



Dec 1, 2019

Gina Thompson
Water Quality Division
Department of Environmental Quality
200 W. 17th Street
Cheyenne, WY 82002

Re: Proposed Revisions to Chapter 28 Water Quality Rules and Regulations

Ms. Gina Thompson,

Oh behalf of Powder River Basin Resource Council and our members, thank you for accepting our comments to proposed revisions to Chapter 28 Water Quality Rules and Regulations.

We appreciate the diligence with which the Department of Environmental Quality reviewed existing rules and regulations for Commercial Oilfield Waste Disposal Facilities (COWDF). In particular, we would like to applaud the new and improved requirements for public notice, participation, and hearing as it allows landowners and our members to engage in the permitting process. We also thank the department for improving measures that will prevent harm to migratory birds and wildlife. We have some recommendations to address concerns throughout the document regarding floodplains, monitoring and sampling, and setback distances.

Increase Restrictions on Facilities Located in Floodplains.

In Section 6 Site Suitability, we encourage strengthening the floodplain requirements by completely restricting facilities from being located within likely flooding areas of the Waters of the State. We suggest that as another requirement, no proposed sites shall be located within the FEMA 500-year floodplain that demonstrates more than a 1% probability of flooding based on the most recent 25-year period. The 100-year floodplain may be outdated due to recent, pronounced shifts in precipitation patterns, and using the FEMA-designated floodplain will better protect the facilities from possible flooding events.

Increase Sampling for Unconfined Aquifers.

In Section 11, the rules require only one sample and analysis of unconfined aquifers prior to waste disposal into ponds. We do not believe this minimal data sampling can establish a sufficient sample and suggest at least three preoperational sampling events at least two weeks apart from one another to establish a class of use for the aquifers.

Require Operation and Management Plan prior to Construction.

In Section 12, the Operation and Management Plan requires copies of the sampling and analysis plan for the groundwater monitoring program and the leak detection system to be submitted prior to 50% completion of construction. However, there is no compelling reason to delay a document that must be prepared in any event. At the least, the sampling and analysis plan for groundwater

monitoring should be submitted before the permit is granted, especially since it would include pre-operational monitoring.

Clarify setback distances in Section 9 (a)(i)(D)

In the revised analysis of comments, Paragon Consulting asks the department to clarify setback requirements. In response, the department referenced W.S. § 35-11- 306(a) as a one (1) mile as the minimum statutory requirement from buildings and other dwellings. This setback is not discussed in the Chapter 28 rules and regulations and including this distance plainly in the document would help to alleviate concerns regarding nearby construction of facilities.

Thank you for your time and consideration of our comments,

Sincerely,

Marcia Westcott, Chair

A handwritten signature in cursive script that reads "Marcia Westcott".

Powder River Basin Resource Council