rules were prepared prior to the passage of HB 17 in this year's budget session, we continue to be concerned about the state moving forward

with a permitting scheme without financial assurance provisions. DEQ mentions this legislation and the upcoming regulations in Section 18 of the Rules, but then proceeds to use draft EPA boilerplate to fill in the gaps. This boilerplate does not address long-term liability risks or post-closure stewardship,<sup>1</sup> which are particular concerns of the public, and are something that HB 17 addresses. We feel it is therefore important for the state to wait until we have guidance from the financial analyst that DEQ plans to hire to help write the financial assurance rules to make sure we do this right the first time around. We do not believe DEQ should issue a new Class VI permit until the financial assurance requirements are promulgated.

Thank you again for your hard work and for your time and consideration in considering these comments. We look forward to providing additional comments and testimony, as necessary, at the upcoming July 8<sup>th</sup> hearing.

Sincerely,

Shannon Anderson  
Organizer, Powder River Basin Resource Council

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<sup>1</sup> See Clean Air Task Force, et al. comments to EPA page 9: "EPA's proposed closure standards in § 146.93 need revision...the proposed rule authorizes operators to stop monitoring, but does not provide for the stewardship of sites following closure."



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Thank you again for your hard work and for your time and consideration in considering these comments. We look forward to providing additional comments and testimony, as necessary, at the upcoming July 8<sup>th</sup> hearing.

Sincerely,

A handwritten signature in black ink that reads "Shannon Anderson". The signature is written in a cursive style with a long, sweeping horizontal line extending to the right.

Shannon Anderson  
Organizer, Powder River Basin Resource Council

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<sup>1</sup> See Clean Air Task Force, et al. comments to EPA page 9: "EPA's proposed closure standards in § 146.93 need revision...the proposed rule authorizes operators to stop monitoring, but does not provide for the stewardship of sites following closure."