

APPENDIX A. CITIZEN COMMENTS RECEIVED DURING THE COMMENT PERIOD ENDING SEPTEMBER 16, 2015

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Figure A-1. Armond Acri (2 pages)

Sep 12 15:01:05p

Armond Acri

307-734-2704

p.1

David Waterstreet
Watershed Section Manager
122 W. 25th St
Herschler Building 4-W
Cheyenne, WY 82002

Mr. Waterstreet,

I would like to thank you for allowing public comment by fax or mail on the proposed changes in water quality standards for Wyoming Streams. I hope in the future you will allow comments to be made by email. Even WYDOT has moved into the 21st century and allows email comments.

I believe there are two issues to address in the proposed changes. One is health and human safety for the public who may use streams impacted by these changes. The other is the perception by the public of these changes, especially potential visitors to our state.

I understand that you chose a threshold of 6 cfs because immersion, full body contact, or frequent use of the water by children was "non-existent" or non-attainable. As a hunter, backpacker, horseman and dog owner I spend a considerable amount of time in the backcountry and front country in areas with streams that would be designated as "secondary use." **I would propose that a designation of secondary use not apply in wilderness areas as it is not consistent with the intent of the Wilderness Act.** High levels of E.coli from commercial livestock operations are not consistent with the goals of managing wilderness. Streams in wilderness areas deserve higher levels of protection.

I spent 25 years working as an engineer in the food industry in both manufacturing and construction. One of my responsibilities was to avoid contamination of foods by coliforms of any type. I know from my work that it is possible to suffer the consequences of E. coli induced illness without being fully immersed, in full contact with or directly ingesting contaminated water. The best way to avoid contamination and protect human safety is to keep coliform levels as low as possible.

Many backcountry travelers store beverages in cans or bottles in small streams to keep them cool. My dogs drink and fully immerse themselves in small streams. When they emerge, they shake and fling water everywhere including on my face. In hot weather I frequently douse my hat or shirt in small streams to cool off. If it is really hot, I may sit in a small pool and dump water on myself. I often rinse my hands and face in small streams to rinse off trail dust and sweat. (I do not use soap because it would degrade the water quality.) When I fish, I lick the leader to make it easier to tie the knot. Even small streams of less than 6 cfs can still have small trout that are a challenge to catch. All of these activities would put me at risk of ingesting sufficient E. coli to put my health at risk because they would allow contaminated water to get in or near my mouth and nose without being fully immersed.

In addition my dogs are at risk if there are increased E. Coli levels in the small streams where they drink when we recreate and bird hunt. If they get sick, there is a good chance I may become infected as I am

their primary care giver. Even if I do not get infected, the dogs will spread E. coli to other locations creating a bigger problem for our community.

The second issue to address is the public perception that we are allowing degradation to occur in our streams. This is very important as tourism is the second biggest industry in our state. Right after the media reported on the proposed changes I got an email from a friend who lives in the East but has been out to visit several times. He wanted to know "why in the hell are you guys letting them wreck your streams like the rest of the country has done?" Many people come to visit Wyoming because they do not have access to a relatively undisturbed environment. They will not want to recreate in a State that allows even small streams to have 5 times the E. coli levels allowed by the EPA. It is a public relations nightmare that over 76% of all streams in Wyoming will now have lower protection. **For this reason, I propose that the new regulations not apply to streams in Forest Service lands regardless of flow levels.**

Lands administered by the BLM have much different recreational use, so I have less of a problem with reduced protections on streams in those areas. I also recognize many of these streams are seasonal or experience very low flows during late summer and fall. That is where the proposed regulations might make some sense.

As an engineer I always try to solve problems by looking at the root cause. In the case of E. coli contamination of streams, we need to acknowledge that the problem occurs because of poor sanitary practices. **Rather than raise the standards to allow more contamination, we need to look at how to change practices to maintain the high quality of all streams in Wyoming, not just ones we can totally immerse ourselves in.**


Armond Acri

2001 Corner Creek Lane # 5
Jackson, WY 83001
307-734-2704

Figure A-2. Andy Blair (2 pages)

David Waterstreet
122 W. 25th St
Herschler Bldg. 4W
Cheyenne, WY 82002

August 7, 2015

RECEIVED

AUG 12 2015

WATER QUALITY DIVISION
WYOMING

Dear Mr. Waterstreet,

My family has spent a significant amount of time over the last 20+ years traveling through the backcountry of Wyoming. Much of this time has been in the Wind River Range but we have also spent a fair amount of time in the Jack Morrow Hills, the Wyoming Range, and the Absarokas. In each of those areas we have hiked or biked through low flow streams, splashed our faces in those streams, filled our water bottles in those streams.

I understand that ~10% of the surface drainages considered under the UAA are dry for the majority of the year and that ~80% of the remainder flow at or below 1 CFS. For the remaining ~10% that are between 1 CFS and 6 CFS, I would encourage a higher level of scrutiny than a categorical redesignation. That said, in Lander City Park, children routinely play in a ditch, drawn from the Middle Fork of the Popo Agie, that runs at less than 1 CFS for much of the summer. Under the UAA the Middle Fork of the Popo Agie is designated Primary Contact for Recreation. Despite that designation, it is the norm that the Health Department posts signs in August warning of dangerous levels of e. coli present in the surface water. Given that this is the case on a river designated for Primary Contact for Recreation, it makes me very concerned about what level of degradation will be permitted in Secondary Contact for Recreation surface waters.

In Wilderness areas, I would suggest that all areas continue to be managed at Primary Contact for Recreation given the Class 1 designation for these areas. Under the Wilderness Act of 1964, grazing is a permitted activity within Wilderness areas. Removing e. coli levels from the management tool box of these areas potentially compromises the ability of land managers to maintain their obligations under the Class 1 designation.

I write to respectfully ask the Wyoming Department of Environmental Quality to withdraw its August 20th "Categorical Re-designation of Streams from Primary Contact Recreation to Secondary Contact Recreation."

A successful rule will be one that incorporates feedback from a diversity of recreational users, and one that is much more targeted and limited in terms of the streams that will be "downgraded."

My family, friends and I regularly recreate on and in low flow streams more than a mile from towns and more than a half-mile from developed campgrounds and trailheads. I ask that you consider this when assessing the rule and adjust it accordingly.

Thank you for your time.

Sincerely,

Andy Blair
874 Lincoln St
Lander, WY 82520
307-332-7102

Page 1 of 2

F. J. CAMENZIND
307-690-1934

September 15, 2015

Mr. David Waterstreet
Watershed Section Manager
122 W. 25th St.
Herschler Building
Cheyenne, WY 82002

Submitted via Fax: 307 777 5973

Dear Water Section Manager Waterstreet,

Please accept these comments regarding the E. coli bacterium Categorical Use Attainability Analysis (CUAA) being considered for Wyoming's rivers and streams.

First, I find the use of the mean 6 cubic feet of flow per second (CFS) threshold to be arbitrary and unsupported by reality. I for one, and many other back country recreationists frequently use low flow streams, e.g. less than 6 CFS, for cooling off and for a source of drinking water. And when are measurements taken to determine "mean flows"- high spring flow, moderate summer flow, or low fall flow, and how does this metric account for low flow streams that have year-round pools that beckon recreationists to enter and enjoy with full body contact? This threshold is entirely arbitrary and unsupported by the reality of human, back country use.

Second, applying this arbitrary threshold to reclassify nearly 88,000 miles of Wyoming's waterways from Primary Designation (permitting \leq 126 E. coli per 100 ml. water) to Secondary Designation (allowing up to 630 E. coli per 100 ml. water) in one universal decision demonstrates a complete disregard for variations in seasonal stream flow, the varying potentials for human use based upon the stream's location, e.g. National Forest back country trails and specifically National Forest designated Wilderness Area streams. All of which receive high seasonal recreational use. And placing upon the public the burden to correct reclassifications, one stream at a time is ridiculous in light of the manner in which they were universally downgraded in the first place.

Instead of the public having to provide latitude and longitudes of each and every stream they are familiar with, I urge the Wyoming

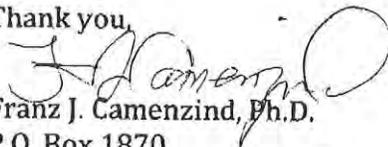
Page 2 of 2

Department of Environmental Quality to reinstate the Primary Designation to at least all National Forest waterways and particularly, all National Forest Wilderness area streams, regardless of their flow volumes.

And last, why would the one agency charged with the protection of Wyoming's environmental quality downgrade 76 percent of the state's waterways to allow five times more E. coli pollution? Why is this downgrading being considered? Who or what group(s) is pushing for this downgrading? And, what purpose will it serve? Without a clear and agreed upon purpose and need, DEQ's new CUAA should never have occurred, and its conclusions are inappropriate and should not stand.

All waters flow downstream, what occurs upstream will show up downstream, even if diluted by increased flows, it is still there. "Welcome to Wyoming, enjoy our waterways- remember to bring your wet suits, water filters and anti-bacterial creams."

Thank you,



Franz J. Camenzind, Ph.D.
P.O. Box 1870
Jackson, Wyoming 83001
307 733 6806

Figure A-4. Andrew and Nancy Carson (2 pages)

RECEIVED

August 24, 2015

David Waterstreet
Watershed Section Manager
122 W. 25th St. Herschler Bldg. 4W
Cheyenne, WY 82002.

AUG 31 2015
WATER QUALITY DIVISION
WYOMING

Good Morning, DEQ;

We write today to object to the proposed downgrading of thousands of miles of Wyoming's precious water resources. On August 20, 2014, the Wyoming DEQ issued a decision based on a *Categorical Use Attainability Analysis for Recreation* that would allow five times the present level of acceptable e. coli in surface waters across the state.

We have been active users of remote waters in Wyoming for over fifty years, and we have raised two children during those years as well. We as a family regularly access and enter waters that would be adversely affected by this action and are appalled that an agency of the state would oversee the degradation of one of our most important and one of our scarcest natural assets.

