

Prospect Land & Cattle Co. LLC  
P.O. Box 653  
Powell, Wyoming 82435  
September 22, 2009

**FILED**

SEP 24 2009

Jim Ruby, Executive Secretary  
Environmental Quality Council

Chairman Dennis Boal  
Environmental Quality Council,  
Herschler Building, Room 1714  
122 W. 25<sup>th</sup> Street  
Cheyenne, WY 8202

Attention EQC Docket ID No. 08-3101

To Chairman Dennis Boal:

Following are comments in regard to the proposed rule changes concerning the irrigation and livestock water you are considering.

Our ranch is located at 2680, 2682 Hamilton Dome Road and 2491 Upper Cottonwood Creek Road that is immediately north of the Hamilton Dome Oil Field. Merit Energy the operator of Hamilton Dome Oil field presently had two surface water discharges that flow into Cottonwood Creek and across a portion of our ranch. This discharge has been ongoing since the early 1970's and is used for irrigation purposes and livestock watering. This resource is also utilized by a substantial number of deer, antelope, sage grouse, ducks and other animals.

The State of Wyoming has adjudicated a water right to our ranch from this discharge that provides for 250 acre feet of storage and also approximately  $\frac{3}{4}$  foot of irrigation that is utilized over 600 acres of hay and pasture land.

This water is extremely beneficial to our livestock and crop operations and as we observed in the past several years with the drought, this discharge water was the only water available to use by our ranch, the livestock, wild life and birds in the area. We have produced up to 4 ton of hay per acre on our fields and if it were not for this water we would have had nothing and in addition it allowed us to graze out meadows when the drought was so severe that we had no range land grass.

We have found over the years that there is no determinable problems with the use of this water in our forage production or with wildlife or livestock consumption. Therefore we very strongly recommend that the present criteria NOT be changed. I must take exception to Dr. Raisbeck's report because I believe the basis for his determinations was primarily from an experimental environment and my experience having worked at the University level doing some related type experiments the protocol was to induce levels of compounds that would develop conditions or death in animals. Our ranch and the previous owners have since the 1970's proven that the present standards are more than adequate for use of this discharge water. If these standards were not sufficient we would have experienced significant death loss to the livestock from drinking the water and the consumption of the feedstuffs raised by use



of the irrigation water. Also, if the quality of water was determinable we would have found wildlife carcasses lying around the stream beds, instead we continue to see birds, deer, antelope and other animals continually using this water and forage.

During the summer of 2007 Mr. John Corra, John Wagner and other staff from the DEQ made an on the ground inspection of the Hamilton Dome Oil discharges. During this inspection we saw deer, antelope, sage grouse and ducks using this water source as well as viewing the forage production that this water provided. The tour took everyone to the western edges of Mr. Frank Wagner's ranch to cross Cottonwood creek and at this point the stream was completely dry and had been for a period of time. We witnessed dead and dying trees, brown stream banks and no birds or wildlife and it wasn't until we drove to the area where the discharge water came into the creek that the benefit of this water became evident. MORE STRINGENT STANDARDS ARE NOT NECESSARY!!!

Based on overwhelming comments previously given by the agriculture community, the oil and gas industry and county and state leaders; the WWAB and DEQ proposed to leave the numeric livestock drinking water standards unchanged at 5000 mg/l TDS, 3000 mg/l sulfate and 2,000mg/l chloride. These standards have worked well for several decades and continue to be reasonable and there has never been a demonstrated case of decreased livestock productivity associated with these standards, in fact livestock and forage production has increased and thrived under these standards.

In your considerations, we request the landowner waiver be retained in both the Livestock Drinking Water section of the rule and the Irrigation section of the rule. We as a landowner must have the right to decide if produced water is a benefit to our operations and will keep us in business. We know what is best for our ranch operations and don't need "Big Brother" or uninformed persons dictating the use of produced water when they have not received the benefits that enable a ranch or farm to stay in business.

We request that the grandfather provision continue to be included in the proposed rule. It is necessary that this provision be retained or it will have the effect of putting a ranch as ours out of business. Without water we have no ability to produce forages or provide necessary drinking water for livestock and wildlife. In this regard it is also essential to include a "non-severability" provision in the rule. A non-severability provision would require the EPA to approve or disapprove the rule in its entirety. If any provision of the rule is struck(including the grandfather provision) then the entire rule would be invalid.

