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December 23, 2011

Diane Walker-Tompkins
Department of Environmental Quality
Water Quality Division
122 West 25th Street, Herschler Building – 4W
Cheyenne, WY 82002

FILED
DEC 27 2011
Jim Ruby, Executive Secretary
Environmental Quality Council

RE: Proposed Water Quality Rules
Chapter 5 – Certification of Operators of Public Water and Distribution Systems and Publicly Owned Wastewater Treatment and Collection Systems

Dear Ms. Tompkins:

The Wyoming Mining Association (WMA) would like to provide further comments on the Chapter 5, Water Quality Rule. The WMA is a statewide trade organization representing 36 mining companies producing bentonite, coal, trona (processed into soda ash), and uranium. Wyoming leads the nation in production of all four of those minerals. Wyoming mines produce 40% of the nation's coal which is shipped to 35 states from Washington to New York and Georgia to Minnesota. Wyoming mines also produce 90% of the soda ash used in the United States and ship soda ash to many countries around the world.

The WMA has previously provided comments regarding this rule. These comments were submitted on November 15, 2010 and additional comments on March 25, 2011. In addition to these comments, a number of our member companies also provided individual comments. These comments included:

- Western Fuels comments dated March 7, 2010,
- Peabody's comments dated September 28, 2010, and
- Thunder Basin Coal Company's comments dated November 2, 2010.

We appreciate the Water Quality Division's (WQD) willingness to consider these comments. The WQD has addressed many of the previously identified concerns. However, we believe there is one issue that remains outstanding and should be addressed prior to the rules being finalized.

The proposed definition of "facility classification" is very open ended and does not clearly define the ranking system that will be used to classify facilities. The facility classification determines what level of operator will be needed to manage the facility. To ensure continued compliance with this rule, it is imperative that the ranking system be clearly defined. As proposed the rule states that the facility classification will be based on a "nationally recognized point rating system". This does not define what point rating system is to be used.

If the classification system remains nebulous, owners will have no assurance that the operators that they have trained will be adequate for the operation of their systems if the classification system can be changed without public notice. If system modifications or replacements are necessary, again the owners will not be able to make sound business decisions because the rule does not clearly define how a facility is to be ranked and consequently what level of operator will be needed if changes are made to the system.

WQD's decision to use the ABC classification system is supported by the WMA as this is a system used by 37 states and territories in the US. However, WMA does not understand the WQD's reluctance to clearly define that the ABC classification system is the approved system that will be used to rank facilities. In an effort to ensure continued compliance with the rule, the facility classification definition must be modified.

The suggested modifications are outlined below. The following conventions have been used: Underlined text indicates changes recommended by WMA. ~~Strike through~~ text designates requested deletion from the rule. Comments have also been added in italics to further explain the requested changes.

Section 3 - Definitions

"Available" means based on system size, complexity, and source water a certified operator shall be on-site or able to initiate the appropriate operational and technical actions in a timely manner.

- *The WMA believes this definition is acceptable if the "facility classification" definition is changed so it clearly defines the facility classification system that will be used. If the "facility classification" definition is left unchanged this definition must be revised as shown to clearly define how system size, complexity and source water will be used to define what classification of operator will be required to operate the system.*

"Facility classification" means the level of operational complexity of a water treatment, water distribution, wastewater collection, or wastewater treatment system based on a ~~nationally-recognized point rated system~~ the ABC classification system.

Section 5 – Facility Classification

- (a) All facilities subject to this rule shall be classified by the Administrator using a ~~nationally-recognized rating~~ the ABC classification system.
 - ii. The Administrator may modify the ranking system to better accommodate Wyoming systems after public notice has been given.

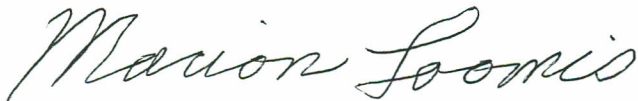
(c) A facility classification review by the Administrator is required for any facility modification ~~change to a facility that is significant enough to~~ require a DEQ individual permit to construct or which would change the classification of the system using the ABC classification system.

- *The current proposed language would require a facility classification review for any*

change to a facility that is significant enough to require a DEQ individual permit to construct. This language does not define what changes to a facility are considered significant. The language as written has resulted in DEQ involvement in minor items, such as regular maintenance, plumbing or even changing pump brands. WMA prefers the above suggested language as it would provide clearer guidance for Certified Operators of when DEQ involvement is required. Assuming the operators are properly trained and certified, they should be able to specify minor changes without notifying DEQ. This suggested language would give the Certified Operators the flexibility to make and implement changes to ensure facilities are kept in compliance.

Many WMA members operate onsite water systems to provide potable water for their employees. With the proposed changes outlined above facilities would be able to continue operations knowing exactly what is required to maintain compliance with the rules. As always, the WMA is interested in supporting rules which maintain environmental and public protection without undue burden on the regulated community. We appreciate the Environmental Quality Council taking these comments under consideration as the rule is finalized.

Sincerely,
WYOMING MINING ASSOCIATION

A handwritten signature in cursive script that reads "Marion Loomis".

Marion Loomis
Executive Director