

TESTIMONY – 2006 & 2007
Environmental Quality Council Hearings
CHAPTER 2 WATER QUALITY RULES AND REGULATIONS

Resubmitted by

COAL BED NATURAL GAS ALLIANCE

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EQC Hearing Testimony

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1 we can hear landowner concerns as well. Because we are
2 concerned about the petition. And in the future, we
3 would like to ask that you give us a little bit more
4 notice so that we can make sure to have better
5 attendance at the meetings.

6 MR. GORDON: Sure, duly noted.

7 MS. KRAMER: And the transcript is so that
8 we'll all know what goes on.

9 MR. GORDON: Do you have any thoughts or are
10 you just listening as well?

11 MS. KRAMER: I'm here pretty much to listen.
12 I think I have a client on the way who may also express
13 thoughts, but that's why I'm here.

14 MR. GORDON: Thanks. I'm sorry it wasn't --
15 I didn't get to this sooner, but, Nicol, I share your
16 concerns. My whole point is it's nice to have the
17 conversation.

18 MS. KRAMER: It is.

19 MR. GORDON: Thanks. Kevin D. Jones.

20 MR. JONES: No comment.

21 MR. GORDON: Thank you, Kevin. Jeff Sviga.

22 MR. SVIGA: No comment.

23 MR. GORDON: Okay, thanks. Bob Georges.

24 MR. GEORGES: No comment.

25 MR. GORDON: No comment. Okay, thank you.

1 Steve Jones.

2 MR. JONES: Thank you. For the record, I do
3 represent the Meeteetse Conservation District, which is
4 local government, five elected, unpaid officials who
5 are charged through statute for looking after the
6 economic viability of the agricultural community
7 through management of water, soil and other natural
8 resources.

9 I would like to remind the Council of some of
10 the statutory language in Title 35, Public Health and
11 Safety 11-32 the Administrator's Authority to Recognize
12 Standards Rules and Regulations or Permits. And
13 getting into it a little bit, subsection (6), in
14 recommending any standards, rules, regulations or
15 permit, the administrator and the advisory board shall
16 consider all of the facts and circumstances bearing
17 upon the reasonableness of the pollution involved
18 including the character and degree of injury to or
19 interference with the health and well-being of the
20 people, animals, wildlife, aquatic life and plant life
21 affected; B, the social and economic value of the
22 source of pollution; C, the priority of location in the
23 area involved; D, the technical practicability and
24 economic reasonableness of reducing or eliminating the
25 source of the pollution; and E, the effect upon the

1 environment.

2 We all are concerned about the environment
3 and the effects of this water. But it seems somewhat
4 inconceivable that water from a coal bed methane well
5 over here should be treated different than the water
6 from an oil gas production facility. Water is water.
7 The effects on the environment will be the same if the
8 composition of the water is the same. The language in
9 Appendix I, that would be --

10 MR. GORDON: Actually, I don't mean to take
11 you off track. I'm not -- I just kind of wanted to
12 sort of understand, generally, the practices and
13 efforts that have gone on. We don't really have
14 specific language published yet to comment on, so --

15 MR. JONES: I'll get there then.

16 MR. GORDON: Okay.

17 MR. JONES: Because the produced waters do
18 not cause contamination where alteration of the
19 physical, chemical and biological properties of any
20 waters of the state including change in temperature,
21 taste, color, turbidity or odor.

22 Well, that rules out even the ability to
23 improve water quality, according to what's going on in
24 this rule. It would make it required for realtime
25 monitoring of the body of water that the produced water

1 is going into to make sure there's no change in
2 existence. I think that's technically impossible.

3 MR. GORDON: I understand this. Let me just
4 mention, again, that we don't have specific language in
5 front of us. When that language is crafted, it will be
6 published, and that language will then go to a hearing
7 where your comments would be appropriate and part of
8 the formal record.

9 MR. JONES: I'd like to go back to Title 35
10 11-302, the technical practicabilities and economic
11 reasonableness, reducing or eliminating the source of
12 pollution need to be considered. And we are as a
13 conservation district, first and foremost, empowered to
14 work to assist our ranchers and farmers and the rest of
15 the agricultural community through the management of
16 water and resources -- excuse me the water, soil and
17 natural resources.

18 And to trying to take a statewide policy,
19 that this appears to be, that needs to be so site
20 specific because of the interactions of soil and water,
21 we do not feel that a statewide, one-size-fits-all
22 approach is really practicable considering the economic
23 requirement not only on the agricultural community, but
24 also on the producers themselves.

25 We are concerned -- in the Big Horn Basin --

1 and the Meeteetse Conservation District lies on the
2 south side of Park County -- we have really an
3 incredibly good relationship with our oil and gas
4 producers and the agricultural community.

5 The DEQ visited on site the Pitch Fork Field
6 and North Sunshine Field discharges, and it was pointed
7 out that in that desert that was the only water
8 around. It's been pointed out in other public forums
9 that perhaps -- high sulfates, for example, might cause
10 some kind of problem with -- I think it was in front of
11 the Park County Commissioners --- bovine -- a bovine
12 disease, what was it? -- Bovine polio.

13 Our agricultural producers are used to having
14 things that go wrong with their cattle. And bovine
15 polio is nowhere near the list here in the desert where
16 things like good old Wyoming hollow belly and
17 dehydration are important things.

18 Our high altitude producers routinely have
19 problems with cattle brisket disease, which are
20 pulmonary artery problems, but we handle that as an
21 industry. We don't need a statewide policy dealing
22 with water discharge to handle this nonproblem.

23 On that, I think I'd just like to close with
24 saying the agricultural community needs the water.
25 This policy does not, for example, appear to give us

1 options to utilize water in the future that may really
2 provide benefit -- we may be able to get beneficial use
3 out of, and we have no concerns about this statewide
4 policy that may not fit us.

5 MR. GORDON: And I appreciate it. Actually,
6 I think, you know, oil and gas produced water and
7 agriculture have coexisted for a long time, and it's a
8 very important part of our agriculture. That's why I'm
9 so impressed that you're able to come here as a
10 conservation district and kind of talk a little bit
11 about the kinds of programs that you have done.

12 Could you -- I'm not even a little bit
13 familiar with Meeteetse. But can you tell me a little
14 bit more about the kinds of -- is it drinking water or
15 are there irrigation things that are going on? Are
16 there other kinds of programs that can be, you know,
17 that are of value?

18 I guess to me, coming from the Powder River
19 Basin coming over to the Big Horn Basin, it looks to me
20 like there's been a very, very long and good
21 relationship in a lot of ways between the producers and
22 the agriculture people, and that water is very
23 important to those agricultural operations. I think
24 that's what you were saying.

25 MR. JONES: That is what I was saying. We

1 recognize that there are real problems over in the
2 Powder River Basin with the interactions of bad water
3 and bad soils and good water and bad soils and all
4 things in between.

5 I think it would be fair to say that local
6 situations need to be taken care of on a local basis
7 not statewide. We have different soils than Powder
8 River Basin. And the simplistic look at SAR and TDS
9 that is, for example, in the Section 20, Chapter 1,
10 which is similar to what's going on in this petition,
11 the thing that's too complex and needs to be hammered
12 out on a local basis.

13 The Department of Agriculture, for example,
14 has a mediation process that's mainly used for federal
15 problems. Perhaps that state program could be fine
16 tuned to work with solving situations that are
17 happening on a local basis between state entities and
18 production companies and ranchers and farmers.

19 But getting back to your comment. The water
20 we use is used for both agriculture and livestock.
21 Indirectly, I suppose it could be considered to be
22 drinking water. We do have coal underlying part of our
23 area. We are expecting that there will be coal bed
24 methane production sometime in the future.

25 We also know that as the price of a commodity

1 changes, new wells in the old fields may come on line
2 or may be shut in, plugged or abandoned or whatever.
3 Things change, and we are concerned that minor changes
4 in water chemistry might cost our partners, if you will
5 -- the oil and gas industry -- incredible amounts of
6 time, money and possibly even result in the water being
7 just put in a pipeline and injected somewhere where we
8 get no benefit from it.

9 We do not know what the future holds. We do
10 know that it will change. We do know that in our
11 desert, water is probably to us as valuable as the oil
12 and gas and methane production. I think that's the
13 note I'd like to leave you with.