The notion that because a particular body of water is somewhat distant from a roadhead or is otherwise deemed 'inaccessible' is particularly wrongheaded. Wyomingites, us included, are quite capable of walking a long ways in a day for any number of reasons, recreation being one of them. Horses, too, will help us get to any destination we so choose to visit, and dipping in nearby backcountry streams and lakes is so commonplace that we are made breathless as we contemplate this ill-considered action.

As a matter of policy state waters should never be downgraded, only improved, and the amount of water in such streams or lakes should have no bearing whatsoever in such decisions. These small streams flow downhill to bigger streams and on to major rivers and thus this flawed proposal would ultimately lead to waters across the state slowly degrading to unacceptable levels common in states with little regard for this vital part of our daily life.

We would add that the negative publicity this move has generated nationwide has not done our tourist industry one bit of good. We have heard from friends and relatives across the country about our 'poopy' streams, and, while there's a certain amount of humor involved, it's anything but a laughing matter for those of us who live here and who frequent the waters in question.

We do note that the DEQ asks that we identify each and every stream by longitude/latitude, and/or other tedious and lengthy methods, and we object to that request as well. That seems to be a way of making public participation more onerous and difficult, thus weakening the considerable negative input this unwelcome idea would otherwise garner.

Therefore, we voice our strenuous opposition to the DEQ's actions with regard to this water quality downgrade and ask that such steps be reversed, or rejected.

Please keep us informed of any actions related to this decision as we move

forward.

We do appreciate that the DEQ is finally accepting written comment and also hope you will hold public hearings across the state, so Wyoming citizens can share their clear objection to lessening water quality standards for streams throughout the state.

Sincerely,



Andrew and Nancy Carson
Box 709
Wilson, WY 83014
307 733-4442
andrewcarson@earthlink.net



Eric Concannon
477 Amoretti St
Lander, WY 82520-2829

August 5, 2015

David Waterstreet, Watershed Section Manager
122 West 25th Street
Herschler Building 4-W
Cheyenne, WY 82002
Fax: 307-777-5973

Dear Mr. Waterstreet:

I am writing to request the Wyoming Department of Environmental Quality withdraw the flawed "Categorical Re-designation of Streams from Primary Contact Recreation to Secondary Contact Recreation," issued in August of 2014.

I am a backpacker, mountain bike, and long-distance hiker. I frequently pass through and take drinking and cooking water from low flow streams that are far from towns and developed campgrounds and trailheads. The presence of E. coli in these streams threatens my health and safety, as well as the security of my family should I be unable to work due to severe illness. I ask that you consider this when assessing the rule and adjust it accordingly.

Sincerely,

Eric Concannon

Figure A-6. Brian Connely (1 page)

Meadow Creek @ 45° 55' 34.104"
 Absaroka SE " 109° 17' 10.506"
 NATURAL shower " for after Francis Peak Summit
 Willow CK NC N 43° 24' 34.463 "
 106 47' 45.732 "

Horse Creek NC S 42° 42' 1.624 "
 perennial warm 107° 15.179 "
 51-540
 brown trout
 trout

(Record hearing 9/16/15 - DHW)
 from Brian Connely

https://www.sam.gov/portal/SAM/?navigation=JBPNNS_r00ABXdcACjgYXZheC5m... 9/1/2015



Note to all Users: This is a Federal Government computer system. Use of this system constitutes consent to monitoring at all times.

Figure A-7. Ty Cook (1 page)

RECEIVED

8/13/15

AUG 24 2015

Dear Mr. Waterstreet,

WATER QUALITY DIVISION
WYOMING

I am writing in regard to the DEQ's downgrading of 75% of Wyoming's streams this past year. It is my belief that in light of the growing water crisis our nation faces, the reduction in quality of any of our surface water assets is folly. The EPA states that 44% of our nation's streams are polluted. This is unacceptable. Any regulations or rules created by the agencies protecting our waters should lower that percentage and improve the health of our hydrologic systems, not further degrade them. A major flaw in this policy decision by DEQ is that as we all know, water flows downhill. Obviously if an upstream water course is reclassified as secondary, and then becomes polluted, any primary water courses downstream will be negatively impacted.

As an avid outdoorsman, I have frequented many of the streams in question. I have swum, drank from, and fished in some of the most pristine bodies of water imaginable in our state, and I want them to stay that way. The recreation use form that DEQ is using to accept written comments is burdensome and amounts to a brief technical report which most people do not have the ability or time to complete. People who want to protect certain streams are being asked to perform as a field technician. This is impossible considering most of us concerned with this status downgrade have visited dozens, maybe hundreds of these streams. Memories of experiences in those pristine bodies is evidence enough of their importance.

I encourage the DEQ to revise these downgrades and to use a more user friendly comment system that is email based and non-technical.

Thank you,



Ty Cook

PO Box 6684

Jackson, WY 83002

Figure A-8. David and Reade Dornan (1 page)

382 Saddle Butte Drive
Box 1081
Jackson, WY 83001

RECEIVED

AUG 21 2015

WATER QUALITY DIVISION
WYOMING

David Waterstreet
Watershed Section Manager
Wyoming Dept. of Environmental Quality
122 W. 25th Street
Herschler Bldg.
Cheyenne, WY 82002

Dear David Waterstreet:

We would like to take a stand against downgrading secondary, "low-flow" waterways to allow a higher level of e-coli in Wyoming's back-country streams and rivers.

Our main concern is that the degradation of ANY waterways, however remote, cannot easily be reversed, and once lower standards are allowed, the bacteria can spread. It's taken years to clean up many rivers and lakes in the U.S., so now that the EPA has set higher standards through the Clean Water Act, Wyoming should take advantage of the regulations to monitor and control the quality of all the rivers, whether they are situated in seemingly unvisited areas or not.

While the new plan makes operations easier for industry and agriculture, overlooked is the interconnectedness of our natural resources. Polluted back-country streams can be close to hikers' trails and drain into more mainstream rivers. We need to maintain accurate data on the e-coli levels, so we can protect the public from the spread of harmful bacteria to any part of the state.

Particularly in Wyoming, where we take pride in our pristine wilderness, these waterways are visited by wildlife, hikers, and waders who are exposed to e-coli and other dangerous bacteria. It's difficult to believe that the Wyoming DEQ is proposing to backslide to more harmful degradation of the resources we so prize. Because the recreation industry is vital to our economy, we should not be risking our reputation to satisfy agricultural demands.

Please withdraw your proposal to give up on cleaner water.

Sincerely,

David & Reade Dornan

David and Reade Dornan
307-734-9400

Peter Dvorak
220 Mountain View Dr W. Riverton, WY 82501

Mr. David Waterstreet, Wyoming Department of Environmental Quality
FAX 307 777 5973

Re: Categorical Use Attainability Analysis

Mr. Waterstreet:

I am concerned about the "red lining" of an astounding number of miles of low-flow, slow-flow and occasional no-flow water courses in the state. Disregarding the contribution that these small drainages make to our more recognizable streams is short sighted at best and dangerously negligent at worst. To ignore these tributaries by not maintaining the highest level of scrutiny to the potential toxins and other hazards to downstream water users is not acceptable. The concept of ignoring bacterial, hydrocarbon, heavy metal and other dangerous man caused pollutants is an unacceptable lack of stewardship over a critical life sustaining resource: our water.

My personal involvement with these small, often ephemeral tributaries covers all 68 years of my life in Wyoming. Most recently I have enjoyed the small streams contributing to the Wood and Greybull Rivers while helping with the stabilization projects at Kirwin; wading, birding and generally enjoying small streams in the Wind River Range above Lander; camping and listening to the water running into Pete Creek on the North Ferris Mountains, hiking and again enjoying the peaceful sound of waters trickling in the Copper mountains north of Shoshoni; watching spring water come down normally dry stream beds out toward the Gas Hills; and just this past weekend seeing and hearing tiny streams below Brooks Lake. These experiences are a blessing in every way. I believe it is the duty of the state to not only monitor but actively protect these water sources from benign neglect. The fact of the matter is that we all live downstream from water and air and it is a necessity and a duty that we do all we can to assure safety, quality and continued abundance of these life sustaining resources. Please slow down and rethink this plan to abandon these waters.

Thank you for any consideration you can extend to safeguard our water;

Sincerely,

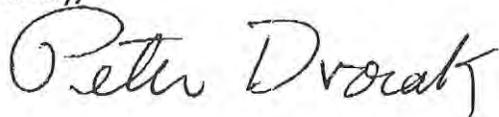


Figure A-10. Cam Eddy (2 pages)

Mr. David Waterstreet
122 W. 25th St.
Herschel Bldg. Floor W
Cheyenne, WY. 82002

RECEIVED

SEP 15 2015

WATER QUALITY DIVISION
WYOMING

Dear Mr. Waterstreet, or whom it may concern,

This process of "public comment" is not made easy. For whatever reason the map files could not produce any viable information for this citizen. If my language does not perfectly match what is required perhaps I should request them in Spanish? Let me say here I have resided in Teton county on parcel # 04-002038 for over 20 years. There is no need to change anything really. Because of access, primary and secondary watershed system are somewhat irrelevant. It is basic that if "secondary" surface water sheds are re-designated to allow a 5 fold increase in e-coli concentrations (read poo in water) it will flow down and into the "primary" systems and contaminate. The town of Wilson where my P.O. box lives has the GPS coordinates of Latitude: 43.4992 and a longitude -110.8742. My letter here pertains to ALL secondary surface waters within a 25 mile radius. My family (3 girls) play, walk and actively get into all sorts of "secondary" surface waters in the headwaters of Phillips ^(North of Highway 22) Mosquito creek, Trail Creek, Fall creek (North South Forks) all down the Snake River Canyon etc. Let me state here the incredible economic meaning to perhaps Wyoming's most valuable individual resource - good clean water. Isn't the government's job, isn't your job to safeguard these resources for all of our children? And children's children?

Please do so,

Gratefully,

cameddyjh@gmail.com

Cam Eddy
P.O. Box 1108
Wilson, WY 83014

P.S. I'd love to hear from you
-and I'd love to know who it is
who makes these decisions?

