



October 22, 2018

Wyoming Environmental Quality Council
c/o Wyoming Department of Environmental Quality
200 W 17th St.
Cheyenne, WY 82002
Submitted online via: <http://wq.wyomingdeq.commentinput.com/>

RE: Docket #18-1101, proposed revisions to the Rules of Practice and Procedure Chapter 1, General Rules - Uniform Procedures, Fees, Costs, and Charges for Inspection, Copying, and Producing Public Records

Dear Chair Lally and Members of the Environmental Quality Council,

On behalf of our members from across Wyoming, thank you for the opportunity to submit comments opposing DEQ's proposed rules to charge the public for accessing and obtaining public records.

For those of you who are not familiar with our organization, the Powder River Basin Resource Council was formed in 1973 by ranchers and concerned citizens of Wyoming to address the impacts of strip mining on rural people and communities. Today, we work for the preservation and enrichment of our agricultural heritage and rural lifestyle; the conservation of our unique land, mineral, water, and clean air resources, consistent with the responsible use of those resources to sustain the livelihood of present and future generations; and the education and empowerment of our citizens to raise a coherent voice in the decisions that will impact their environment and lifestyle. We work for our approximately 1,000 members and submit these comments on their behalf.

We provide these comments from the perspective of an organization that is a frequent requester of DEQ records. The scope of our records requests can vary from needing to look at a single file available in a public reading room to needing copies of electronic correspondence and third-party provided information over a period of time. In all cases, our organization's requests are made in the public interest. The information we obtain is often disclosed in a variety of forums, including our newsletter and social media, and is shared with our members, reporters, and other organizations. The information we obtain is necessary to inform our advocacy work. We routinely request access to DEQ files and information to help our organization and our members better participate in DEQ comment processes. If we are not informed, we will not adequately be able to provide comments and information to DEQ for the agency to consider in its decision-making processes.

We know you have a substantial administrative record before you already, and we do not want to unnecessarily add to the paper to review before the November 6th hearing. We encourage you to review the comments provided to the DEQ advisory boards below, as well as

the transcripts of the public hearings. As mentioned by members of the Air Quality Advisory Board, public comments unanimously opposed the proposed rules.

Since the record before you is large, it is worth emphasizing some main reasons we believe you must vote NO on DEQ's proposed rules:

- 1) DEQ must comply with the Wyoming Environmental Quality Act's core requirement of open records to make all agency records available to the public under W.S. § 35-11-1101(a). Charging fees to access records creates an unlawful barrier to their availability, especially without agency discretion to waive fees as needed. While we appreciate the desire for consistency across state agencies, such consistency cannot come at the cost of forcing DEQ to violate the Environmental Quality Act.
- 2) DEQ's proposal merely adopts a one-size-fits-all set of rules from A&I. It is not tailored to the agency's particular needs, including not charging the public to access records that are a part of an agency permitting, enforcement, or rulemaking process, where the public needs to have access to the information to participate in DEQ's comment processes – or even to decide whether to participate in the comment processes.
- 3) In our digital age, DEQ staff members use email to make important decisions, and the record of these decisions should be available to the public. Unfortunately, charging high fees to make the records available means that public access and information will be effectively denied.

We applaud the agency's efforts to modernize records requests and responses through its new online request form and database. However, such tools will only continue to be useful if fees do not become a barrier to requesting records in the first place. Unfortunately, the proposed fee rules have already had a chilling effect on the public's ability to access important data and information from the agency.

We urge you to vote against DEQ's proposed rules at your upcoming meeting, and we look forward to presenting additional information and answering any questions you may have at that time.

Thank you for your careful review and for your consideration of the public interest.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannon Anderson", with a long horizontal line extending to the right.

Shannon Anderson, Staff Attorney
Powder River Basin Resource Council