14 The sage grouse benefit from it, the DEQ tour
15 showed what the discharge waters provided to our
16 community, and I think -- I felt very comfortable with
17 the dialogue that occurred with John Cora and Bill
18 DiRienzo and the rest of the group as we had that
19 tour. I thought it was an excellent tour. I think a
20 lot of common ground was found, and I think it started
21 things. It really improved the situation on the rule
22 making.

23 But this thing is --

24 MR. GORDON: Again, I want to thank you very
25 much for the sort of general comments. I don't mean to

1 shut you off on those other things, but it's not the
2 right time. I really don't have anything to comment
3 specifically on; although, I do register what your
4 concerns are.

5 MR. JONES: Our desert needs water. Thank
6 you.

7 MR. GORDON: Thank you. I have Marvin
8 Blakesly. I met you out in the lobby.

9 MR. BLAKESLY: First of all, Mark, I'd like
10 to thank you for coming here to the Big Horn Basin and
11 hearing the concerns the ranchers and the operators and
12 the county government has here. We appreciate you
13 coming here to listen to us.

14 I wish we had had a little more time, because
15 there are a lot of people that are very concerned about
16 the loss of water here in the Big Horn Basin. I think
17 that was very evident at the meeting in Worland. There
18 was well over 100 people there. There was a lot of
19 concern expressed both with the ag protection policy
20 and the petition. I think the message came out loud
21 and clear that we need the produced water here in the
22 Big Horn Basin. Agriculture and wildlife very heavily
23 depend on the water.

24 I guess there's been some confusion as to
25 exactly what is moving forward with the rule making. I

1 irrigation takes place, and a lot of wildlife need that
2 water. A lot of livestock drink it, so we're just
3 again reiterating the fact that we don't want the same
4 rules that apply here to apply to the Powder River
5 Basin. With that, I thank you for the opportunity to
6 be here and even with short notice.

7 MR. GORDON: Thank you very, very much. I
8 have Susie Naker.

9 MS. NAKER: That's okay, we'll save our
10 comments for the hearing on the petition.

11 MR. GORDON: Okay, all right.

12 MS. NAKER: That's what I thought you were
13 doing tonight.

14 MR. GORDON: I wanted -- I really wanted to
15 have the opportunity just to sort of get a sense of how
16 practices are being conducted in the Basin, so, thank
17 you. I have Barry Adolf.

18 MR. ADOLF: No comment.

19 MR. GORDON: How about Lee Campbell.

20 MR. CAMPBELL: Brief comments, Mr. Chairman.

21 MR. GORDON: Thank you.

22 MR. CAMPBELL: Hot Springs County submitted
23 extensive comments back in early February on this
24 matter. And so we're in a position that we're one of
25 the parties that helped formulate this compromise that

1 we have today. And there's an old saying: Be careful
2 what you ask for, because that's what you might get.
3 So I'd like to read one sentence out of our letter from
4 February.

5 "It is a recommendation of Hot Springs
6 County that coal bed methane surface water discharge
7 standards be adopted specifically from the CBM industry
8 which do not impact the other industries and counties
9 in Wyoming." And so that's what we have today, a
10 separation of Appendix H and Appendix I. And I guess
11 you might as well say we were instrumental in getting
12 that, so we support it.

13 I just wanted to talk to you about what it
14 really represents. It's kind of like a first trial
15 bloom or a first compromise that's brought to the
16 Environmental Quality Council. I think the Powder
17 River Basin Resource Council stepped way back from
18 their initial position that they had in December. And
19 ourselves and them were kind of the ones that brought
20 this out.

21 Some of the questions you have to ask
22 yourself is, okay, we have this first compromise
23 brought forward by the people that participated early.
24 Are there other suggestions that come out second or
25 third that are better? I haven't heard a second or

1 third one myself, maybe you have.

2 I guess the only thing that we'll know is the
3 test of time and go through the hearings and
4 everything. We're kind of the ones that got us to
5 where we're at today. We certainly support where we're
6 at. And we'll just have to see if it stands up. We
7 recognize you may have to modify and add some things
8 into like Appendix I and stuff like that. We're pretty
9 happy with where we're at today.

10 MR. GORDON: I want to remind you, I'm not
11 talking about the petition specifically here. I did
12 want to ask you a little bit about, with Hot Springs,
13 how produced water is used. If you're a planner, do
14 you have any direct experience with any of that?

15 MR. CAMPBELL: Yes, the irrigators use it
16 extensively. Our economy is extremely fragile. You
17 know, we've got more verification on use. On August
18 23rd, when John Cora and John Wagner and Bill DiRienzo
19 came out, they -- I missed that tour. There were quite
20 a few other people that went. They verified all of
21 that.

22 Actually it was a pretty good experience.
23 They verified that the grouse were migrating in there.
24 They verified the usage of the water. I heard there
25 was one comment that the water had been entirely used.

1 In this drought situation, we've just been totally
2 dependent on it. We would have had bankruptcies with
3 our ranchers. And our grouse certainly would not be in
4 the position they are today.

5 Our grouse have actually increased their
6 population during a six out of seven year drought. You
7 just say, how can grouse increase during a severe
8 drought? It's that prime habitat that's been provided
9 down there.

10 It isn't just the grouse. It's had the same
11 benefit to the other wildlife and ranchers too. I'm on
12 the sage grouse working group. I was just totally
13 impressed. I'm sure Mr. Cora and Mr. Wagner and
14 Mr. DiRienzo can comment on that. It was almost like a
15 verification trip of everything that we suspected was
16 going on.

17 MR. GORDON: Sure. I guess that was really
18 -- that trip was really in response to the Ag
19 Protection Policy and concerns about that.

20 MR. CAMPBELL: Yes, it was a two-day trip and
21 then they had the Worland Hearing after they did the
22 field work. They did a lot of work in the Basin here
23 they looked at a lot of land. They talked to ranchers,
24 looked at properties and everything, a full, busy two
25 days.

1 MR. GORDON: Good. Lee, I'm envious. I wish
2 we had had a chance. Thank you. I have Lorraine
3 Corberg.

4 MS. CORBERG: Thank you, Mr. Chairman. I am
5 Lorraine Corberg. I am the Executive Director for the
6 Thermoplis/Hot Springs County Economic Development
7 Company. I'm also a State Representative representing
8 House District 28, which is all of Hot Springs County
9 and South Big Horn County.

10 And I guess I'd like to thank you for the
11 opportunity to be here this evening. I, again, share
12 the concerns that you've already heard about the short
13 time frame. And I really -- in listening to the
14 comments being made tonight -- I have more questions, I
15 guess, than I do comments about really what you're
16 expecting from us tonight. That's becoming clearer as
17 this proceeds, but I really don't think that the notice
18 was quite clear about what you expected from us tonight
19 and what we could expect from you in return.

20 One of my questions -- and I'd like you to
21 perhaps when we're done with our comments is just to
22 give this group an overview. Many of us here are not
23 up to speed on the petition and where that's at. I
24 understand there's more than one petition. And so I'd
25 like -- I guess I would just like a clarification for

1 all of us here when you talk about the November meeting
2 what petition we're talking about. So, if you could
3 give us a little history when we're done, I know we
4 would all appreciate that. Just kind of educate us.

5 You did leave the door open when you brought
6 up the Ag Use Protection Policy, which, of course, is
7 kind of for a lot of us over here in the Basin, it
8 started the whole process for us. So I guess one of
9 the things I would like to share with you is a lot of
10 us believe that as you start to deal with the petition
11 -- the Powder River Basin Resource Petition -- that
12 that may very well affect the Ag Use Protection Policy.

13 So I'm going to reiterate our request to you
14 that you not take any further action on Section 20
15 until you're done, if you're going to start with the
16 Powder River, because it just seems like kind of almost
17 a waste of time if you move forward with both and then
18 you end up having to go back and -- go back through the
19 entire basically rule making process to fix the Ag Use
20 Protection Policy.

21 Now, it's a very comprehensive policy, and I
22 felt a lot of our comments were not acted on by the
23 Advisory Board. Quite, truthfully, I was even a little
24 bit more dismayed to find out that several meetings
25 prior to our final meeting with the Wastewater and

1 Advisory Board that they had actually recommended going
2 forward with Chapter 1 without the Ag Use Protection
3 Policy. For some reason their recommendation was
4 overlooked and the policy continued to move forward.

5 I would just, once again, make a request to
6 you that that policy stay on the table if you're going
7 to, in fact, move forward on the Powder River Basin.