FAX: 307-777-7682

Official Comment

Surface Water Quality Standards

ATTN:

David Waterstreet

Dear Mr. Waterstreet,

I have identified two streams in Teton County that need to be designated as:

PRIMARY DUE TO ACCESS

Both of these streams are bathing areas for locals on a regular basis in the summer. The Butler Creek stream runs right into a pond that we swim in.

Fall Creek

Latitude 43.395747

Longitude 110.850601

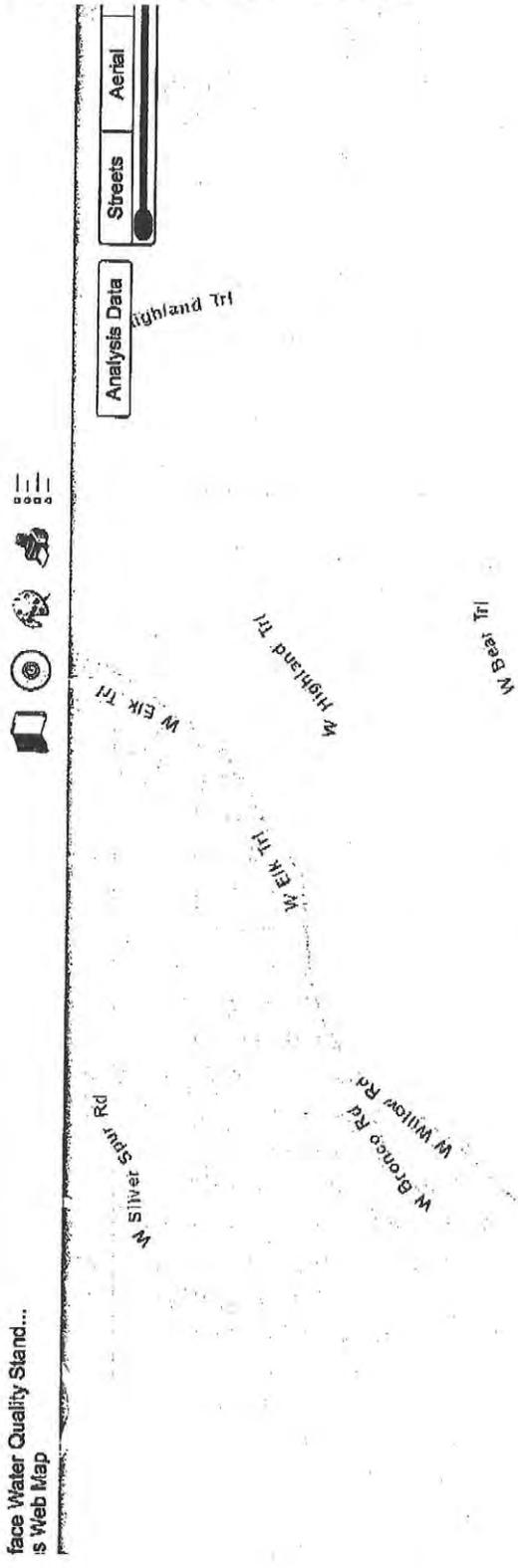
Butler Creek

Latitude 43.385199

Longitude 110.830109

Attached are screen shots of your map with notations

Thank you,
Ellen Fales
P.O. Box 513
Wilson, WY 83014
307-733-5849



Please designate
PRIMARY DUE TO ACCESS
 Butler Creek
 Latitude 43.385199
 Longitude 110.830109
 Teton County

SECONDARY	
OBJECTID	33,026
NAME	Butler Creek
FTYPE	StreamRiver
NHD FLOW (cfs)	2.3389999866485596
WYPDES FLO...	0
TOTAL FLOW (...)	2.3389999866485596
OBSERVED C...	
LENGTH (MI)	.6916679739952087
Zoom to	



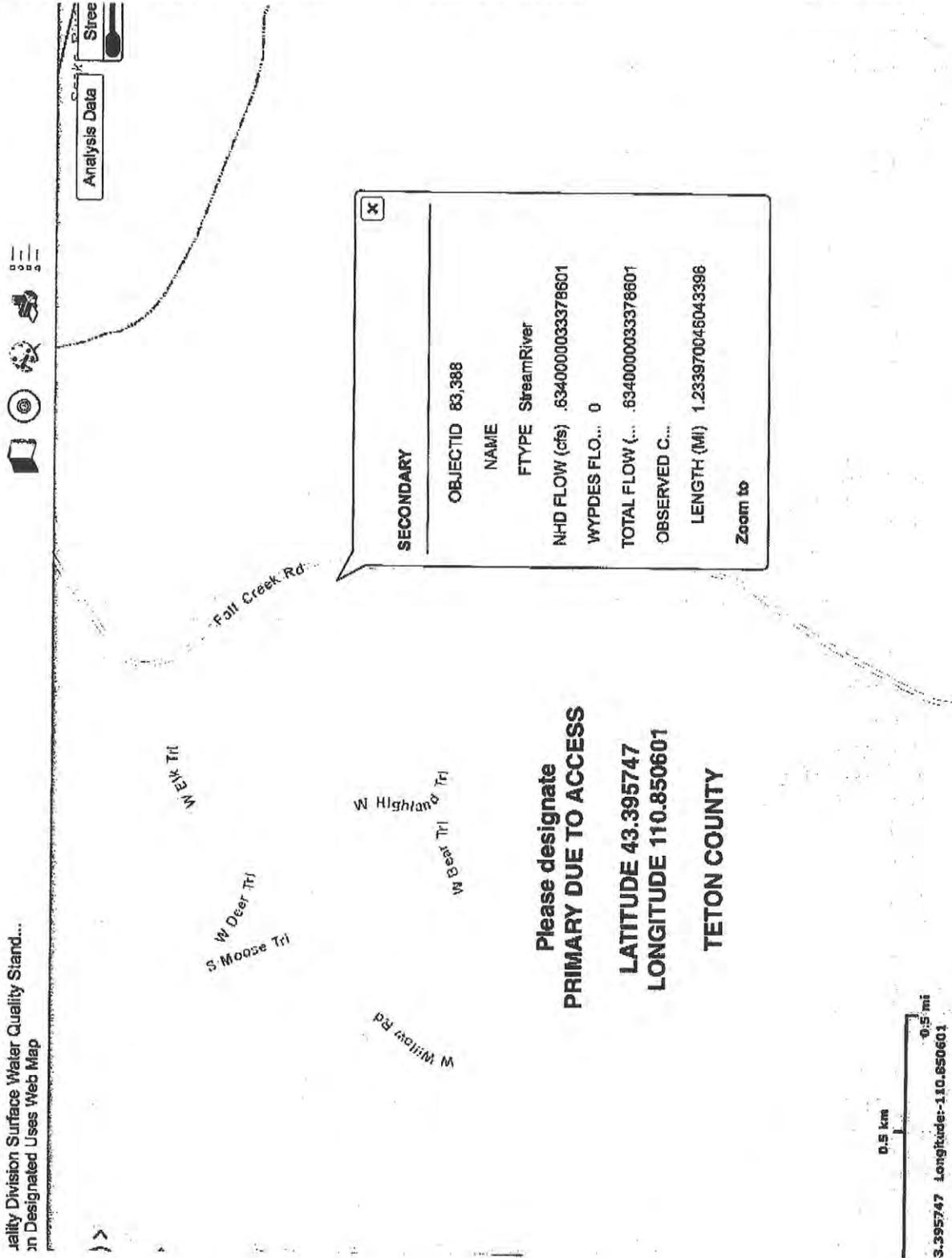


Figure A-12. Mara Gans (2 pages)

Mara Gans
P.O. Box 584
Lander, WY 82520
maragans@gmail.com

David Waterstreet
Watershed Section Manager
Wyoming Department of Environmental Quality
Hand delivered – Casper, Sept. 16, 2015

Dear Mr. Waterstreet,

I am writing you regarding the Wyoming Department of Environmental Quality's (DEQ) Categorical Use Attainability Analysis (UAA). I am a 22 year old who was born and raised in Wyoming and I am writing to object to the far-sweeping downgrading of Wyoming's stream water quality that is proposed in the DEQ's UAA for contact recreation. I request that you table the current proposal and start this process over so that you can obtain better information and understanding about recreational use of low-flow streams in our state. Specifically, you need to reach out to more of the general public as well as to outdoor recreation businesses, permittees and educational institutions.

I grew up in the foothills of the Wind River Mountains and have spent my entire life recreating in them, often referring to the Winds as my backyard. My parents backpacked me in on their backs when I was a toddler and I started hiking on my own at a very early age. We've car camped and hiked throughout many backcountry areas of Wyoming. As a 13 year old, my family including my little brothers backpacked across the Winds from one side to another in a 10-day trip. Since that time, the Winds, as well as other wild lands in the state have become one of my favorite playgrounds, whether for hiking, fishing, climbing or hanging out with friends.

I'm telling you all this because you have made faulty assumptions about recreational use of low flow streams for contact recreation in your proposal. I can attest that on our hikes and trips, our family often got off trail and recreated and camped away from major trails and big rivers. In fact, my parents often sought out smaller streams that we could play in so we'd be safe from more dangerous, fast flows. Also, small streams can make for some shallow pools that are great for kids to wade and splash in. On hot days, we'd immerse our feet and heads in pools to help cool off or just sit in them. In general, water is a great attractant for kids and I remember spending lots of time with my brothers wading and digging and splashing in general in small pools. These little streams were also great for trying to build dams in and make the water back up behind a mud and stick contraption. What kid hasn't done this and then delighted in watching the dam break and release everything?

All these activities expose kids to the waters of these small streams and these waters need to be protected at the highest level for primary contact recreation. Children are at more risk to E. coli and to the other harmful bacteria that it is used to predict.

