Wyoming
Department of Agriculture

Dave Freudenthal, Governor

John Etchepare, Director

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March 15, 2006

Mark Conrad
305(b) Coordinator
Department of Environmental Quality
Herschler Building 4-W
122 W. 25th St.
Cheyenne, WY 82002

Dear Mr. Conrad,

Following are the comments from the Wyoming Department of Agriculture (WDA) on Wyoming's Draft 2006 305(b) State Water Quality Assessment Report and Draft 2006 303(d) List of Waters Requiring TMDL's, submitted by the Department of Environmental Quality (DEQ).

Our comments are specific to our mission within state government: dedication to the promotion and enhancement of Wyoming's agriculture, natural resources, and quality of life. As this proposal will have major impacts upon our agriculture industry, our natural resources and the welfare of our citizens, we believe it is important we are kept informed of proposed actions and decisions and that we are continually provided the opportunity to express pertinent issues and concerns.

The WDA supports DEQ's efforts on compiling the 305(b) Report and the Draft 2006 303(d) list. We believe the update of these documents supports DEQ's mission to provide all of Wyoming with clean, healthy, and useable water. The WDA offers the following comments to strengthen these documents for all those who plan to use them.

Report Probability Monitoring
DEQ indicated the need of using a probability survey to review Wyoming's waters. We question how DEQ is implementing this survey and the results. We request DEQ work cooperatively with the local Wyoming Conservation Districts on sampling waters across the state. The districts should partake in the sampling, monitoring, and reporting of these streams with DEQ. The document fails to indicate how the probability survey will "randomly" sample. Will waters already being monitored be included in the survey sampling?

Avoid Single Samples
DEQ's section "E.Coli as an Indicator of Fecal Contamination" suggests a single random sample taken to determine E.coli bacteria, which exceeds 400 cfu/100ml, will have a 99% chance of repeating itself in future samplings. First, DEQ must indicate a scientific, peer reviewed report to validate this statement. Second, single sampling at one point in time should be avoided. Results are proven to vary throughout the different seasons. A large number of samples taken over a longer period of time are necessary to gage a "true" pattern. DEQ's possible listing of streams based on a "99% chance" is not acceptable. We request the removal of this statement from your report unless, proper scientific citation is provided. Finally another statement of concern is "In every case that has undergone subsequent thorough and well designed monitoring, fecal coliform has exceeded the geometric mean criterion and therefore the water is impaired for its contact recreation use." We disagree with "In every case." Perhaps a majority of these cases is a more justifiable statement.

Avoid Singling Out Livestock
DEQ's statement on page 71 "Several years of data indicate that the high fecal bacteria counts are primarily related to grazing practices, although recreational users and wildlife may also play a role." Recent court rulings supported grazing permittees on the Crow Creek for their grazing practices. As DEQ indicated, there are more reasons for fecal coliform bacteria entering the waters besides livestock, including recreational users and wildlife. The word "clearly" singles out livestock as the primary source for a bacteria count exceedance. Additionally the same paragraph indicates livestock movement will occur prior to anticipated exceedances. The Action Plan is for all management for the given area, not just for livestock grazing. The management changes yearly for these areas and should reflect this.

Work with Conservation Districts on Tables
We have reviewed DEQ's tables which indicate changes, additions, and the cause of impairments for waters across Wyoming. We strongly urge DEQ to work with the local conservation districts before these waters are listed or changed. We believe there is information collected by the districts that can assist DEQ in the creation of these tables. Some of this information may be in process and should be reflected to avoid listings. An example is the recent information the Environmental Quality Council received in regards to Chugwater Creek. Water samples taken by the Platte County Conservation District proved the creek was eligible for removal from the 303(d) list. However, the creek remains on the list as of current.

We support DEQ in making the waters of Wyoming the best for all who use them. We thank you for the opportunity to comment and look forward to reviewing the final Report and Draft.

Sincerely,

John Etchepare
Director

Cc: Governor's Planning Office
Wyoming Stock Growers Association
Wyoming Wool Growers Association
Rocky Mountain Farmer's Union
Wyoming Association of Conservation Districts
Wyoming Farm Bureau Federation
Wyoming State Grazing Board