



June 17, 2019

Submitted via electronic <http://wq.wyomingdeq.commentinput.com>

Mr. Kevin Frederick, Administrator  
Wyoming Department of Environmental Quality  
Division of Water Quality  
200 West 17th Street  
Cheyenne, Wyoming 82002

Re: Proposed Revisions to the Wyoming Water Quality Rules and Regulations

Comments of PacifiCorp on Revised Chapter 3, Regulations for Permit to Construct, Install or Modify Public Water Supplies, Wastewater Facilities, Disposal Systems, Biosolids Management Facilities, Treated Wastewater Reuse Systems and Other Facilities Capable of Causing or Contributing to Pollution

Dear Mr. Frederick:

PacifiCorp is an energy services provider serving approximately 1.9 million customers across a 141,000 square mile service area in six western states. PacifiCorp's operating companies include Pacific Power, which provides regulated electric service in California, Oregon and Washington; and Rocky Mountain Power, which provides regulated electric service in Idaho, Utah and Wyoming.

PacifiCorp believes a diversified generating portfolio is important to ensuring reliable and reasonably priced electricity; thus PacifiCorp's energy portfolio includes renewables, hydroelectric, natural gas, and coal-fired power generation. Forty one percent of PacifiCorp's nearly 11,000 megawatts of net-owned and contracted generating capacity are generated at coal power plants. To facilitate its coal-generation operations, PacifiCorp operates 13 Coal Combustion Residual ("CCR") units, 11 of which are in the state of Wyoming. PacifiCorp will therefore be directly impacted by any final decision made by the State of Wyoming regarding the proposed revisions to Wyoming's solid waste rules.

Section 2301 of the Water Infrastructure Improvements for the Nation (WIIN) Act amended Section 4005 of the Resource Conservation and Recovery Act (RCRA) to create a new subsection (d) which establishes a Federal permitting program similar to those under RCRA subtitle C.<sup>1</sup> Under the WIIN Act, states may develop and submit a CCR permit program to EPA for approval. Once approved, the state permit program operates in lieu of the Federal CCR Rule requirements.<sup>2</sup> To become approved, the WIIN Act requires that a State provide "evidence of a permit program or other system of prior approval and conditions under State law for regulation

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<sup>1</sup> See 42 U.S.C. § 6945(d).

<sup>2</sup> See 42 U.S.C. § 6945(d)(1)(A).



by the State of coal combustion residuals units that are located in the State”.<sup>3</sup> In addition, the WIIN Act directs states to submit evidence that the program meets the standard in RCRA Section 4005(d)(1)(B), such that it will require each CCR unit located in the State to achieve compliance with either: (1) the Federal CCR requirements at 40 CFR Part 257, Subpart D; or (2) other State criteria that the Administrator, after consultation with the State, determines to be at least as protective as the Federal requirements.<sup>4</sup>

On May 17, 2019, the Wyoming Department of Environmental Quality proposed for comment revisions to the state’s Chapter 3 Water Quality Rules and Regulations. Chapter 3 Section 2(d)(i) of the proposed revisions expressly exempts coal combustion residual (CCR) surface impoundments from regulation under the Water Quality Rules. Chapter 3 Section 3(b)(ii) of the proposed revisions properly defines ‘CCR’ as it is defined in the Federal CCR Rule.<sup>5</sup>

PacifiCorp supports these proposed revisions to the state’s Water Quality Rules and Regulations because it facilitates the state’s adoption of its own CCR permit program through the state’s Solid Waste Rules and Regulations. As it has expressed in written comments, PacifiCorp generally supports Wyoming’s addition of Chapter 18 to the state’s Solid Waste Rules, which will allow the state to regulate the disposal of CCR waste in landfills and surface impoundments. These comments supplement PacifiCorp’s comments provided to the Division of Solid and Hazardous Waste, dated June 17, 2019.

As it has consistently done in past comments, PacifiCorp urges Wyoming to develop its rules in ways that are legally durable and provide regulatory certainty. PacifiCorp respects and recognizes Wyoming’s authority and the hard work put in to modify its rules, and appreciates the opportunity to provide comments on the proposed Water Quality Rules and Regulations.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "James Owen".

James Owen  
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<sup>3</sup> *Id.*

<sup>4</sup> *See* 42 U.S.C. § 6945(d)(1)(B).

<sup>5</sup> *See* 40 CFR §257.53