8 I'd also like to -- obviously, as you've
9 become well aware, water is huge to ag and to the
10 agriculture industry over here in the Big Horn Basin.
11 We work very well with the mineral industry. And I'll
12 probably have to disagree with our state planner
13 because I find it very hard to believe that you're
14 going to be able to go through the rule making process
15 and apply different standards to conventional discharge
16 versus coal bed methane.

17 And I'm also concerned that if you do adopt
18 standards for coal bed methane -- if coal bed methane
19 actually starts to be developed in the Basin, then
20 we're going to be right in the same boat as people in
21 the Powder River Basin, and we're not going to be able
22 to make use of that water.

23 So these are some of my concerns. I have
24 also one other major concern, which Keith Hamilton
25 brought up. Obviously, I'm going to follow very close

1 your statutory authority on whether or not you can
2 actually do what you are doing.

3 I also sit on the select water and I'm very
4 concerned about this as you move through this process.
5 Thank you for being here to day. We all do appreciate
6 it.

7 MR. GORDON: I'll be glad to.

8 MS. CORBERG: Thank you, Mr. Chairman.

9 MR. GORDON: DeLloyd Corberg.

10 MR. CORBERG: I'm DeLloyd Corberg I hate to
11 follow my wife, because she always ups me. I'm a
12 little confused, a little bit, on what you want to hear
13 from us. I'm with the Hot Springs Conservation
14 District. I'm the chairman of that group. And the
15 Agriculture Protection Act is the one thing that my
16 primary concern is protection in keeping it intact, if
17 we can.

18 The conversation district -- and you're
19 asking the other people from down there in Thermopolis
20 what are you doing? We just finished writing a
21 watershed plan for Owl Creek. We are in the process of
22 phase 1 that's going on right now for Grass Creek and
23 Cottonwood Creek, and we're looking at forming -- of
24 the possibility of forming -- we just had a meeting on
25 it just the other night -- this week of forming a

1 watershed improve district.

2 And in that process then we, of course, we
3 will identify projects and things that we can do to
4 improve the streams and the water and all of those
5 things. All of that kind of ties in right now. But
6 you're asking what are you doing before we're getting
7 it all done. We are still in the process and so that
8 is going on right now.

9 It's been brought up about the -- in fact, I
10 used to have a ranch on Owl Creek and was always
11 envious of the guys over on Cottonwood Creek because
12 they had water and I didn't. The discharge water from
13 the Hamilton Dome Oil Field particularly has been
14 extremely beneficial to those folks over there and the
15 wildlife.

16 That's something from the conservation
17 district side that's a part of -- the other
18 conservation district guy, from the teaching point of
19 that, part of our responsibility is to conserve our
20 natural resources, but at the same time working with a
21 multiple use concept. We're not just one entity or
22 industry, so that they all can benefit from those and
23 at the same time protecting the customs and cultural
24 and socioeconomic base of our community. So all of
25 those things come into play, and then, obviously,

1 water.

2 I also in my other occupation of real estate
3 appraiser, I look at land values. And if you look at
4 sage brush and barron land at 1, 2, \$300 an acre. You
5 put water on it so that it can produce something and
6 you're at 2, 3, \$4,000 an acre. So the quality of our
7 communities is in our water, and we want to see that
8 continue.

9 I think part of what -- I don't fully know
10 what all your petition is, but I know it's going to
11 affect the ag policy. We, no matter what you do and
12 what plan doesn't fit all but in that process,
13 somewhere there needs to be some flexibility so that
14 you don't try to make one size fit all. It's kind of
15 like, if you've got a problem, and it needs a Band-Aid
16 then put a Band-Aid on it. Don't use the mummy
17 approach and wrap the whole body, which it looks like
18 is trying to be done to the state.

19 So from that concept we want you to keep
20 whatever you do, consider that flexibility that needs
21 to be there for different areas and different things.
22 Any discharge water, whether it be what's going on
23 right now, conventionally, in the -- from the oil
24 fields, or whether it's coal bed methane or whether
25 it's coming down the road in the future, I think

1 somewhere in that whole process there needs to be a
2 place for agriculture, particularly, be able -- should
3 be given the opportunity to use that water, to put it
4 to beneficial use and they should have that choice.

5 If the contaminant or whatever is above the
6 standard that we're looking that, that certainly should
7 be in place as it is now so that they can take that
8 responsibility and use that beneficially. And,
9 certainly, along with that should be the notice of
10 water -- some of the severe side effects of this water
11 so they know fully well what they're getting themselves
12 into. I think that needs to be disclosed as well.

13 Whether it's produced in the future, that still needs
14 to be there, not just shut it off and they can still
15 use it.

16 MR. GORDON: Thank you. That is terrific.
17 Those are exactly what I was hoping to hear.

18 MR. CORBERG: Thank you very much. Thanks
19 for listening and having this meeting.

20 MR. GORDON: Thank you. That's the last
21 person I have. Is there anyone else?

22 MR. SUTPHIN: I came in late, may I?

23 MR. GORDON: You bet. And I guess because
24 everybody else had a name --

25 MR. SUTPHIN: Isaac Sutphin, S-u-t-p-h-i-n.

1 I wanted to hear.

2 MR. JONES: In light of wanting to have some
3 dialog on how the water is used, I'd like to have a
4 second shot too.

5 MR. GORDON: You bet, knock yourself out,
6 that would be great.

7 MR. JONES: Now that we know what we're here
8 for.

9 MR. GORDON: Let me take just a second. The
10 reason why I wanted to do this is because of the
11 dialog. I grew up in KC. You know, there were all
12 those times when people had black and white solutions
13 to things. Usually, it was in the coffee shops that
14 problems got solved, because not everything is all one
15 way or the other. So that was the reason why I wanted
16 to have this kind of a meeting.

17 MR. JONES: This is great that we can get our
18 second shots and really talk about the situation.
19 There's been an incredible display of riveted -- the
20 attention of these people behind you. It's been quite
21 a show. We appreciate that they're on overtime or
22 something. I have to recover, myself, from that.

23 We do use the water for countless uses.
24 Coming up Highway 120 from Thermopolis, Cottonwood
25 Creek was the only drainage that had significant water

1 this summer, and that was because of the discharge from
2 Hamilton Dome. Owl Creek was dry. Grass Creek was
3 dry. Gooseberry Creek was dry. The Greybull River had
4 some storage, so it flowed. Those are the drainages
5 that I have personal knowledge of.

6 There's an awful lot of agricultural
7 operation in the drainages in those watersheds. They
8 rely on every bit of water that they can get. We
9 recycle the water. The water from the irrigation goes
10 into the gravels and becomes our economic water. The
11 water from Hamilton Dome has an approximately 2,500
12 part TDS. That will not pass your proposed, as
13 written, rule if it were coal bed methane water.

14 That is water that has incredible economic
15 effect on folks in that watershed. Marvin Blakesly, by
16 virtue of his being affiliated with an oil company,
17 maybe he doesn't have some credibility when he talks
18 about the problems of wildlife.

19 I have a ranch in Hot Springs County on Owl
20 Creek. I have as senior water rights as I can get and
21 I had no water this year. Fortunately, we irrigated
22 well last year, and the ground water held up and our
23 domestic wells were fine.

24 We don't see a lot of problems with flooding
25 our fields with our irrigation water and everything,

1 potable water. Most places where the TDS is higher,
2 the hardness is higher, we have the technology to put
3 RO and have wonderful drinking water and still water a
4 patch of grass that we can call a lawn and kind of kick
5 our feet around in.

6 And in my position, if I could raise an 80
7 percent crop instead of a 100 percent, based the salt
8 sensitivity, I would be tickled to death by having 80
9 percent instead of the desert field. We rely on the
10 water. We see water coming in the future. I think
11 most of the agriculture was really hoping there's going
12 to be some coal bed methane development in the area.

13 First of all, we can use the natural gas.
14 That's good. But the water to us is probably more
15 important than that natural gas. We have towns that
16 would love to have good quality water. And not all
17 coal bed methane water is really bad.

18 We want to encourage and stipulate the
19 development of our resources within proper bounds. We
20 don't want to put a blanket rule out that is going to
21 restrict our economic development.

22 While you're saying you're not taking
23 testimony on the petition, it's obvious that this
24 discussion we're having is important to you in
25 evaluating the petition, so we have to kind of direct

1 -- I feel I need to direct my comments to you in light
2 of what might come to be in the future. And I want to
3 come back to agriculture, wildlife.

