



Wyoming Department of Agriculture

2219 Carey Ave., Cheyenne, WY 82002 ■ Phone: 307-777-7321 ■ Fax: 307-777-6593
E-mail: wda1@state.wy.us ■ Website: wyagric.state.wy.us

Dave Freudenthal, Governor

John Etchepare, Director

September 29, 2005

Bill DiRienzo
Wyoming DEQ/WQD
Herschler Building, 4th Floor West
122 W. 25th St.
Cheyenne, WY 82002

Dear Mr. DiRienzo:

Following are additional comments from the Wyoming Department of Agriculture (WDA) on the Draft of Proposed Rules, Water Quality Rules and Regulations—Chapter 1, Implementation Policies, Section 20, Agricultural Use Protection Policy, subsection IV Bottomland Forage.

Our comments are specific to our mission within state government, which is to be dedicated 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's important that we be kept informed of proposed actions and decisions and that we continue to be provided the opportunity to express pertinent issues and concerns.

We appreciate the Department of Environmental Quality (DEQ) accepting these additional comments on subsection IV Bottomland Forage. The DEQ states on paragraph two, page 60, "Though this type of conversion may be undesirable from the perspective of a livestock producer, it cannot be legitimately addressed through the water quality regulations." The Water Quality Division of DEQ may not be the appropriate division for addressing water quantity damages. However, a regulatory agency such as DEQ Land Quality Division, may be more appropriate due to the damage the added quantity of Coal Bed Methane (CBM) discharged water causes.

CBM water can degrade streams with bank erosion and increased sediment in certain situations. The killing of cottonwood trees, conversion of grasses to unfavorable wetland species, and removal of currently productive bottomlands is not acceptable. We believe the 2005 Split Estate Act, Article 4, Entry to Conduct Oil and Gas Operation, is important for all "surface owners" to use. According to Article 4, 30-5-401, the definition of a surface owner is any person holding any recorded interest in the legal or equitable title, or both, to the land surface on which oil and gas operations occur, as file of record with the county clerk of the county in which the land is located."

The CBM water can create surface damage. State statute 30-5-405(ii, iii) states the following:

Board Members

District 1

Lee Otto

District 2

Meghan Lally

District 3

James S. Mickelson

District 4

Helen Jones

District 5

Spencer Ellis

District 6

David J. Graham

District 7

Glenn "Gene" Hardy

9/29/2005

DEQ—Chapter 1 Water Quality

Page 2

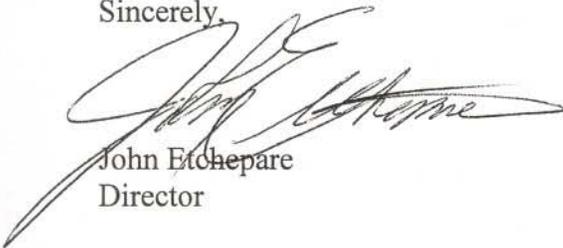
(ii) The amount of damages and method of compensation may be determined in any manner mutually agreeable to the surface owner and the oil and gas operator. When determining damages, consideration shall be given to the period of time during which the loss occurs.

(iii) The payments contemplated by this subsection shall only cover land directly affected by oil and gas operations. Payments under this subsection are intended to compensate the surface owner for damage and disruption.

The damage CBM water is causing is just beginning to form complaints from private landowners. We strongly recommend the DEQ call a meeting to address the CBM water issue. The identification of who is responsible is very difficult due to the lack of regulation with damages from water quantity. We encourage representatives from the private agriculture industry, WDA staff, CBM industry, and Wyoming Association of Conservation Districts be present.

We thank you for the opportunity to comment and look forward to a meeting in the near future.

Sincerely,



John Etcheperre
Director

JE/jw

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