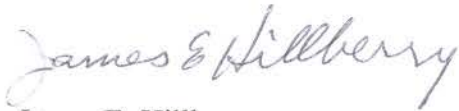
We recommend the EQC complete a formal study by the state Department of Administration and Information, Division of Economic Analysis, that examines the socio-economic effects that changes to this Rule may cause. The Environmental Quality Act says the EQC is legally required to consider balancing criteria when establishing new rules. Expensive technical studies have been ongoing since the DEQ hired Dr. Raisbeck and the Council hired two New Mexico "scientists" to examine the Rule/Policy in more detail. The Raisbeck study focused primarily on whether produced water could have had negative impacts on livestock, and it DID NOT consider the enormous benefits and value of produced water to livestock and wildlife. This implies that technical data ,however developed, is more important than the socioeconomic data. Does anyone know the impact of adopting all of Dr. Raisbeck's proposed standards, how many operations will be put out of business, how many oil fields will be shut down???

The final rule should allow for a flexible approach to using produced water and standards that are not restrictive beyond the present standards in place. To establish a rule that primarily benefits the CBNG development in the Powder River Basin to the detriment of others is not a reasonable and fair rule.

I am including pictures of our forage production and pastures that is the positive benefit of the produced water under the present standards, also some of the pictures of the tour previously mentioned.

Again, our strong recommendation is to NOT make any changes in the present rules and standards.

Respectfully

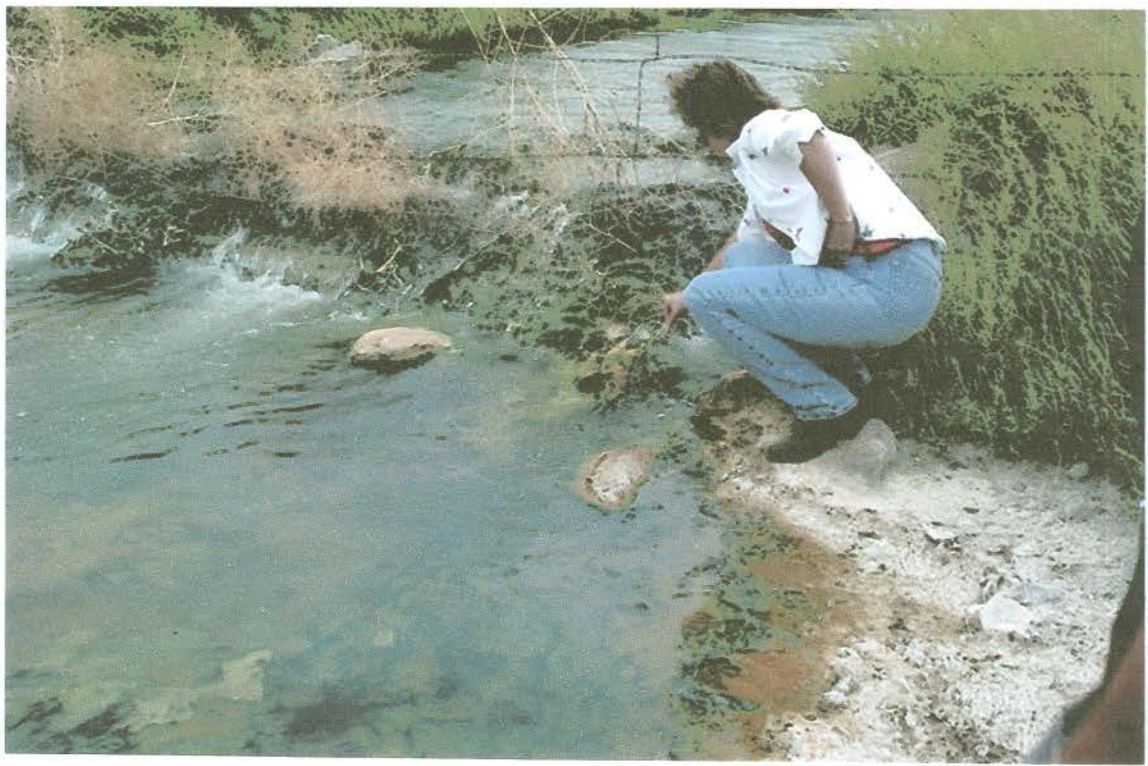
A handwritten signature in cursive script that reads "James E. Hillberry".

James E. Hillberry

Treasurer

Prospect Land & Cattle Co. LLC





This is the meadow that did not have irrigation water