4 And everybody in the community recycles the
5 water, uses the water. It turns over several times in
6 our water sheds just the same way an economic dollar
7 turns over several times in our community. You can't
8 separate the two even.

9 It is the water that makes our community
10 good, and if you look at the water quality in Big
11 Spring, it could never pass your CBM rules, but it sure
12 provides a heck of a lot of benefit to our community.
13 And it's all natural. What's the distinction, natural
14 coming out of a pipe in an oil field? It's not how it
15 comes to be. It's how we can develop the uses for it
16 and keep the damage down.

17 And we ask you not to try to make the Powder
18 River Basin Rule when there are real problems that are
19 different than elsewhere in the state fit our area if
20 it can't. I'm going to have to say that based on what
21 I've seen in your draft documents, you can't. I'd like
22 to leave that with you.

23 MR. GORDON: Okay. All right. Well, anyone
24 else? I'll try to honor Lorraine's comments. Let me
25 start out with back before the turn of the century,

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1 throw something at you if you go over five minutes.
 2 MR. BUTTERFIELD: As said, my name is
 3 Jeremy Butterfield, landowner on Cottonwood Creek.
 4 We use the discharge water for our livestock and
 5 our irrigation and that. I work down at the bottom of the
 6 creek; so, I mean, if the water gets worse and comes down,
 7 we haven't seen it.
 8 As it is right now, we usually get three cutting
 9 a year of our alfalfa, enough to run a thousand head of
 10 sheep. Without the discharge water, we would be lucky to
 11 get a good first crop -- probably pretty much put us under.
 12 As far as the wildlife and that on this creek, I
 13 haven't -- we've got deer that eat in the hay fields all
 14 year long. They drink in the creeks. I haven't seen
 15 nothing wrong with any of them. Our sheep does fine.
 16 We have fish and that that's in the creek; and as
 17 far as they look, they're healthy. I mean, it's better
 18 than the alternative because up the creek it's dry before
 19 they discharge water.
 20 I guess they asked where the offsite landowners
 21 got any profit out of the water, and I'd say that's pretty
 22 much it. I mean, it keeps us in business, so that's where
 23 I say the offsite landowners make their profit.
 24 I would like to see the two studies done that
 25 they're doing. You know, the coalbed methane task force is

1 other people that are having problems.
 2 MR. BUTTERFIELD: Yeah. We're in the
 3 Bighorn Basin; and, I mean, everybody over there's happy
 4 with it and would like to leave it the way it was and keep
 5 going.
 6 MR. MORRIS: Everything's okay in your
 7 area?
 8 MR. BUTTERFIELD: Yeah.
 9 MS. FLITNER: Thank you very much.
 10 Brad, and after that we have Gene Litton followed
 11 by a Teresa Brown.
 12 I think it would be helpful when you identify
 13 yourself if you would identify for us where you are located
 14 so we can understand how this affects you by area.
 15 MR. BASSE: Chairman Flitner and the rest
 16 of the Commission, I thank you for the opportunity to speak
 17 to you today.
 18 I am Brad Basse. I am the chairman of the Hot
 19 Springs County Commission.
 20 As I sat through these hearings today, I jotted
 21 down a few notes, so my discussion may be a little bit
 22 diverse here.
 23 But it seems to me that the biggest issue -- and
 24 I recognize the problem that you have. You're dealing
 25 with, it seems, primarily coalbed methane water. I can see

1 doing a study on the impact of the water and that and the
 2 study that they talked about earlier. I mean, we paid for
 3 it. We just as well see what it comes out at before we
 4 make a decision.
 5 And I guess I just wanted to say how important it
 6 was to us and everything, so -- any questions?
 7 MR. MORRIS: Are you on the same outfall of
 8 some of these other people that are having problems?
 9 MR. BUTTERFIELD: No. As far as I know,
 10 everybody on the creek's tickled with the water and --
 11 MR. MORRIS: Are you on the same drainage?
 12 MR. BUTTERFIELD: No, everybody on the
 13 drainage is happy with the water and wants to keep it. I
 14 mean, even the people that ain't irrigating with it, their
 15 livestock drinks it. And when you start hauling water,
 16 you're talking a lot of money and pretty much have your
 17 days shot every day. So it's a big help that way.
 18 CHAIRMAN GORDON: Are you in the
 19 Thermopolis area?
 20 MR. BUTTERFIELD: I'm in Washakie County,
 21 but Cottonwood Creek -- it kind of cuts off sideways. I'm
 22 at the bottom end and on the top end of Cottonwood in Hot
 23 Springs County.
 24 MR. MORRIS: That's what I was getting at.
 25 You're in a different area from some of these

1 the problem with these affected landowners in the Powder
 2 River Basin. They've got problems. We see the pictures
 3 and I recognize that.
 4 But I think that the separation between coalbed
 5 methane and production-produced water from conventional oil
 6 and gas needs to be delineated. You know, we've seen the
 7 opinion of the attorney general that doing that through
 8 this rule-making process may not stand up to a legal
 9 challenge.
 10 Therein lies Hot Springs County's concern that
 11 you may say, Okay, we'll grandfather in conventional
 12 production and Hot Springs County will be okay; but when
 13 that other group out there -- whoever that may be --
 14 decides that they want to challenge that, then we may be
 15 headed down this road all over again.
 16 I would say that we've talked about this nuclear
 17 option; and from the slides that I've seen and from the
 18 discussion I've had with some of the producers in Hot
 19 Springs County, the effluent limits that are proposed would
 20 be a nuclear option in Hot Springs County. Merit Energy is
 21 the largest single taxpayer in Hot Springs County.
 22 If it renders their operation economically
 23 unfeasible and they shut that field down, what do I tell to
 24 the 4700 citizens of Hot Springs County why we let that
 25 happen?

1 You mentioned earlier that, you know, Tongue and
 2 Sheep -- that the next meeting ought to be held on a yacht.
 3 I really think the next meeting ought to be held somewhere
 4 in the Bighorn Basin; because, as you heard from the prior
 5 gentleman here -- and I know this is an issue in Park
 6 County and I know it's an issue in Hot Springs County --
 7 and we need to get the input of these people.

8 There's only so many of these hard-working
 9 citizens like him that can take the time off to come to
 10 Cheyenne, which is five hours away, and testify before you.
 11 And I know there's a handful of them here today, and many
 12 of them are much more eloquent at speaking than I; but I
 13 know there's several dozen more at home that would really
 14 like the opportunity to speak with you about this issue.

15 And it's not only Merit Energy. Hot Springs
 16 County -- we live and die by the price of oil. 70 percent
 17 plus of our assessed valuation is oil. The slide that was
 18 presented by the gentleman from the -- two times ago -- I'm
 19 not good with names -- no, it was a gal -- talked about 136
 20 jobs lost in Hot Springs County because of this.

21 That's nuclear in Hot Springs County. We
 22 recently had what we think was a home run enticing a
 23 business that employs 12 people in Thermopolis. We just
 24 absolutely cannot stand the loss of 136 jobs. It would
 25 devastate us.

1 And I think it's incumbent upon the petitioners
 2 in this case to prove to us that that's not going to occur.
 3 We have the land use plan for state and federal lands in
 4 place that, according to our attorneys, will hold up in
 5 court. Those issues need to be addressed before issues
 6 like this or decisions like this are made. We need to know
 7 what the impact is going to be in Hot Springs County.

8 I can tell you that the largest single
 9 employer -- private employer, not public employer -- in
 10 Thermopolis is R & S Well Service. There's a
 11 representative back in the back row from that company.
 12 They do workover on oil wells. If we lose these kind of
 13 jobs, those are the kind of companies that go elsewhere.

14 It's a company that's owned by a publicly traded
 15 company. They could just as easily relocate to Utah or
 16 Colorado or somewhere, and those jobs are gone. And that
 17 number, the -- that 136, I can believe every single one of
 18 them.

19 I'm probably over my five minutes, but I would
 20 just like you to know that it would have a severe impact on
 21 Hot Springs County, and I know that there's a number of
 22 other people that are going to discuss the effect on
 23 agriculture and those operations that water is being put to
 24 very beneficial use.

25 We did -- I'm not sure if any of you had the

1 opportunity to attend the tour, but I know the DEQ folks
 2 came up and industry and some of other -- one of the other
 3 county commissioners went around and actually walked the
 4 ground where this water -- as you go above that discharge
 5 and the creek bed's dry and go below it and these people
 6 are using it for livestock watering and irrigation and
 7 wildlife and all of those other issues.

