



October 28, 2008



Mr. John Morris
Environmental Quality Council
Hershler Building
122 West 25th Street
Cheyenne, WY 82002

Re: Water Quality Proposed Revisions to Chapter 1, Appendix H

Dear Mr. Morris:

Below are comments on the proposed rules described above. These comments in some form or fashion were either discussed with the WQ Advisory Board or were submitted prior to the hearing.

Water has been discharged from Powder River Basin mines for many years, and we are not aware of WQD receiving any complaints about the quality of the discharges. We are very concerned that the rules must be passed with a grandfather clause, (paragraph 5 of Appendix H) and we feel that is an essential part of the rule as written. Removing the grandfather clause would be a radical change to these proposed rules, requiring the rules to go back to the Advisory Board for rehearing.

I have a minor, but important, suggestion to improve the clarity of the grandfather rule:

Current Language:

"Effluent limits on discharges that began prior to January 1, 1998 will not be affected by this Appendix in relation to the protection of agricultural uses."

Proposed Language:

"Effluent limits on discharges permits that began prior to January 1, 1998 will not be affected by this Appendix in relation to the protection of agricultural uses."

Typically, each coal mine has one WYPDES permit with several different discharge points (outfalls). Coal mines utilize sediment control reservoirs to control runoff from the mining area. Each sediment pond has a different outfall number under the one WYPDES permit. As the mining pit progresses, the mine may move across a drainage divide. Prior to that happening, a new sediment reservoir would be built to control runoff. The WYPDES permit would then be modified by adding a new outfall. The new outfall would control runoff from the same mine, and may even discharge into the same drainage as other sediment control reservoirs under the same WYPDES permit. The proposed language would keep each outfall within the one permit under the same requirements.

In the EQC meeting in Casper when John Wagner was discussing the impact of the new rule, he discussed the grandfather rule in terms of "permits issued before 1998", not "discharges issued before 1998" or even "new outfalls before 1998." The proposed language clarifies the intent of the grandfather clause, and is consistent with the description of the impact of the rule as described by Mr. Wagner to the EQC.

If you have any questions, or require additional information please contact me at (307) 464-2113.

Sincerely,

Wendy S. Hutchinson
Regulatory Affairs Manager