I also object to your application of a standard that downgrades 76% of our state's streams instead of working to clean up the minority that may exceed the primary contact standard. You are addressing this problem (and the public doesn't know the extent of the problem even), by finding the lowest common denominator and changing the measure instead of working to assure the highest level of clean water for our future – which is the intent of the Clean Water Act.

Also, I do not believe that the responsibility should be on us – the general public – to prove to you - the agency - that some low-flow streams have had primary contact recreation in the past and thus should be removed from your down-grade list. If I can list one stream that this applies to, and provide you the locational data on it, that means that there are hundreds of other streams that have or could serve this use in the future. You should not downgrade streams simply because someone hasn't stepped forward and told you about their use for contact recreation. You should protect the clean waters of this state to the highest level, unless you – the agency - can show us that those particular waters could not legitimately be used for contact recreation (or returned to that use). The burden of proof should be for exceptions to the highest standard and not as you have structured this rule change. The EPA website clearly states that the purpose of the Clean Water Act is "to restore and maintain the chemical, physical, and biological integrity of the nation's waters."

As a young person in Wyoming, I know that our state's sustainable future depends upon ensuring we maintain and even enhance the clean air, water, and abundant wildlife that we enjoy today. This is what makes Wyoming special and will continue to attract businesses and residents. This is my future and I hope Wyoming in the future will be as clean and safe as it is now, if not better.

Sincerely,



Mara Gans

Temporary address:
Box 2175
Middlebury College
Middlebury, VT 05753

Figure A-13. Jim Hellyer (1 page)

09-15-15;06:02 ;From:

To:13077775973 ;3073323758

1/ 1

September 14, 2015

Wyoming Department of Environmental Quality
Attn: David Waterstreet
Watershed Section Manager
122 West 25th Street, Herschler Bldg
Cheyenne, WY 82002

VIA FAX: 307 777 5973

RE: Stream Classification

Dear Mr. Waterstreet,

Thank you for the opportunity to provide input into the stream classification work. Our ranch is located south of Lander. We have had direct working experience with the DEQ through the Remediation Program. We found the Department fully capable and informed. With this as the background we fully support the Department's proposed Classification because we feel first and foremost that it was an informed choice that reflects the physical reality of most of Wyoming.

Our ranch is similar to much of Wyoming in that the vast majority of streams are not suited to full body immersion as most are either dry most of the year or lack easy accessibility presenting a substantial obstacle to use.

For example, our wintering operation occurs just south of Lander and many official maps show substantial water flows off of Table Mountain. It takes a prolonged storm event to temporarily fill most of the drainages into Willow Creek which is fenced, private, and not open to the public.

Thank you for your time.

Sincerely,

Jim Hellyer
Ph:3073305622
Email: jthellyer@wyoming.com

Figure A-14. Dave Hohl (1 page)

Wyoming Department of Environmental Quality Recreation Uses Classification Hearing

There are approximately 300 million citizens in the United States, and approximately 500,000 in Wyoming. We citizens cannot each, individually, conduct all affairs that are of interest and concern to each of us. Rather for reasons of efficiency and effectiveness, and through the creation and approval of constitutions we collectively have created and empowered organizations to act in our interests and to protect us. At the Federal Government level the Environmental Protection Agency (EPA), and at the state level the Wyoming Department of Environmental Quality (DEQ) are empowered to ensure that the environment in which I live and recreate are suitably free of hazards to my, and our, health and safety. I fully agree with and support the need for both of these agencies to function in their prospective roles, acting in my interest. We citizens and our interests are the primary clients of government in this country.

In regard to the situation that is the subject of this hearing, recreation use reclassification of state waters, I feel the DEQ has missed the mark. Their website indicates they have been working with the public on this for 5 years yet this is the first public hearing on the issue and is being held after the decision has been made. Based on the citizen interest shown here I submit that previous public involvement has been extremely low key, and obviously inadequate, if not in violation of DEQ's policies and regulations.

My career was with the US Forest Service including 15 years managing recreation on the Pinedale Ranger District, the west side of the Wind River Mountains extending 70 miles from Union Pass to near South Pass. Many people recreate at developed sites such as campgrounds and other developed areas. Others seek more personal and private experiences at dispersed sites spread across the state's invaluable public lands. And yet others, such as bicyclists and hikers on the Continental Divide National Scenic Trail cross remote areas such as the Red Desert. A large portion of these recreationists seek water as an important element of their experience and sustenance. As Wyoming is an arid state, locations with water are particularly prized, not only in forest settings, but even more so in the desert. These streams and springs are often small, below the 6 CFS standard. Kids play in these streams. This type of dispersed recreation can occur anywhere on public lands, and also on private. It is appropriate and reasonable that citizens expect settings reasonably free of health hazards.

Recreation and tourism is the second largest economy in the state - second only to minerals. Much is at stake economically in insuring that Wyoming not acquire the reputation that it's waters are being managed in a manner that they are not safe for citizen occupancy and use.

I own 21 acres near the upper Sweetwater River. This property has a stream (42.5544311, -109.0833675, 483) running through it for which the standard has been lowered. During the 15 plus year course of constructing a cabin (ongoing) I have stayed in a sheep camp on the site. While I have brought, and continue to bring potable water from town, I also use the creek as supplemental water for cooking and dish washing, and for bathing using either a sun shower or dipping water from the creek to wash and rinse. I consider this primary contact.

As stated above I believe the DEQ process has been inadequate at best, and the results flawed. I request the DEQ start over, defining the problem and issues, and work with, in a positive manner as partners, it's principle clients, we citizens.

Dave Hohl, Pinedale, WY



Testimony given in Casper, Wyoming September 16, 2015

Figure A-15. Tim Hudson (1 page)

September 15, 2015

Tim Hudson
930 Dabich Avenue
Lander, WY 82520
timothyhudson@gmail.com

Department of Environmental Quality
Attn: David Waterstreet
122 W. 25th St. Herschler Bldg. 4W
Cheyenne, WY 82002

Re: Categorical UAA

Dear Mr. Waterstreet,

I am a hunter, an angler, a canoeist, a backpacker, a fifth-generation Wyomingite, and the parent of a seven-year-old boy who has been splashing, wading, playing, and building dams in shallow streams on Wyoming's public lands since he was old enough to toddle through them.

It is in this capacity that I ask the Wyoming DEQ to withdraw its decision to categorically re-designate 76 percent of the state's streams from primary to secondary contact recreation.

Along with other families, my wife and I take our son and his young friends into the backcountry in the Wind River Mountains and the Red Desert every summer and fall. We are always much farther from a town, campground, or trailhead than one mile. And anywhere there is water, the kids congregate. They build dams. They move rocks. They splash each other and themselves, flop on their bellies, pour water over their heads. There is every chance that some of that water gets ingested. And generally speaking, that's not something I've worried much about when I'm miles deep in a designated wilderness area in the Winds.

What I am worried about is the fact that I am only now learning of the DEQ's decision to downgrade 76 percent of Wyoming's streams to secondary contact recreation. I have lived in Wyoming all my life precisely because its environmental quality and outdoor opportunities are unrivaled. I respectfully ask that the DEQ reconsider this flawed decision. Instead, I ask that the agency solicit input from the many diverse recreational users of these waters. Requiring the public to attend a single hearing armed with GPS coordinates of every waterway where they might recreate—and all of this *after* a decision has already been made—does not strike me as following the spirit of the Clean Water Act. I am hopeful that the DEQ can do better by the public it exists to serve.

Thank you for considering my comments. Please add me to any future mailing lists about this issue. I would like to be kept up to date as this process evolves.

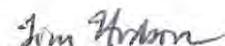

Tim Hudson

Figure A-16. Michele Irwin (1 page)

RECEIVED

August 5, 2015

AUG 10 2015

David Waterstreet, Watershed Section Manager
122 West 25th Street
Herschler Building 4-W
Cheyenne, WY 82002

WATER QUALITY DIVISION
WYOMING

Dear Mr. Waterstreet:

I am writing to ask that the DEQ withdraw the "Categorical Re-designation of Streams from Primary Contact Recreation to Secondary Contact Recreation." This change makes me think of former Governor Ed Herschler's quote, revised to be, "Gross on our terms." Is this what we mean by the "Wyoming Way"?

Wyoming should have high standards for our waters, regardless of where they are, but particularly in mountain streams. Our family loves to go deep into the mountains to fish and otherwise enjoy the cool, free flowing water. To consider that we may be encountering e-coli at 5% higher rates than before the August 20 rule is disturbing and disgusting.

Please hold our water and environment with higher regard, and withdraw this rule. And please, change your policy to accept electronic comments. You are a public agency, and ought to make public comments easier to submit.

Sincerely,



Michele Irwin
P.O. Box 10
Green River, WY 82935-0010

Figure A-17. George Jones (2 pages)

705 South 22nd Street
Laramie, Wyoming 82070
September 16, 2015

Mr. David Waterstreet
Wyoming Department of Environmental Quality
122 W. 25th Street, Herschler Building 4W
Cheyenne WY 82002

Dear Mr. Waterstreet:

I offer these comments on the Department's current proposal to reclassify many streams in Wyoming from suitable for primary recreation contact to secondary recreation contact. My comments address three points.

First, on national forest lands, many people walk or drive over a half-mile from trailheads, and they wade, wash up, and splash around in small streams. Here are examples of areas that I have personal knowledge of:

- The Pole Mountain area of the Medicine Bow National Forest, where streams proposed for secondary classification in the upper parts of Lodgepole Creek, North Branch Crow Creek, and Brush Creek are easily accessible from forest roads; in fact, a major forest road runs alongside Brush Creek.
- The Snowy Range is a very heavily used recreation area. People hike all through the area east of Medicine Bow and Brown's peaks, where the upper reaches of Libby Creek and Telephone Creek have been proposed for secondary classification.
- In the southern Wind Rivers, I have been to the head of Silas Canyon twice, and know that hikers and anglers frequent the area. The upper reach of Silas Creek has been proposed for secondary classification.
- In the northern Wind Rivers, Double Lake Creek and other nearby tributaries to Dinwoody Creek, proposed for secondary classification, flow through an area frequented by backpackers on their way up the Glacier Trail. I know from personal experience that people stop to refresh themselves and to camp along these streams.
- Last week I was in the Green River drainage upstream from Green River Lakes. A number of small tributaries at the head of Green River are proposed for secondary classification, and some of them are near to trails frequented by backpackers in the area.