8 So I recognize your dilemma, but I think that it
 9 requires a surgical approach in the Powder River Basin and
 10 not a shotgun approach and blanketing the whole state with
 11 rule-making that has, maybe, unintended consequences.

12 MS. FLITNER: Thank you very much.

13 While Gene Litton makes his way to the stand, I
 14 also want to point out we were in Thermopolis about a year
 15 and a half ago and in Washakie County this fall for a
 16 listening session relating to something else. I just say
 17 that by way of evidencing we share your commitment to
 18 getting around the state, and we'll try to do a better job
 19 of letting you know we're there the next time.

20 But you're right. These hearings are a long way
 21 to go for most people, and we'll try to be sensitive to
 22 that going forward. Thank you very much.

23 Gene will be followed by Teresa Brown.

24 Welcome, Gene.

25 MR. LITTON: Thank you, Ms. Flitner,

1 members of the community. Thank you for your time.

2 My name is Gene Litton, and I'm a southern
 3 Campbell County rancher. You'll have to pardon me that I
 4 don't speak directly to you. Although I wrote these
 5 comments, I'm not good at memory; so I'm going to have to
 6 read them. I'm sorry.

7 The requirements that the Powder River Resource
 8 County petition is asking for would not be acceptable for
 9 our ranch or many other ranches in our area. Some of these
 10 ranches are represented here today with us.

11 First of all, the water in our area is good
 12 enough for human consumption, and that includes the CBM
 13 water. When the CBNG water and our house water were
 14 tested, it was found that if we did not treat our drinking
 15 water with a softener and reverse osmosis, we'd be better
 16 off drinking the CBNG water. It's that good, and we have
 17 no problem with the water.

18 To add to that, we have planted 1200 trees in our
 19 shelter belt, various trees in our ranch yard, we have over
 20 an acre of lawn along with them, and we water with CBM
 21 water, not to mention we have two other home sites where
 22 there are trees, lawns, lots of flowers; and all keep
 23 growing heartily with CBNG water. And a garden also
 24 flourishes on that same water.

25 The petitioners and the EQC are looking at too

EQC Hearing Testimony

January 18, 2007

1 PROCEEDINGS
 2 (Hearing proceedings commenced
 3 9:00 a.m., January 18, 2007.)
 4 MS. FLITNER: Good morning. The hearty
 5 group remains. It's not quite as big as it was yesterday.
 6 Good morning and welcome back. We are going to
 7 finish the testimony today. I have a couple of things I'd
 8 like to remind you about the purposes of today's hearing.
 9 We have three people who are going to testify,
 10 some of whom have legislative business and some of whom are
 11 going to get on the road; and then we will proceed with
 12 Jay Shogren from the petitioners and then go into testimony
 13 from the 40 or 50 or so folks who signed up yesterday.
 14 If you wish to speak and did not get signed up,
 15 obviously there is a signup sheet outside, which we'll
 16 leave all day today. Our plan is for a variety of reasons
 17 to wrap up the discussions, including Council
 18 deliberations, by around 4:00 p.m., if possible.
 19 What I want to remind you is, importantly, we
 20 value your participation and we appreciate your efforts to
 21 be here. It will be helpful if you -- if you refine your
 22 comments and target them at the specific language that is
 23 being proposed. We understand that the current regulatory
 24 framework works for some and is considered a benefit and
 25 something that they don't want to lose.

1 Are there questions or comments from my fellow
 2 council members?
 3 With that, then, we will start with
 4 representative Lorraine Quarberg who will testify before
 5 she has to go do the same thing over at the Capitol.
 6 MS. QUARBERG: Thank you, Madam Chairman.
 7 I was sitting there kind of grinning at myself as
 8 you were talking about anecdotal, because while I don't
 9 consider my testimony to be anecdotal, it certainly does
 10 not relate specifically to Appendix H or Appendix I.
 11 First of all, let me tell you I want to thank you
 12 for accommodating my legislative schedule today, and I
 13 would like to thank all of those who have signed up and
 14 have waited so patiently to take their turn. I really
 15 appreciate the opportunity to testify today and give me an
 16 opportunity to get back to the legislature to do my duties
 17 over there.
 18 My name is Lorraine Quarberg, and I am the state
 19 representative for House District 28, which includes all of
 20 Hot Springs County, south Big Horn County and a very small
 21 portion of extreme southeast Park County. In addition to
 22 serving as the state representative, I'm also the executive
 23 director for the Thermopolis-Hot Springs County Economic
 24 Development Company.
 25 That is the company responsible for doing all of

1 We also understand that the current regulatory
 2 framework does not work for some and that -- that there are
 3 those who are seeking additional protection. We are
 4 looking for your help in your comments as to specific ways
 5 that you would like to see the Council consider balancing
 6 those two sometimes seemingly mutually exclusive things.
 7 So that is my polite speech for saying because we
 8 have so many people who want to testify today, we would
 9 really ask that you limit your comments to whether or not
 10 you favor the proposed rule change. You're welcome to tell
 11 us why in precise language.
 12 We have heard a lot of very helpful anecdotal
 13 testimony. We are aware of the ways that this -- that the
 14 water issue is affecting all sides of this -- of the
 15 affected parties.
 16 I hope you understand where I'm coming from.
 17 This is a desire to manage your time well and not have you
 18 come back here again to do the same thing if we can avoid
 19 that. By no means should it reflect anything other than
 20 our desire to be efficient, because I know how important
 21 this is to all of you and how hard you have worked to get
 22 here today and in the three or four previous hearings.
 23 So I'm asking you to give us that consideration
 24 and give your neighbors that consideration, and we will try
 25 to move through this efficiently.

1 the economic development work in Hot Springs County. Our
 2 corporation's mission is to strengthen and diversify our
 3 local economy with emphasis on the retention and expansion
 4 of existing businesses.
 5 In addition to that, I have a strong background
 6 in agriculture. My husband and I had a farm/ranch
 7 operation in Hot Springs County for almost the last
 8 28 years we were up there, but selling it a little over a
 9 year ago. I have a great respect for the land and for the
 10 significance that water plays in our state and in our
 11 communities.
 12 I am here today basically just straight out to
 13 respectfully request that you deny this petition that's
 14 before you and to request that you not proceed with the
 15 rule-making process at this time. I want you to seriously
 16 consider my request as I know you will.
 17 My request is based on the following: First of
 18 all, as has been pointed out, I'm sure, by some of the
 19 people that have testified before me, that the proposed
 20 rule-making hearing -- or petition that came out announcing
 21 this hearing advocated removing the coalbed methane
 22 language and restrictions from Appendix H and leaving the
 23 conventional oil and gas water language there, proposing a
 24 new Appendix I, which will contain requirements applicable
 25 to coalbed methane which would be more stringent.

1 I believe that this is a policy decision that you
2 will be making here probably by the end of today, but I
3 question seriously whether your decision to adopt a double
4 standard separating coalbed methane and conventional oil
5 and gas will, in fact, stand the judicial test in a court
6 of law.

1 entire industry or an entire two or three industries,
2 whether it's natural -- whether it's oil and gas, natural
3 gas or coalbed methane.

4 And I ask you -- that is also a policy decision
5 you're going to be making here today. Are you going to
6 allow that incremental approach? Are you going to proceed
7 with the rule-making authority that is a blanket approach
8 affecting an entire industry when so few people are really
9 affected and are having a hard time coming to agreement
10 with what they have to do?

7 I do not believe that it will; so I believe that
8 even though you may proceed today with the best of
9 intentions, down the road when this is challenged in
10 court -- and we know it will be challenged in court -- it
11 will be found that a double standard will not stand. And I
12 fear that the fallback position, then, will be the more
13 stringent limits on discharge for all things, including
14 conventional oil and gas drilling.

11 I sit on Select Water and also the Mineral,
12 Business and Economic Developments committee, and I guess
13 the last thing that I would like to point out to you is --
14 and I know you've requested information from the attorney
15 general's office and I know you're going to give it all due
16 consideration, but I also ask you to seriously consider
17 that what you're doing is in direct conflict to state water
18 law.

15 That being said, I don't know how else to put
16 this, but that will effectively limit our water --
17 conventional water that's discharged from oil and gas in
18 Hot Springs County. Simply put, that will be a disaster
19 for our county. There's just no other way to put it. I've
20 tried to think of a word that adequately describes what
21 this would do to our economy, to the county and to our way
22 of life.

