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October 26, 2008

Chairman Boal, Members of the Environmental Quality Council. Thank you for the opportunity to speak to you regarding the Proposed changes to Appendix H of Chapter 1 of the WQD Rules-Agricultural Use Protection.

First I'd like to give you a little background of our ranch history and experience with the coalbed methane development. My husband, Dudley, and I currently ranch in Campbell County with a portion of the ranch situated on Wildcat Creek and a portion in the Middle Prong Drainage. My great grandparents homesteaded here in 1917, and my parents, our children, and grandchildren are all actively involved in the ranch operation.

We are surface owners only, so with no mineral royalty income from the coalbed natural gas production, our goal and focus has been on improving our ranching operation through beneficial use of the water, and developing a planned water system to help us manage our grass resource for the benefit of our livestock and the wildlife on our ranch. We have worked to contain and use the water produced on our ranch without negatively impacting downstream landowners. We have also worked to cooperate with and benefit our neighbors when possible.

We like the coalbed produced water. It has been a godsend to our ranch during these years of drought. However, we have seen increasing regulations hamper our ability to put this water to beneficial use on our ranch.

Let me share a couple of experiences we had in this last year. Because of increasing regulatory requirements, companies are now looking at injection wells to re-inject the produced water. We had 3 injection wells drilled on our ranch last year in an area of the ranch in which we are still trying to get water developed. As these injection wells were being drilled, because of WDEQ water standards and the high costs of monitoring associated with these standards, the company chose not to discharge water into some of our existing reservoirs which were either dry or stagnant due to the drought. They were also reluctant to install water tanks to address our need for livestock water for fear of the regulatory environment and the fines associated with potential leaks from these tanks. For a while it looked like we were going to be left high and dry without water for our cows in that area of the ranch, while an available and abundant source of water was being injected into deep aquifers underground. Fortunately, through a series of meetings with the WDEQ, the company and other officials, we were able to get water tanks installed and our cows and the wildlife are now happily drinking from a fresh, abundant supply of good, clean water.

We also had a company tell us they may no longer be utilizing reservoirs for water containment because of the increasing regulations and costs to meet those regulations. This concerns us because reservoirs provide essential back-up water when pipelines and wells go down. Through the use of discharge permits in conjunction with water tanks, reservoirs also provide us the ability to keep open water available during the winter months.

These experiences highlight to us the importance of individual landowners having the flexibility within regulations to be able to work with the agencies and companies to

address individual needs and goals in putting this water to beneficial use and in managing resources.

Because of our concern on how increasing regulations will hamper our ability to use the water, we support leaving the current livestock watering standards as they are. We believe they provide adequate protection for our livestock. Increasing the standards may make it difficult for us to be able to use produced water to benefit our livestock.

We support the provision for a landowner or livestock producer to be able to request a waiver and accept the risk from produced water. This would again provide flexibility for individuals to tailor the development and use of produced water to their needs. However, we are concerned about language that would require all potentially affected livestock producers and landowners to approve the waiver. We feel this language could make it nearly impossible to receive a waiver depending on how broad the definition of “potentially affected” is. It would make more sense that someone would have to be “directly” affected by the waiver rather than “potentially”.

An example of why the objection should be directly related is our recent experience of being notified by one of the companies operating on our ranch that they were discontinuing a discharge permit with an outfall into one of our existing reservoirs because of a protest submitted to the EQC by a landowner. This reservoir is located so many miles from that landowner’s property that it would be next to impossible for water discharged into it to ever reach his property, yet he was able to protest that discharge. The company chose to discontinue the discharge due to the cost of litigation and we no longer have water being discharged into the reservoir.

In conclusion, we ask you to keep flexibility in the regulations, keep the current livestock watering standards, and allow landowners and livestock producers to apply for waivers to use the water if they are willing to assume any risks associated with using that water on their own property for their livestock needs. Water issues have always been divisive with many differing concerns to be balanced. As ranchers and livestock producers, we need the balance and flexibility to be able to use this very valuable resource to benefit livestock, rangeland, and wildlife.

Thank you for the opportunity to speak to you today. I would be happy to answer any questions.

Sincerely,
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