Second, there is no reason to think that average annual flow adequately expresses, for this purpose, the suitability of a stream for recreational use. Especially in and near the mountains, streams with very small average annual flows may run quite a lot of water in the spring and early summer, and therefore attract recreational users during those times. I hope that, when the Department staff uses a model based on average annual flow for classifying streams, they are careful to examine the assumptions behind that model, and to test them when possible. Along these lines, I would like to know why an average annual flow of 6 cfs was selected in this case.

Mr. David Waterstreet
September 16, 2015
Page 2

Third, state-wide reclassification of streams has the potential to affect a great number of people, and it should be done after they are provided ample opportunity to study the proposal, think about it, and let the Department know what they think of it. Unfortunately, the Department's current effort falls short in this regard.

It's clear that there are many small streams in the state that receive very little or no recreational use, and it's reasonable that the Department designate them as suitable for secondary recreation use. But I think the method that DEQ has used in this case is not reasonable. I hope that DEQ staff will use, instead, a method that recognizes differences between small streams in popular recreation areas from those in seldom-visited areas.

Sincerely,

A handwritten signature in cursive script that reads "George P. Jones". The signature is written in black ink and is positioned above the printed name.

George P. Jones

Figure A-18. Stephen Jones (1 page)

Written Comment Form

Public Hearing for the Categorical Use Attainability Analysis for Recreation
Oil and Gas Conservation Commission, Basko Building, 211 King Blvd, Casper, WY
September 16, 2015 – 5:30 pm to 8:30 pm

I. **Commenter Information.** Please provide your name, organization and contact information.

Name: Stephen Jones

Organization (if applicable): _____

Address: P.O. Box 208 Meads WY 82433

Email: joneslightningc@tetust.net Phone: 302-561-2399

II. **Comment.** Please provide your written comment below.

~~The DEQ has waters classified~~
The DEQ/Wyoming has water quality standards based on designated use.

The Categorical Use Attainability Analysis for Recreation represents the best science currently available to screen Wyoming's water bodies for the ~~use~~ likelihood of contact vs non-contact recreational use.

The CUA ~~AA~~ has been comprehensively reviewed. There is an appropriate ~~methodology~~ methodology for a review and appeal of the CUA ~~AA~~ classification.

I support the use of the Categorical Use Attainability Analysis for Recreation by the Wyoming DEQ

Please write on back of paper or attach additional sheets if necessary.

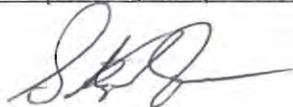


Figure A-19. Shari Kearney (1 page)

244 Peaks Rd
Lander, Wyoming 82520
September 15, 2015

To Whom it May Concern:

I would like to make comment on the DEO proposal to downgrade 76% of Wyoming's surface waters to secondary contact recreation. I have been a Wyoming resident for 35 years. Everyone of those 35 years I have spent a significant period of time in the backcountry, weeks and months in total each year. Most of my recreation (work and play) has been far deeper than the yardstick ½ mile from campgrounds and public trailheads. Usually my first campsite is not closer than 10 miles from the nearest road and sometimes 20

I'm a horsepacker now, but I use to climb, backpack and boat in Wyoming. I just completed a 9 day trip on the west side of the Wind River Mountains where I saw scores of other recreation users, most of them were 10 miles or more from the closest road. They were fishing, hiking, and camping amongst some of the most incredible wild lands the lower 48 has to offer with creeks and streams and lakes everywhere. None of us want to see the safe guarding of these waters less protected.

Already we need to treat the water we drink because of pathogens present in even the most remote locations. I might not go swimming in the cold mountain water, but I do worry about that hand full of water I might splash on my face on a hot dusty day. There are lots of great holes in little streams I've seen my friends (or other recreational users): take a dip or a splash in:

Southwest Absarokas - Fall Creek, Trail Creek (north of the Buffalo Fork),
Turner Fork, Middle Fork of Long Creek

Northern Winds - Phillips Lake, Double Lake, the creek flowing in front of
"Williamson Corral" north of Arrow Pass

Central Winds - Monument Creek, Middle and North Fork of Boulder Creek

Please reconsider the current proposal. Let's look at the low flow streams and look at them at their seasonal flow, when people will be using them. Let's redefine the markers to more accurately reflect recreational users actual experience. People walk and recreate deep into the watersheds.

Let's not needlessly downgrade our most precious resource.

Thank you,

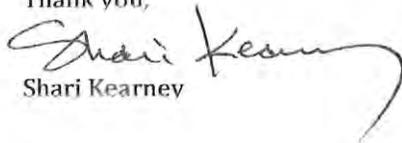

Shari Kearney

Figure A-20. Tyler and Liz Lauck (1 page)

RECEIVED

SEP 03 2015

WATER QUALITY DIVISION
WYOMING

September 1, 2015

David Waterstreet
Watershed Section Manager
122 West 25th Street
Herschler Building 4-W
Cheyenne, WY 82002

Dear Mr. Waterstreet:

We submit these comments regarding on the DEQ's proposed stream classification changes.

As the DEQ created a model for stream designation with extensive public input as well as collaboration with Conservation Districts, and has implemented that model to classify streams, we support the DEQ's final list of stream designations.

The vast majority of Wyoming streams do not lend themselves to "immersion, full body contact, or frequent use of the water by children" due to low flows and lack of ready accessibility.

The Model used by DEQ represents a reasonable approach to stream classification as specific evaluation of over 700 streams, many only remotely accessible, would be impractical. This process maintains full opportunity for individual streams to be upgraded based upon submission of specific evidence.

Despite claims that are being made, these classifications were done with full opportunity for public input. There were at least two public meetings and notice was published in statewide media.

As Wyoming citizens, we fully support the Wyoming DEQ's stream classification and ask that it be upheld.

Sincerely,

Tyler and Liz Lauck
907 20th St. | Wheatland, WY 82201
307-331-3113

Figure A-21. Alexander May (1 page)

5/2015 10:07 PM GMT+2 From: Scanner Pro - To: David Waterstreet

Page 1 of 1

Alexander May
1864 North 9th Street Apt 1
Laramie, WY 82072

September 15, 2015

David Waterstreet, Watershed Section Manager
122 West 25th Street
Herschler Building 4-W
Cheyenne, WY 82002
Fax: 307-777-5973

Dear Mr. Waterstreet:

I write to respectfully ask the Wyoming Department of Environmental Quality to withdraw its August 20th "Categorical Re-designation of Streams from Primary Contact Recreation to Secondary Contact Recreation."

A successful rule will be one that incorporates feedback from a diversity of recreational users, and one that is much more targeted and limited in terms of the streams that will be "downgraded."

My family, friends and I regularly recreate on and in low flow streams more than a mile from towns and more than a half-mile from developed campgrounds and trailheads. I ask that you consider this when assessing the rule and adjust it accordingly. **I am an avid backcountry fly fisherman, hunter, and hiker. I frequently come into contact with this type of water and downgrading streams will negatively impact all consumptive and nonconsumptive users of these watersheds. I am unable to attend the public meeting and would like to voice my concern over the matter.**

Sincerely,

Alexander May



9/15/15

FROM THE DESK OF
JAZMYN MCDONALD

September 16, 2015

David Waterstreet
Wyoming DEQ
122 W 25th St, Herschler Bldg 4W
Cheyenne WY 82002
FAX : 307-777-5973

RE: Categorical Use Attainability Analysis Public Hearing Comment
on DEQ's Proposed Stream Reclassifications

Dear Wyoming DEQ,

I urge the Department to review and revise the proposed downgrade of more than 75 percent of our state streams. This is an astounding and ill-advised (*quite literally!*) proposal.

I speak as a person who has suffered gastrointestinal illness from polluted water sources in several foreign countries; it is miserable. It is unconscionable to propose reducing the safety of our local streams without a much more thorough study of the actual usage of our state's streams, in particular in areas of great outdoor activity such as our wilderness areas, national forest areas and adjoining federal lands such as the BLM in Park, Fremont, Sublette and Hot Springs counties, all of which get numerous campers and tourists.

In particular, I hope DEQ will recognize that very many of those of us who get outside in Wyoming get much farther than one half-mile from trails and campgrounds; many of us are hunting, fishing, birding, rock-climbing or rock-hounding; and all of those activities take us into the field and away from developed infrastructure. I encourage DEQ to think of a more reasonable distance from designated campgrounds and trails as being three to five miles, not one half-mile.

Thank you for your consideration of these suggestions.

Sincerely, 
Jazmyn McDonald

PO BOX 1808 LANDER WY 82520 JAMCDONA@WYOMING.COM

Figure A-23. Lisa McGee (4 pages)

September 15, 2015

Lisa McGee
937 Sandcherry Way
Jackson, WY 83001

Department of Environmental Quality
Attn: David Waterstreet
122 W. 25th St. Herschler Bldg, 4W
Cheyenne, WY 82002

Re: Categorical UAA

Dear Mr. Waterstreet,

I write to express my concern and disappointment with the DEQ's decision to downgrade 76 percent of Wyoming's surface waters from primary contact to secondary contact recreation. Although some streams undoubtedly warranted a reclassification, this sweeping approach, which encompasses thousands of stream miles in which people recreate, went too far.

I understand that at this point, the DEQ is requesting input from citizens about streams that we believe should not have been downgraded. The agency is asking the public to provide detailed information—GIS coordinates, photos, narratives—about individual streams that we have personal experience with in order to disprove the DEQ's determination that primary contact recreation is not attainable. I take issue with this approach.

To begin with, the DEQ should withdraw its August 2014 decision. Short of this, what guarantee does the public have that the information it provides in comments will even be considered? The decision (as DEQ has stated repeatedly) has already been made. Withdrawing the decision does not mean aspects of the analysis completed to date can't be retained, but rather it ensures that the process is fair and inclusive of all new comments.