19 I believe that the ability to limit quantity is
20 the right of the state engineer, the board of control. We
21 have property owners in Hot Springs County who have
22 adjudicated water rights to the water that's being
23 discharged from our oil and gas production fields in Hot
24 Springs County.

23 Our three main sources of revenue in Hot Springs
24 County are minerals, specifically oil and gas, agriculture
25 and recreation; and your decision here today is going to

25 And I don't know how you balance that with what

1 affect all three of those. Approximately 70 percent of our
2 county's tax revenue is generated by the oil and gas
3 industry, and that's followed up heavily by what
4 agriculture pays in as well as what we get from recreation
5 through wildlife, hunting and those activities that we all
6 enjoy so much.

1 you're about to do today or what you're about to make a
2 decision on whether or not you're going to do today, so I
3 ask you to consider these things today that I have brought
4 to you: The impact it's going to have directly on my
5 county, the fact that I do not believe it will stand in
6 court -- a double standard -- and the overall big
7 picture -- the policy decision that you are about to embark
8 on.

7 I know you heard testimony yesterday, I believe
8 from our county commissioner, and I'm sure you will hear it
9 from other landowners in our county; but we have
10 successfully used this water for decades in our county. We
11 grow crops with it, we use it to -- for wildlife, we use
12 it -- it just -- it affects every being of what we do in
13 Hot Springs County.

9 I thank you for what you do. I thank you for the
10 time that you take. I know it's -- I know the effort to
11 sit on volunteer boards and to do this hard work, and I
12 thank you and appreciate the opportunity to be here today.

14 And I really -- I can't stress this enough. I do
15 not believe that a double standard will stand the court
16 test.

13 Thank you.

14 MS. FLITNER: Thank you. Questions for
15 Representative Quarberg?

17 So that will have a tremendous impact on our
18 county. I also want to talk to you -- I just want to
19 address you for a moment about -- that I think today we see
20 a growing trend. We see it in the legislature, and I think
21 we see it in the rules and regulations that we tend to try
22 and solve the problems of the few by regulating the many.

16 MR. MORRIS: I just have one.

17 You offer no solutions for some of the problems
18 that we have. You just talk about the negative.

23 We somehow get under the mistaken impression that
24 the very few that are affected by something that probably
25 isn't working very well requires a blanket approach for an

19 Are there some solutions to some of the problems?

20 MS. QUARBERG: Well, first of all, I
21 believe that -- I guess it's so hard for me to believe that
22 the individuals that are being impacted over in the Powder
23 River Basin cannot somehow work out their differences with
24 their neighbors and with the industry and that they feel so
25 compelled that they feel their only option is to come to

1 you and have a blanket approach to the problem.
2 So I guess I would hope -- and I would hope that
3 you would encourage them to come to continue to try to work
4 together to overcome these difficulties, because I believe
5 you have to look at the bigger picture; and that really is
6 truly the policy decisions that you're going to be making
7 here today.

8 I mean, you are going to be setting policy on a
9 statewide level that affects many people statewide, that
10 affects many industries statewide. So I would just hope
11 that you would encourage those people to try to go back to
12 the table and work out their differences and continue to
13 work with industry and work with each other.

14 MR. MORRIS: Thank you.

15 MS. FLITNER: Wendy has a question.

16 MS. HUTCHINSON: I have a follow-up
17 question to your comments. I appreciate your comments
18 about encouraging people to go back to the table and talk;
19 but as one of the university professors pointed out
20 yesterday, if you're a downstream landowner -- offsite
21 landowner, I should say -- from one of these projects, what
22 leverage -- what solution do you offer to give those people
23 leverage to negotiate, because at this time they have none?

24 MS. QUARBERG: I don't know the total
25 history of Powder River Basin Resource, so I guess you're

1 asking you, as a board -- I mean, I'm still asking you as a
2 board that represents the entire state of Wyoming to really
3 understand that what you're about to do is make a policy
4 decision. And should you really be focused on the very few
5 when what you're doing is setting policy statewide and will
6 affect everyone in the state of Wyoming?

7 So that's what I'm -- I mean, we do that in the
8 legislature every day. We -- I always say how hard it is
9 to be a legislator because we have to balance the interests
10 of our district with what's in the best interest of the
11 state as a whole. So we do the very same things you do.

12 And I'm just telling you that I think it's a
13 dangerous road we're going down. I see it in the
14 legislature as well where we try to pass laws that regulate
15 the behavior of a very few at the expense of everyone else
16 in the state of Wyoming. It's just a personal philosophy I
17 have. It's just --

18 MS. HUTCHINSON: I don't disagree, but you
19 don't have any solutions either, is what I'm getting from
20 you. But I appreciate your comments.

21 MS. QUARBERG: You know, I would just
22 probably encourage them to try to continue with -- to work
23 with industry. I really would. I mean, that's what I
24 would do if they were in my district. I would go to the
25 table -- I would try to get them back to the table with

1 telling me that industry and their neighbors are saying
2 basically, We don't care?

3 MS. HUTCHINSON: I wouldn't say that about
4 all companies at all. I'm just saying that if you are in a
5 position to have to negotiate that you have no negotiating
6 power besides the good nature of the companies -- and some
7 companies are excellent and most of the bad companies have
8 been weeded out -- but you're really just -- that's all you
9 have is the good will of the company.

10 Do you have any -- I think that's what some of
11 these people are looking for is some other bargaining chip.

12 MS. QUARBERG: And they don't feel that
13 they have any remedy even through recourse. They feel that
14 their only remedy is to come to you -- I guess that's what
15 saddens me is they feel their only remedy is to come to you
16 and --

17 MS. HUTCHINSON: So obviously some people
18 have already been in court. They've already been in civil
19 court.

20 The question is --

21 MS. QUARBERG: I guess I don't have a good
22 answer for you.

23 MS. HUTCHINSON: That's our problem.

24 MS. QUARBERG: I understand your problem.
25 I understand where you are coming from, but I'm still

1 industry, and I would try to make things work out.

2 Now, recognizing that there are just some
3 things -- you know, like I don't want that water going
4 through a drainage on my property. I mean, I just don't
5 think -- you know, there just comes a time when state water
6 law -- I mean, you just can't -- there's just some things
7 you just can't solve, and I would just -- that's what I'm
8 asking you is to really think about the big picture of what
9 you're doing here.

10 I don't have a technical background. I'm clearly
11 not an attorney. Clearly when I saw this and tried to go
12 back through it, I just wanted to come to you and say,
13 Look, I'm just a common man and common person. But I don't
14 think that this is the solution, and I don't think this is
15 in the best interest of the state of Wyoming.

16 MS. FLITNER: Lorraine, Rick Moore and
17 Mark Gordon would like to address you, I believe.

18 MR. MOORE: I'm concerned about your
19 concern that separating coalbed methane discharges in a
20 separate appendix will not stand a legal challenge.

21 And I was just reviewing an EPA document
22 published in December 2006 which looks at effluent limit
23 guidelines, and that's the basis for current Appendix H
24 with the effluent limit guidelines for oil and gas
25 industry.

1 And first off, within that industry, there are
2 effluent guidelines currently for some six different
3 categories of oil and gas production. So it's not unheard
4 of for EPA in setting effluent limit guidelines to
5 segregate within an industry.

6 In their review of coalbed methane, they
7 specifically say, We're considering writing a new effluent
8 limit guidelines for the coalbed methane industry, we just
9 aren't doing it yet because we don't have enough
10 information on how to write that guideline for a nationwide
11 program.

12 And in looking at that they point out that
13 currently in eastern states east of the 98th meridian the
14 states are using coal mining as their effluent limit
15 guidelines for coalbed methane, and they're forced to do
16 that more or less because east of the 98th prime meridian
17 the oil and gas industry's required not to discharged
18 produced water.

19 So I'm saying in my mind that there are a lot of
20 reasons that it makes to separate coalbed methane from
21 conventional oil and gas.

22 I'm just wondering if that kind of background
23 helps alleviate some of your concern about considering
24 doing coalbed methane as a separate criteria than
25 conventional oil and gas, because I think all of us

1 for us.

2 MR. MOORE: Thank you.

3 CHAIRMAN GORDON: Ms. Quarberg, it's nice
4 to see you again. I really appreciate your comments, as I
5 said. And, too, I think they're very, very important.

