



January 16, 2009

Mr. Craig Hults
Environmental Scientist I
Land Quality Division
122 West 25th Street, Herschler 3W
Cheyenne, WY 82002

RE: Comments on Rule Package 1-S, EQC Docket No. 08-4101

Dear Mr. Hults,

Attached are Intermountain Resources' comments on proposed rule package 1-S. Thank you for the opportunity to address these proposed rules.

Sincerely,

Jim Orpet

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Jim Ruby, Executive Secretary
Environmental Quality Council

Comments on Proposed Rule Package 1S

Chapter 1 Definitions –Strike and Underline Version Dated 8-28-2008

(m) “Belt Transect” page 1-2

The definition implies that the belt has to be 100 meters (328 feet long). The minimum “shrub patch” size identified in definition (dz) of this rule package is 0.05 acres or about 47 feet by 47 feet. There are obvious problems with trying to sample a 328 foot long transect within a 47 foot long patch. With all the transect angling back into the patch that would be required, the transect would have to cross itself and some shrubs would be counted twice.

Recommend more flexibility in transect length and width such as including belts 2 meter by 50 meter and 4 meter by 25 meter.

(df) “Quadrat” pages 1-15 and 1-16

Typo in last sentence? The quadrat shall be side? Should that read the quadrat should be sized?

The LQD has included the use of a ½ square meter plot in addition to the standard 1 square meter plot. Does this also mean data collected from a ½ square meter plot can be included with data previously collected from a 1 square meter plot (after proper conversion) for development of a technical standard? Does this also mean that at the time of bond release, data collected on a reclaimed area using a ½ square meter plot can be compared to a technical standard developed from baseline data collected using a 1 square meter plot following the proper conversion? Most of the mines have collected a considerable amount of baseline and monitoring data using 1 square meter plots and need to know if the LQD considers data collected from ½ square meter plots to be statistically comparable to that existing data. We are not suggesting a revision to the proposed rules but would request a written clarification.

(ef) “Species Lacking Credible Value” pages 1-21 and 1-22

Kochia scoparia should not be included in this list. *Kochia scoparia* is highly nutritious (11 to 22% protein content) and highly palatable to livestock and wildlife when in the growth stages. This species is the first to be utilized when livestock are grazed on newly reclaimed lands. Elk, mule deer and pronghorn also prefer this plant species. Due to the nutritional, as well as ground cover and erosion control benefits, this species does not warrant the classification

as a "Species Lacking Credible Value" and should be removed from the list. For that matter, there are native species such as pricklypear cactus (*Opuntia polyacantha*) that would classify as a species lacking credible value. This species and other undesirable native species with little value are abundant on many native rangelands that reclamation will have to be compared to for revegetation success. In other words the reclamation species will have to provide additional cover to offset the cover of these undesirable species found on native rangelands. Why aren't these undesirable native species included in the list?

Chapter 2 Permit Application Requirements - Strike and Underline Version Dated 8-28-2008

Section 3(j) page 2-8

Typo - Coma (,) should be after revegetation rather than after descriptions as shown?

Chapter 4, Appendix 4A Species Diversity and Composition Standard - Strike and Underline Version Dated 8-28-2008

Typo at end of page 4A-2, units should be unit and need a period at the end of sentence.

This appendix appears to be incomplete since, as stated, most of the standards and methods are yet to be determined by the administrator. We will grant that the standards and possibly also the methods will have to be different between the Powder River Basin and southwestern Wyoming due to the pronounced differences in climate, soils and premine plant communities. For example there few to no warm season grasses on some of the southern mines so they should not be held to a warm season grass component. However, the way this appendix is currently written the operator will be subject to whatever the administrator dictates at a future date.

Recommend Appendix 4A be deleted from the proposed rules until a more concise standard, or standards, are developed.