I understand there were two comment opportunities years ago, but almost no one knew this process was happening. When I tell friends and neighbors about this decision, they are astounded. "Why," they ask, "would DEQ want to do this? And why are we just hearing about this now?" By allowing the process to be reinitiated and allowing public input on the framework of the decision and the model the DEQ implements would make huge strides in regaining the public's trust. This approach would also help ensure most of Wyoming's streams are accurately classified.

Another criticism I have of the DEQ's request for specific stream information to refute individual downgrades is that it is contrary to the plain letter and spirit of the Clean Water Act. The statute sets a goal that where attainable, water quality that

provides for the protection and propagation of fish, shellfish and wildlife, and recreation in and on the water will be achieved. The regulations implementing the statute effectively establish a rebuttable presumption that uses specified in the Act (e.g. recreation) are attainable. Even if the public had the capacity to provide the onerous and detailed evidence that the DEQ is now requiring, which we do not and especially not within a 45-day window, it is not the public's responsibility to do this. It is the DEQ's job to illustrate to the EPA—based on credible and reliable data—that its downgrades are warranted.

Despite this hardship the DEQ is placing on citizens, it will undoubtedly hear from citizens during the hearing and in comments about individual streams they and their families use for primary contact recreation. This testimony will explain that myriad low-flow streams (now downgraded) are in fact used recreationally for dunking, splashing, wading, children's play, cooling off and other summer uses. But reclassification back to primary contact should not be limited to these individual examples. For every stream that one person can attest is in fact used for primary contact recreation, the DEQ should assume hundreds, if not thousands of others were also downgraded improperly. This is because the model upon which DEQ based its decision is inherently flawed.

As one example of this, the model didn't screen out Class I low-flow waters in wilderness areas, nor did it screen out low-flow stream segments designated and/or eligible under the Wild and Scenic Rivers Act. That these streams have been improperly included in the downgrade is telling. Despite clear direction that Class I waters—by nature of their status—cannot be downgraded, and despite the fact that DEQ cannot permit degradation of water where "water quality" has been identified as an "outstandingly remarkable value" under the Wild and Scenic River Act, the model nevertheless encompassed—and downgraded—these recreational waters.

The kind of outreach that DEQ should have done with recreational groups (river users, outdoor leadership schools, dude ranches, boaters, anglers, day camps, science schools, e.g.), as well as conservation groups focused on wilderness, rivers and public lands, and the general public, would have undoubtedly resulted in this glaring error being caught and remedied.

Another example that the model is flawed is its premise that Wyoming people of all ages don't travel more than a mile from a school or populated area. Wyoming would be a difficult place to live if you were a person that didn't enjoy the outdoors. Most folks who live in Wyoming believe access to and experiences on public land are some of the finest opportunities Wyoming offers. We are a culture of people who enjoy being outside and active and we spend a lot of our time purposefully getting far more than a mile from town.

My husband and I moved to Wyoming almost 20 years ago for what we assumed would be a single summer season working as rangers in Grand Teton National Park. We never left. Both of us completed graduate degrees at the University of Wyoming

and have lived in Laramie, Lander and Jackson. We are hikers, backpackers, skiers and canoeists. My husband is also a climber and an angler. Being outside and enjoying the public lands in Wyoming—and now sharing this outdoor heritage with our 6-year old son—are, in large part, the reasons we choose to live in Wyoming.

Over the years my husband and I have hiked and backpacked in places too numerous to mention in Yellowstone and Grand Teton National Parks, the Bridger-Teton, Shoshone, Bighorn and Medicine-Bow National Forests and BLM land in Sublette, Sweetwater and Fremont Counties. I can't recall all the stream crossings or stream encounters we've had. There is no realistic way I could document these. I assume that many of these streams have now been downgraded to secondary contact recreation. This is especially troubling because we now take extended backpacking trips and long hikes with our son and his friends who love nothing more than to play in small streams for hours on end.

Most parents can attest that water is a huge draw for kids in any outdoor setting. My son Dylan (6) and his friends Zoe (6) and Colton (7), backpacked with us and their families this summer 8 miles into Deep Lake in the Wind River Mountains. Deep Creek flows between Deep Lake and Clear Lake. This low-flow and now downgraded stream provided 3 days of (super fun) primary contact recreation for these Wyoming kids. Last summer this same group backpacked 7.5 miles into Grand Teton National Park's Cascade Canyon, where again, play in the low-flow Cascade Creek was the focus of the kids' time in the backcountry.¹ Our kids were 5 and 6 years old. Kids are particularly susceptible to ingesting water during stream play. For this reason any streams that hikers use in the summer should be presumed to be accessible to and used by their young and hearty kids—no matter the distance from a town or school.

I would suggest that the DEQ seek widespread public comment—in meetings around the state comprised of diverse stakeholders—on the general categories of waters in the state that might reasonably be reclassified. This would ensure meaningful public participation. Perhaps the DEQ could start with ephemeral or intermittent streams on private land as a category of streams not likely to offer primary contact recreation opportunities. The DEQ could also reconsider whether flows fewer than 6/cfs represent an appropriate cutoff and whether, because some locations (e.g. mountainous areas) experience higher runoff during the summer (the time when families are recreating in and around them) these streams should retain primary contact recreation status.

I am confident that, with robust public participation and transparency—something that is only beginning to happen and could still benefit from improvement—the DEQ will arrive at a more appropriate classification system. Thank you for considering

¹ I realize streams in National Parks are not affected by this reclassification, but I cite this as an example that even very young kids in Wyoming are easily traveling more than a mile to enjoy public lands and our state's waters. The model's 1-mile limit is simply indefensible.

my comments. Please add me to any future mailing lists about this issue. I would like to be updated as this process evolves.

Sincerely,

A handwritten signature in black ink that reads "Lisa McGee". The signature is written in a cursive, slightly slanted style.

Lisa McGee

Figure A-24. Neil and Jennifer Miller (1 page)



RECEIVED

SEP 14 2015



WATER QUALITY DIVISION
WYOMING

 **Neil & Jennifer Miller**
PO Box 742
Basin, WY 82410-0742

To: Wyo. DEQ
David Waterstreet
121 W. 25th St.
Herschler Bldg. 4W
Cheyenne, WY 82002

Dear DEQ,

We in Wyoming should be able to recreate on, near, and in our public waterways without the fear that our children and grandchildren let alone ourselves would be exposed to E. coli which would make us very ill.

Please explore alternatives that would keep our state waters safe for our citizens to enjoy as we explore our wonderful state.

Sincerely,

Neil Miller Jennifer S. Miller

9/15/15

David Waterstreet
122 W 25th St
Herschler Bldg 4N
Cheyenne, WY 82002

Dear David,

I am an avid outdoor person who hikes and rides horses. I often camp overnight in the mountains and deserts of central and western Wyoming. The Wind River Mountains, the Absarokas and the Red Desert regions are my favorite places.

The reclassification of three quarters of our states' streams allowing for significantly higher levels of E. coli levels concerns me. I often use some of the streams being changed for wading & cooling off after a hike.

I feel recreation in the areas where I go is at its highest in the summer months. Stream runoff is highest early spring and summer from snow melt. So if you are trying to address low flow water, how about making the rule about low flow water. Setting a mark below 6 cfs the current standard would make sense and help prevent unintended downgrades.

I feel recreation in our state is a huge revenue source. Tourists visit and go into our mountains and deserts. We don't need them going to Montana or Idaho because our water makes them sick. By keeping our waters clean we help ourselves and are better stewards of our mountains and streams.

Please consider all options to maintain our streams and mountains. One size fixes don't fit all things.

Sincerely,
Karen Mott

Figure A-26. Linda Olinger (1 page)

August 5, 2015

David Waterstreet, Watershed Section Manager
122 West 25th Street
Herschler Building 4-W
Cheyenne, WY 82002

AUG 10 2015

WATER QUALITY DIVISION
WYOMING

Dear Mr. Waterstreet:

I write to respectfully ask the Wyoming Department of Environmental Quality to withdraw its August 20th "Categorical Re-designation of Streams from Primary Contact Recreation to Secondary Contact Recreation."

A successful rule will be one that incorporates feedback from a diversity of recreational users, and one that is much more targeted and limited in terms of the streams that will be "downgraded."

My family, friends and I regularly recreate on and in low flow streams more than a mile from towns and more than a half-mile from developed campgrounds and trailheads. I ask that you consider this when assessing the rule and adjust it accordingly.

Sincerely,

Linda Olinger



The creeks we use are: Townsend Creek, Little Popo Agie at Louis Lake Road (bridge), and Fiddlers Creek and Canyon Creek. All in Shoshone National Forest. There are more, but some whose names I don't know.

Figure A-27. Bruce Pendery (3 pages)

Bruce Pendery
440 East 800 North
Logan, UT 84321
435-752-2111
bruce@wyomingoutdoorcouncil.org

August 7, 2015

Mr. David Waterstreet
Wyoming Water Quality Division
122 West 25th St.
Herschler Bldg. 4W
Cheyenne, WY 82002

RECEIVED
AUG 10 2015
WATER QUALITY DIVISION
WYOMING

Dear Mr. Waterstreet:

I write to respectfully ask the Wyoming Department of Environmental Quality to withdraw its "Categorical Re-designation of Streams from Primary Contact Recreation to Secondary Contact Recreation."

A successful rule will be one that incorporates feedback from a diversity of recreational users, and one that is much more targeted and limited in terms of the streams that will be "downgraded."

My family, friends and I regularly recreate on and in low flow streams more than a mile from towns and more than half-mile from developed campgrounds and trailheads. I ask that you consider this when assessing the rule and adjust it accordingly.