6 The one thing that I'm -- that I'm reflecting
7 on -- I feel a little bit like George Bush. When I was
8 appointed four years ago, the first thing we took up was
9 Chapter 2 rewrite of these regulations; and at that time
10 there were several distinct portions of various parts of
11 the rule that were distilled into Chapter 2. And I was
12 kind of going back through some of my old materials.

13 The first draft of that did envision coalbed
14 methane -- it did envision coalbed methane as a separate
15 chapter, and then it changed to natural gas. And at the
16 time I remember that there were distinct differences in
17 conventional and natural gas types of production, and it
18 seemed to me that part of the testimony we heard -- it was
19 a long time ago -- but part of testimony was that there
20 could be an advantage for the industry in having
21 differences.

22 Now, ultimately, of course, they're a blank --
23 but I only sort of offer that as something to think about
24 as we go forward. And I want to say I really do appreciate
25 your comments.

1 agree -- we recognize that the conventional oil and gas
2 industry has discharged for decades and people have made
3 good use of that water.

4 We also recognize, however, that water both in
5 volume and quality is different than what we've experienced
6 in Powder River Basin on coalbed methane produced water.

7 So I, at least, see a distinct differentiation;
8 and I think we're on pretty solid ground if we want to
9 decide to go that route. I'm just wondering if that helps
10 you.

11 MS. QUARBERG: It does. I appreciate your
12 comments, and I'm sure that down the road if you decide to
13 proceed down this road we're probably going to see if it
14 will stand the judicial test in court.

15 I guess from my standpoint, too, I'm a -- even if
16 you do separate standards, I believe that the possibility
17 that we're going to develop coalbed methane in Hot Springs
18 County might be a possibility. We do have coal there.

19 So there again, I'm still concerned that the
20 stringents for coalbed methane are going to be so stringent
21 that we're not going to be able to use that water, which we
22 already know we can use in our own town and that it's just,
23 there again, where we might be able to take benefit of some
24 additional water as well as some additional tax revenue at
25 the base. I just don't see that it's going to be healthy

1 MS. QUARBERG: Thank you. And I appreciate
2 your comments and insight and feedback, and I do appreciate
3 the time and effort you put into sitting on this board, as
4 I understand the volunteer part of being on boards and
5 commissions. So I do appreciate it.

6 Thank you for your time and kind words. Good
7 luck.

8 MS. FLITNER: Thank you.

9 Let's see, I would like to offer Jim Hillberry
10 the next spot. You had a conflict.

11 And I believe that takes care of everyone who --
12 wait, there was one who had an issue -- if there's someone
13 here who has another meeting this morning, you will follow
14 Mr. Hillberry, then we'll proceed with Jay Shogren.

15 And I believe that takes care of everybody who
16 had a conflict this morning. I have two who wanted to
17 testify before lunch. As I said, we'll continue to
18 accommodate as we can. If everybody wants to go before
19 lunch, then you'll have to talk fast.

20 MR. HILLBERRY: Thank you, Madam Chair.

21 I do have some pictures that I will share with
22 the board here. The first one I'm passing out is a picture
23 tour of the environmental quality people on the Grass
24 Creek, Cottonwood, Hamilton Dome drainage system.

25 The second group -- I do have several groups of

1 water would meet public drinking water standards; so
2 therefore, it has a lot of uses that could be -- between
3 irrigation use.

4 And you could charge a per-barrel fee to
5 operators for the reverse osmosis water treatment and
6 disposal of the coalbed natural gas water that's produced.
7 The high-salinity coalbed natural gas water would no longer
8 be considered a pollutant, and the treated coalbed natural
9 gas water would become a valuable commodity and useful
10 water resource for the state of Wyoming. Thank you.

11 Is there any questions?

12 MS. FLITNER: Questions?

13 Go ahead, Wendy.

14 MS. HUTCHINSON: I know you said you didn't
15 take into account costs for water gathering, but that seems
16 fairly significant.

17 MR. CLAREY: That's correct. There's been,
18 at least in one industry study that I'm aware of -- it's
19 kind of a preliminary recognizance level of study -- but as
20 far as I know, no one has actually conducted an entire
21 engineering study on what it would cost to do a large-scale
22 desalination project in the Powder River Basin.

23 MS. FLITNER: So I would assume that means
24 it's hard for you to comment on how that cost would be
25 affected as the development migrates west.

1 MR. CLAREY: With our study, we didn't look
2 at how far they'd have to gather or what their costs would
3 be to bring the water to the -- or any kind of
4 pretreatment, as far as if they needed to be filtered or
5 pretreated before it would run into the plant.

6 So we didn't include any of the costs for that.
7 I think more of an engineering study would be needed for
8 that.

9 MS. FLITNER: Mr. Moore, that's an
10 engineering study.

11 MR. MOORE: Thank you, Ms. Flitner.

12 Mr. Clarey, did you look before you started your
13 study at considering smaller relocatable plants rather than
14 single, large plants?

15 MR. CLAREY: What we looked at was more or
16 less larger plant. And approximately 70,000 barrels per
17 day is kind of the lower limit for an efficient reverse
18 osmosis plant. So what we looked at was a
19 600,000-barrel-per-day size plant.

20 On a very small scale, I think there's been some
21 test studies in the Powder River Basin and other places.
22 It is feasible, but I don't know about the economics of it.
23 I haven't looked into that.

24 A lot of desalination units are used on yachts
25 and sailboats in the ocean; and therefore, they supply

1 fresh water for people who have private yachts or boats.
2 And so they can be down to a very small size and produce
3 very tiny quantities, you know, 5, 10 gallons a minute --
4 type of size units.

5 The advantage of being in the ocean or near the
6 ocean like in Saudi Arabia or Texas is you can just -- they
7 just dump the pollution or effluent out back into the ocean
8 and continue to bring in seawater. So they have an
9 advantage there.

10 We would still have to figure out a cost and
11 methodology that would be economical to a disposal of the
12 effluent from the plants, the 10 percent of higher mineral
13 content water.

14 MR. MOORE: Thank you.

15 MS. FLITNER: Other questions?

16 CHAIRMAN GORDON: I just had one clarifying
17 question. Thank you.

18 On your 7-cents-per-barrel cost, does that
19 include the cost of discharge -- I mean the disposal?

20 MR. CLAREY: It did in the Texas area; but
21 again, like I say, their disposal cost may be much lower
22 than what we would be looking at in Wyoming.

23 CHAIRMAN GORDON: Okay.

24 MR. CLAREY: Their 7 cents was kind of an
25 average number, and I think their range was between 5 or 6

1 cents and up to about 11 per barrel. And that's for
2 operating and maintenance, so it actually is including the
3 power and maintenance to encase the membranes as they
4 replace and things like that -- and pumps.

5 CHAIRMAN GORDON: Thank you.

6 MS. FLITNER: Thanks.

7 You gave us our first obvious point of agreement,
8 and that is that the next hearing should be on a yacht.
9 Thank you.

10 I'd like to take -- you have three more today, so
11 I'd like to take one more, roughly, 10- or 15-minute
12 presentation and then take a 10-minute break. And we'll
13 finish with your last two.

14 MS. FOX: Is Roger Coupal here? Would you
15 like to get back over the hill?

16 Thank you, Ms. Flitner. Roger Coupal is an
17 economist with the University of Wyoming. Again, he's here
18 to talk to you a little bit about the category of cost
19 effectiveness of alternatives.

20 Thank you.

21 MS. FLITNER: Welcome, Roger.

22 MR. COUPAL: Let me go ahead and give you
23 these, here.

24 Well, first of all, let me thank Kate for the
25 invitation and Council for the invitation. The -- my

1 involvement with coalbed methane water management issues
2 stem from our work with the Institute for Environment and
3 Natural Resources, the study.

4 And the study that I think that several people
5 were talking about and that is the one that I think you all
6 have seen, right -- this one right here -- I think most
7 people have seen this.

8 What I tried to do is to summarize the study for
9 you a little bit in terms of what it is, but what I want to
10 do is talk a little bit about what many of us in the
11 institute and on campus have talked about in terms of
12 incentives.

13 As people have said here, that water is an
14 economic asset or it's an environmental asset. But an
15 environmental asset that's not managed properly can become
16 an environmental liability. And so the issue really is the
17 degree to which -- are there incentives, are there ways to
18 encourage industry and society in general to utilize this
19 water in a way that is beneficial to both?

