



# Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

April 24, 2008

Brian T. Kelley  
 Wyoming Field Office Supervisor  
 U.S. Fish and Wildlife Service  
 Ecological Services  
 5353 Yellowstone Road – Suite 308  
 Cheyenne, Wyoming 82009

**FILED**

APR 24 2008

Terri A. Lorenzon, Director  
 Environmental Quality Council

RE: Response to Comments on Proposed Revisions to the Wyoming Hazardous Waste Rules and Regulations

Dear Mr. Kelley:

The Wyoming Department of Environmental Quality/Solid and Hazardous Waste Division (WDEQ/SHWD) is in receipt of the April 21, 2008, comments from the U.S. Fish and Wildlife Service (FWS) on proposed revisions to the Wyoming Hazardous Waste Rules and Regulations (HWRR). I would like to note that your comments were received after the close of the public comment period (ended April 15, 2008), and the comments submitted weren't related to proposed revisions to the HWRRs, but addressed previously adopted provisions. However, I would like to provide the following responses to your comments.

With respect to HWRR Chapter 1, Section 1(j), the current language is consistent with current federal language at 40 Code of Federal Regulations, Part 270.3(e), and WDEQ will consult with the appropriate state agency (i.e., Wyoming Game and Fish Department) before issuing a permit for an impoundment meeting the criteria of Chapter 1, Section 1(j). To address FWS's concern regarding consultation with them, I would note that HWRR Chapter 3, Section 1(g) requires WDEQ to give specific notice to 'Federal and state agencies with jurisdiction over fish, shellfish, and wildlife resources' regarding permitting actions, including issuance of draft permits (new and renewal). WDEQ has identified FWS (as well as the Wyoming Game and Fish Department) as an agency with jurisdiction, and has given notice to FWS, and will continue to give notice, on permit actions. WDEQ believes the HWRR Chapter 3, Section 1(g) requirements give FWS the opportunity to comment (consult) on any permit, including a permit for a surface impoundment.

With respect to FWS's second comment, existing provisions at HWRR Chapter 10, Section 10 are the requirements for surface impoundments used to manage hazardous waste. Those provisions don't specifically address oil or sheens on the surface of an impoundment. Currently, there are no operating/permitted hazardous waste surface impoundments in Wyoming. It is difficult to predict what hazardous wastes (oily or otherwise) may be proposed for



management in such a surface impoundment. However, given the requirements of HWRR Chapter 3, Section 1(g) noted above, it is assumed FWS would provide comment on a permitting action for a hazardous waste surface impoundment where threats to migratory birds (and other wildlife resources) may exist, if those threats haven't been considered and addressed by WDEQ during permit application review and draft permit issuance.

I hope these responses have addressed your concerns. If you should have any questions, please feel free to contact me at 777.7740.

Sincerely,



Carl Anderson, PhD  
Manager, HW Permitting/Corrective Action Program  
Solid and Hazardous Waste Division

C: Joe Girardin – EQC (handcarry FWS comments and WDEQ response)