I have used small streams for primary contact recreation like bathing, drinking, and cooking in the following areas. In the Titcomb Basin and on Tourist Creek in the Wind River Mountains in Sublette County. I have also used Clear Creek and Slide Creek on the west side of the divide in the Wind Rivers in Sublette County. On the east side of the divide I have used small streams in the vicinity of Bomber Lake and Upper and Lower Ross Lakes in Fremont County, including East and West Torrey Creeks. I have used small streams in head water areas on both the east and west sides of the divide in the Wind Rivers in the Cirque of the Towers region in Sublette and Fremont Counties. I have used Rapid Creek and tributaries of the Popo Agie River in those areas. On the far north end of the Wind Rivers on the route into Three Rivers Mountain I have used the Seven Lakes Basin and streams in it for primary contact recreation. On the far south end of the Wind Rivers I have hiked into the Little Sandy Creek area and used those streams in Sublette County.

Outside of the Wind Rivers I have used a number of small low flow streams for primary contact recreation. In the Wyoming Range in Lincoln County I have used head water streams of the Smiths Fork and LaBarge Creek. I have also used tributaries of the Greys River in the northern portions of the Greys River drainage. In the Bighorn Mountains I have used the upper reaches of Ten Sleep Creek and small streams on the southeastern part the range in Johnson County. I have used Cub Creek and its tributaries in the Teton Wilderness in Fremont County and also used DuNoir Creek and its tributaries just outside of the wilderness on a backpacking trip.

Thank you for considering these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bruce Pendery", with a long horizontal flourish extending to the right.

Bruce Pendery

Bruce Pendery
440 East 800 North
Logan, UT 84321
435-752-2111
bruce@wyomingoutdoorcouncil.org

RECEIVED

AUG 20 2015

August 17, 2015

Mr. David Waterstreet
Wyoming Water Quality Division
122 West 25th St.
Herschler Bldg. 4W
Cheyenne, WY 82002

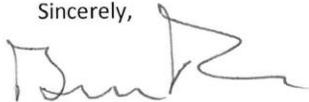
WATER QUALITY DIVISION
WYOMING

Dear Mr. Waterstreet:

On August 7 I wrote you a letter regarding the Water Division's use attainability analysis. In that letter I noted a number of low-flow streams that I have recreated on that would be downgraded to secondary contact recreation status under the Water Division's proposed rule. Here I note one more stream that I would like added to that list. This is the small, apparently unnamed stream that is a tributary of Porcupine Creek in the Wind River Mountains near Upper and Lower Green River Lakes. This small stream drains the Twin Lakes as well as several other Lakes. It is located in Sublette County. In the day hike I did up this creek I engaged in primary contact recreation with the stream including bathing and swimming.

Thank you for considering these additional comments.

Sincerely,



Bruce Pendery

Figure A-28. Leslie Petersen (2 pages)

Leslie Petersen
P.O. Box 568
Wilson, WY 83014
(307) 733-2016

September 9, 2015

Mr. David Waterstreet
Department of Environmental Quality
122 W. 25th St.
Cheyenne, WY 82002

SAX 307-777-5973

Re: DEQ Stream Classifications

Dear Mr. Waterstreet:

Though I've read of your methodology and reasons for downgrading the classification of water quality widely throughout Wyoming, I am appalled at what DEQ has done and how it was done.

First, your lack of communication with recreational interests and very close contact with agricultural representatives through the course of the work has set the Department back centuries in terms of the respect with which it has always been viewed by most Wyoming conservationists. Even though the department is perpetually underfunded, understaffed and bullied by some members of the legislature, there has always been confidence that there were good people down there, trying to do the right thing. That faith has been badly shaken. The idea that people could only express their opinions by traveling many miles to Casper was outrageous and even now, your refusal to allow e-mailed comments is reprehensible. I am mailing this letter, but will go to the trouble of faxing it as well because I have no faith that it will be considered if the mail is one day late.

Secondly, I have lived nearly all of my 74 years in Dubois and Jackson (Wilson mostly.) I am thoroughly familiar with many of the streams that are shown in red in the poor maps I've been able to see. For years I cooked in our hunting camps on Bear Creek and the East Fork of the Wind River in Dubois. I spent many days at Simpson Lake at cabins we leased for decades from the Forest Service before the area went into the Fitzpatrick Wilderness. I live near Fish Creek now in Wilson. I spent 8 years on the State's Water Development Commission and toured many other Wyoming streams during that time. My father was a Forest ranger in Dubois during my early youth and I spent many days with him on Sheridan Creek and other streams -

There are numerous small streams on the map that are little tributaries of highly important recreational streams. I could list a huge number of streams you have listed that I do not think should be downgraded, but that listing would be fairly meaningless as I am unable to provide a GPS description of each. Basically I disagree with any listing from Burris north that lies in Fremont County and all of Teton County. I'd like to defend the Wind River Indian Reservation too, but don't really know the streams there. Also it seems that the Indians have their own capable defenders.

Mr. David Waterstreet
September 9, 2015
Page Two

You should consider deleting your downgrade for the whole northwest corner of Wyoming that I've described where the values are based more on scenery, recreation and wildlife and less on mineral production and large agricultural operations. Or perhaps you should just start over and give the citizens of this State another year of field work to be able to delineate a great number of these streams in a much more careful fashion.

Though DEQ says that the downgrading will have no practical effect, I don't believe that will be true in the long run. Over time, there will be incursions of one kind or another on a small stream here or there and this reclassification will take its toll.

In short, I'm very disappointed about this whole process and I hope that the EPA will be too. It is my hope that the whole process will be reconsidered, delayed and/or abandoned. If nothing else, it is a very sorry statement that we are making to the rest of the country and to the world, about how little we value the quality of our life blood, water. We spend a fortune advertising our tourism resource and then DEQ (the protector of our environment) wipes it all away with the wide press coverage of this debacle.

I've never had to write an angry letter to DEQ before and never expected to do so. It is very upsetting.

Sincerely,



Leslie Petersen

HENRY C. PHIBBS II
P.O. Box 568
Wilson, Wyoming 83014
(307) 690-5004
email: phibbslaw@icloud.com

September 16, 2015

To: David Waterstreet
Wyoming Department of Environmental Quality
Watershed Section Manager
122 W. 25th Street, Herschler Building 4-W
Cheyenne, WY, 82002

Re: WDEQ Categorical UAA Comments

Via telefax: 307-777-5973

Dear Mr. Waterstreet:

I am writing to you regarding the DEQ proposal to allow five times greater E. coli pollution in more than three quarters of the streams in Wyoming.

I am strongly opposed to both the substance of this proposal and the process used to develop it.

The map of the streams which will be seriously degraded in Teton County includes virtually every headwaters stream that flows into larger heavily used recreational waters in the Jedediah Smith Wilderness and the Gros Ventre Wilderness. As a long time resident and former county commissioner of Teton County I ask that you withdraw the reclassification from all waters in Teton County.

As a child of Wyoming who spent wonderful recreational time in the Big Horns, Medicine Bows, Snowies, Absarokas as well as the Tetons, I ask that you stop the reclassification process statewide until a more public and selective process is established.

Thank you for the opportunity to comment on this important matter.


Hank Phibbs

Mr. David Waterstreet
Watershed Section Manager
122 West 25th Street
Herschler Building 4-W
Cheyenne, WY 82002

September 16, 2015

Dear Mr. Waterstreet,

As a very concerned citizen and Wyoming native, I write to respectfully ask the Wyoming Department of Environmental Quality to withdraw its August 20th "Categorical Re-designation of Streams from Primary Contact Recreation to Secondary Contact Recreation."

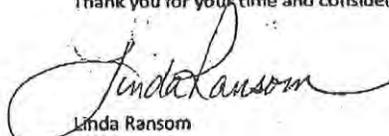
My family, friends and I regularly recreate on and in low flow streams more than a mile from towns and more than a half-mile from developed campgrounds and trailheads. We have enjoyed fishing, hiking, wading, splashing and other outdoor activities, which usually always takes place away from key tourist locations. Please don't assume that people will not walk more than a half-mile from a trailhead or a mile from a population center to play in the water. Thousands of people hike for miles and miles in Wyoming every year, especially during the summer months.

I ask that you consider this when assessing the rule and adjust it accordingly. It is absolutely absurd this day and age to hear any one ask for more pollution! This is big news across the internet and I suspect we will soon be the laughing stock of the nation. I guess the Wyoming Office of Tourism will have to start singing a different tune about our abundance of wildlife, clean air, clean water, blue ribbon fishing and incredible wide open spaces. The Equality State will become the E-Coli State. It is obvious that DEQ, which is designed to protect the population, is not sensible and cares nothing for human health and will ensure that many violations caused by livestock grazing will now be just fine and perfectly legal. All of this downgraded water will be flowing somewhere and eventually this will have a very unhealthy and damaging effect on Wyoming's future. If you are really trying to address low flow waters, make the rule more about low flow waters. Set the standard below the current mark of 6 cfs, this would help prevent unintended downgrades. We must protect the wilderness areas, and maintain the highest standards for water quality. Flow data should be used from seasonal summer months, when outdoor recreation is at its peak.

Dangerously high levels of E. coli bacteria can cause serious health problems in humans and is in violation of the federal Clean Water Act. Wouldn't it be much wiser, prudent and less costly to keep water clean than to try to clean water that has become dirty and polluted? This is totally unacceptable and a complete disrespect of Wyoming residents and tourists.

A successful rule will be one that incorporates feedback from a diversity of recreational users, and one that is much more targeted and limited in terms of the streams that will be "downgraded." Please restart this process and provide better transparency, public outreach and hearings in other parts of the state.

Thank you for your time and consideration.