20 The first thing -- you know, there's obviously --
21 the water management is a problem. I mean, we wouldn't be
22 here, there wouldn't be court cases, there wouldn't be
23 people knocking on legislature's doors about that. It's a
24 water quality issue, and it's a water quantity issue.

25 Is it a problem of too much water at lower

1 this.

2 But ultimately, water that's defined as
3 beneficial -- defined as beneficial use should be used
4 beneficially. So the question is is it actually getting to
5 that point? Are we doing that? Are we actually using it
6 beneficially in the current regime? And I think many would
7 argue that we probably are not, and we need to take a look
8 at that.

9 I've included a big list of references. I
10 included the references on -- on treatment costs and issues
11 that we covered in the institute's report, and I added some
12 since -- since that report came out, there's been several
13 others that talked about it. Just for your background,
14 these are all publicly available reports, either DOE
15 reports or consulting reports.

16 So economics of what our treatment, okay,
17 approach -- you know, clearly if you're going to charge --
18 if you're going to impose a treatment issue -- a regime on
19 companies, it's going to increase costs to producers.

20 It's -- but it can potentially reduce production,
21 depending on the mandated approach; and we'll talk a little
22 bit about how that works and why that works. You still may
23 have water quantity issues along those lines. Just the
24 mere volume of water going into ravines could be enough.

25 But the State can define how water's managed and

1 quality or too much water at higher quality? In some cases
2 that can be a problem. It's a problem of loss of the
3 valuable resource and a split estate issue. I won't be
4 getting into the split estate issue, but that's clearly
5 part and parcel of this whole thing.

6 So the economic issues are whose responsibility
7 is it? Is it the state? When it's put into the ravine is
8 it the state that now has to deal with that? It's sort of
9 a beneficial-use approach, and that is my understanding is
10 what the -- the Department -- or the Department
11 previously -- or the State's previously -- that has been
12 their position. One, it goes into the ravine. It's viewed
13 as being beneficial use, and so that's -- that's the end of
14 it.

15 Is it the coalbed methane company's
16 responsibility? That's what I would call the externality
17 approach; just dump it into the ravine, which picks up more
18 dissolved solids, it goes offsite into somebody else's --
19 and we've seen pictures of that.

20 So what it suggests are that there are different
21 ways of dealing with this issue, you know. You can -- it's
22 a regulated -- is it a regulated treatment issue like
23 reverse osmosis, injection, that kind of thing or is it a
24 tax approach? And I'm going to talk a little bit about why
25 we call it a tax or discharge fee approach as one aspect of

1 treated, and I think what this Council's partly about is to
2 say, Okay, are we dealing with this valuable resource in a
3 way that is -- that is -- that maximizes benefits to the
4 people of Wyoming?

5 The State imposes the responsibility to manage
6 drainage and, therefore, water that is disposed of in those
7 drainages. So in other words, when the water goes in, it
8 becomes, in a sense, a State problem if the State decides
9 it wants to make it that problem or if you decide that --
10 that dumping water into a drainage is an improper use of
11 what the state views as its responsibility. The state can
12 decide that, and that's kind of what this is all about.

13 What I would view -- a technical approach and an
14 economic approach. So the technical approach talks about
15 water quality requirements. What do we want to turn this
16 water into really? And how -- who's -- what's it going to
17 be used for? Where's it going to go?

18 There's a lot of issues in terms of trying to get
19 at that. We can take the water, we can use reverse
20 osmosis, we can use a lot of different approaches, we can
21 inject it; but it's always going to have some kind of
22 effect on someone. So we need to sort of think about that,
23 I think.

24 Another way of looking at that is what I would
25 call the -- a simple discharge fee. So in other words, it

1 large, if you will, and perhaps get to them closer to
 2 3:00 before we have our -- some of our discussion.
 3 I hope -- can you tell it feels like hours and
 4 lots of syllables for me? I'm starting to lose track. But
 5 I believe I can read the next name, and that would be
 6 Eric Barlow, followed by Tim French.
 7 MR. BARLOW: I appreciate the Council's
 8 tenacity and endurance, and I will forgo putting you
 9 through any more. So Mr. French can --
 10 MS. FLITNER: Thank you.
 11 MR. FRENCH: Ladies and gentlemen, Madam
 12 Chairman. My name is Tim French. I'm a county
 13 commissioner from Park County, Vice Chairman of Board; Park
 14 County being Powell, Cody, Meeteetse area -- as far as you
 15 can get from Cheyenne, that's where we're at.
 16 In my real life I'm a farmer. We farm west of
 17 Powell 15 miles. Our concern -- I know you wanted
 18 specifics. I don't have that, so please bear with me. Our
 19 concern as a board of county commissioners is that if you
 20 change the quality standards of the water over there at
 21 that -- that will migrate over the mountain to Park County.
 22 And you've heard from our citizens -- you know,
 23 our concern if it's lower standards on that water quality,
 24 that that water coming out of these oil fields will have an
 25 effect on our oil fields. Our main oil fields are

1 100 years old. They're very old oil fields. They're very
 2 important to us.
 3 If they have to reinject that water, some of your
 4 larger producers like Marathon, Anadarko, whoever they are,
 5 can probably do that. Some of the smaller producers may go
 6 out of business, costing jobs, et cetera. If that water's
 7 no longer available, it has an adverse impact on our
 8 ranchers.
 9 Not only that, there's a lot of wildlife up
 10 there. A lot of people come to Park County to either view
 11 wildlife or hunt wildlife. A lot of -- there's several
 12 businesses in Cody that run tours to the wild horses east
 13 of Cody. That could be affected if that water runs down
 14 there for those horses also.
 15 As county commissioners, our concern is anything
 16 that -- we're not just talking about some of our ranchers
 17 who are very important to us and some oil field jobs.
 18 Anything that you may do that affects our revenues has a
 19 direct impact on 28,000 people.
 20 Now, why do I say that? As a board of county
 21 commissioners, we set the budget for county clerk,
 22 treasurer, assessor, clerk of district court, county
 23 attorney, sheriff, jail, road and bridge. We also fully
 24 fund in Park County the library system, the fair, the
 25 museums, the rec boards. We partially fund senior citizens

1 centers in Powell, Cody and Meeteetse, Park County Mental
 2 Health, Boys and Girls Club, drug court. There's a number
 3 of things.
 4 Anything that you may do as a group on lowering
 5 these standards, that possibly may creep over the mountain
 6 to us and have an effect on our revenues. If we have less
 7 in revenues, we may have to cut; because by law we have to
 8 have a balanced budget.
 9 So -- and that's not easy to cut the senior
 10 citizens, Meals on Wheels, drug court, Park County Mental
 11 Health. We may have to cut sheriff's budget, jail -- we
 12 fully fund -- our landfills.
 13 So I'm just here representing Park County
 14 commissioners, and they ask that I read one statement real
 15 quick. Let me get my cheaters on here.
 16 MS. FLITNER: Get your cheaters and look at
 17 your watch. You have about a minute.
 18 MR. FRENCH: Okay. I'll be done.
 19 MS. FLITNER: But if you think I'm big
 20 enough to stop you --
 21 MR. FRENCH: Well, thank you for the
 22 additional minute. I've been here for two days, and I'm
 23 going to have nightmares over this.
 24 MS. FLITNER: I appreciate that. I'd hate
 25 to cause that.

1 MR. FRENCH: The board of county
 2 commissioners of Park County recommends that the petition
 3 submitted by the Powder River Basin Resource Council be
 4 denied due to an anticipated negative impact on the social,
 5 economic structure of Park County.
 6 So your actions may very well have a big impact
 7 on all 28,000 of our people; and as their elected
 8 representative, you know, I take that very serious.
 9 MS. FLITNER: Thank you. As do we, and
 10 thank you.
 11 Any questions for the commissioner? Okay.
 12 Thanks for making the trip.
 13 MS. FLITNER: Duane Siler from Marathon,
 14 Steve Jones to follow.
 15 MR. SILER: Madam Hearing Officer and
 16 members of council, I'll be real brief.
 17 I simply wanted to make one point as you begin
 18 looking toward your deliberations at 3:00. And that is
 19 that Marathon would strongly council against this body
 20 attempting to rewrite in a very short period of time
 21 subsection A of this proposed petition.
 22 During yesterday's proceedings, the Council for
 23 the petitioners essentially repudiated the text that has
 24 been before us in which we -- was of notice for this
 25 proceeding and on which all parties have commented,