Linda Ransom
P.O. Box 482
Evansville, WY 82636

Figure A-32. Sandy Shuptrine (2 pages)

Written Comment Form

Public Hearing for the Categorical Use Attainability Analysis for Recreation
Oil and Gas Conservation Commission, Basko Building, 211 King Blvd, Casper, WY
September 16, 2015 – 5:30 pm to 8:30 pm

I. **Commenter Information.** Please provide your name, organization and contact information.

Name: SANDY SHUPTRINE

Organization (if applicable): representing my vegetable growing

Address: husband, Dick Shuptrine
PO Box 1954, JACKSON, WY 83001

Email: sandyshuptrine@wyon.net Phone: 307 733 6371

II. **Comment.** Please provide your written comment below.

Dick has a valid water right on Game
Creek for the purpose of irrigation, for
both growing and maintaining
defensible space as regards to
wildfire. We are both concerned
about E. coli levels in Game Creek,
whose headwaters have been reclassified
as secondary in the new WDEQ
UAA model. There have been instances
of E. coli contamination ^{thought to be from irrigation} causing serious
consequences in other parts of the country.
We hope Wyoming's waters will maintain
the highest level possible. Ranchlands
should perhaps be treated differently,
especially for ephemeral streams on
private lands. 6 cfs threshold is too high.
Dick is a sole operator who spends

Please write on back of paper or attach additional sheets if necessary.

his time in the field and does not have GPS or field photo tools - something that seems to be assumed in the current model.

Figure A-33. Paige Smith (2 pages)

Paige Smith

222 East 1st. Ave.

Cheyenne, WY 82001

September 10, 2015

Mr. David Waterstreet
122 W. 25th St.
Herschler Bldg. 4W
Cheyenne, WY 82002

RECEIVED

SEP 14 2015

RE: Categorical Use Attainability Analysis for Recreation

WATER QUALITY DIVISION
WYOMING

Dear David,

I've been reviewing with interest the redesignation of 87,775 miles of streams to secondary recreation classification and have viewed all of the resulting maps. It's astonishing and alarming to me just how much of the state's streams have been downgraded as part of a single decision.

I have the following questions/observations regarding the public outreach that was conducted prior to the Administrator making his determination:

1. I'm curious as to whether the Water Quality Division Administrator consulted with the advisory board prior to revising these standards as required by W.S. 35-11-302(b)(i)? I did not see a reference to this being brought before the Water and Waste Advisory Board in the records provided on your web page. Had this topic been included on an advisory board agenda, the requisite public notice and outreach accompanying an advisory board meeting would have most likely eliminated the issues regarding public notice I discuss below.

a. As I understand it (as identified in the press articles published lately and which I can't verify through information supplied on your web page), the Water Quality Division relied on a single notice for each of the two public meetings held and that each was published in the Casper Star Tribune in the legal notices section. If this is indeed correct, in my experience with the WDEQ, I would consider a single publication and placement in the legal notices section to insufficiently constitute a good faith effort to notify the public.

b. I believe that my assertion of insufficient notice is exemplified by the huge amount of outcry you are now hearing from citizens residing across the state that engage in extensive backcountry hiking, biking, etc., and business entities that make their livelihood from providing recreational opportunities in the back country. If they had been notified, you would have heard from them early in the process. It's alarming to note that not a single group representing recreation interests was listed as a commenter during either public comment period. In addition, it's curious to note the absence of any environmental groups with the exception of Western Watersheds having commented on such a huge, overarching change to Wyoming's streams. Interesting that the list of commenters is dominated by numerous Conservation Districts and extractive industries. These entities do not represent recreation interests in Wyoming. It's surprising to me that the Water Quality Division didn't specifically seek out recreation/environmental groups in order to obtain the "needed assistance from the public to identify streams within Wyoming that are used for primary contact recreation that were not identified as primary in the draft UAA."

Mr. David Waterstreet
122 West 25th St.
Herschler Building, 4W
Page 2

c. Additionally, your original notice for the public meeting being held in Casper on September 16, 2015, indicated that comments could only be presented in person. I'm glad that you reversed that position and I can now submit a comment by mail. However, I would like to note that again, in my experience as a long-time WDEQ employee, I do not recall a Division ever limiting public comment to in-person comments only.

The Water Quality Division is now asking Wyoming citizens with a vested interest in the levels of *E. coli* exposure they, their families, friends, and clients may be inadvertently experiencing to now bear the burden of saying specifically which of the 87,775 miles of streams should be reinstated as primary streams. This burden of proof on citizens is unprecedented and I would think violates the Clean Water Act. It appears that the Water Quality Division and Conservation Districts limited their decision making to very specific stream metrics without taking into consideration the "big picture" geography surrounding the streams and the associated popularity to users of the backcountry in a particular area. It's disconcerting that no one from the recreation/environmental community was asked to conduct sites visits or invited to accompany the DEQ or Conservation Districts when they conducted their site visits.

With regards to this UAA decision, the Water Quality Division specifically and the Department of Environmental Quality generally has a negative public perception problem. The decision made by the Administrator is being viewed as primarily benefiting the agriculture industry without regard to Wyoming's outdoor recreation industry; an equally important contributor to our state economy. As WDEQ employees, it was always brought to our attention that "perception is reality" to the public or regulated entities and that we should conduct ourselves accordingly to not create such unwanted perceptions. I would recommend that the Water Quality Division do all it can to now engage and be respectful of the recreation/environmental community by agreeing to conduct more hearings in specific parts of the state as is being requested by numerous groups and individuals.

I have read the August 14, 2014, Categorical Use Attainability Analysis for Recreation document and I did not find a single reference to the fact that the secondary stream designation means that the permissible level of *E. coli* increases from a geometric mean of 126 organisms per 100 milliliters to a geometric mean of 630 organisms per 100 milliliters during the summer recreation season. I would also recommend that this integral point be clearly presented in future documents regarding the Categorical Use Attainability Analysis for Recreation. The omission of what the UAA reclassification really means to outdoor recreation enthusiasts only adds to the negative perception problem.

Thank you for the opportunity to comment.

Sincerely,

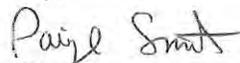

Paige Smith

Figure A-34. Cynthia Stevens (1 page)

Sep 13 15:07:45p

Cynthia B Stevens, MD

307-332-2417

p.1

Cynthia B. Stevens, MD, PC
172 Rosewood Avenue
Lander, WY 82520
(307) 332-2417

Mr. David Waterstreet
122 W. 25th St. Herschler Bldg. 4W
Cheyenne, WY 82002

Submitted via fax: 307-777-5973

Dear Mr. Waterstreet:

I am unable to attend the hearing on September 16th but very much want to submit my comments.

I am a hiker and backpacker and devoted to the Wyoming mountain, forest, and aquatic habitats. I am deeply concerned about plans to lower water quality standards for Wyoming's water resources, with plans that could allow up to five times more *E. Coli* bacteria in our waters.

Not only are high mountain streams and rivers important for recreation for Wyoming residents, they are essential for attracting tourists who provide revenue and outfitter employment.

Any degradation in water quality in our headwaters and high mountains streams and rivers will impact rivers and streams at lower elevations—in our towns and cities. It is not simply a question of lower water quality being confined to less remote areas. It is also not correct to assume that any degradation at higher elevations will be diluted as the waters descend.

Please support maintaining water quality for one of Wyoming's greatest natural resources—its natural waters.

Thank you for your time and consideration.

Sincerely,



Cynthia B. Stevens

Figure A-35. Jeff Troxel (1 page)

jeff troxel
2407 cerdar ct
cody, WY 82414

August 5, 2015

David Waterstreet, Watershed Section Manager
122 West 25th Street
Herschler Building 4-W
Cheyenne, WY 82002
Fax: 307-777-5973

Dear Mr. Waterstreet:

I write to respectfully ask the Wyoming Department of Environmental Quality to withdraw its August 20th "Categorical Re-designation of Streams from Primary Contact Recreation to Secondary Contact Recreation."

Wyoming's water is its most valuable resource and this re-classification represents a move in the wrong direction. It signifies that we have lost significant ground in the effort to protect Wyoming's water, and that a lower standard for water quality is somehow "acceptable." This is the wrong approach.

My family regularly recreates on and in low flow streams more than a mile from towns and more than a half-mile from developed campgrounds and trailheads. I live in Wyoming because of things like clean water. I ask that you consider this when assessing the rule and adjust it accordingly.

Sincerely,

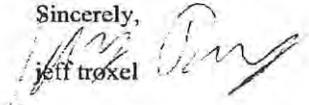

jeff troxel

Figure A-36. Kim Wilbert (1 page)

Wyoming Department of Environmental Quality

To Whom It May Concern:

I am writing to express my dismay that the Wyoming DEQ is proposing to downgrade requirements for water quality in creeks throughout the state of Wyoming.

I have lived and recreated in Wyoming my whole life. As a youth, I spent many wonderful hours catching tadpoles, fishing, and wading in small streams on public lands. Whether our family outings were to the Red Desert (places like Harris Slough and Long Creek on Beaver Rim), the Gros Ventre (camped near a wonderful spring above Upper Slide Lake), or a Sunday picnic on the Loop Road above Lander, all the kids inevitably found water to play in. The very idea that these small streams do not deserve the highest standard of water quality protection possible is repulsive to me. The children of the 21st century and beyond are just as likely as we were to be wading, splashing, and having a ball in the thousands of miles of small waterways on Wyoming's public lands.

I spent almost three weeks this summer on extended backpacking trips in Wyoming's National Forest and BLM public lands. When in the backcountry, I frequently take advantage of a pool in a creek to take a quick dip – in fact nothing feels much better after a hard hike. I also continue to enjoy fishing and wading in many wonderful small trout streams. I demand the State DEQ makes sure these small waterways all over our state are safe for all these recreational activities.

Water is life, especially in the arid West. Wyoming is the headwaters to three of our country's largest river systems. Why would we want to accept second-class water quality in the small streams that are the sources of the water for most of the U.S.? If we can't expect clean water in the most pristine places in our country, we are failing miserably in stewarding our most precious resource.

Sincerely,

Kim Wilbert
1400 West Park Ave
Riverton, WY 82501

APPENDIX B. ENTITY COMMENTS RECEIVED DURING THE COMMENT PERIOD ENDING SEPTEMBER 16, 2015

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Figure B-1. Albany County Commissioners (1 page)



COUNTY OF ALBANY
525 GRAND AVE ROOM 105 · LARAMIE, WYOMING 82070
(307) 721-2541 · FAX (307) 721-2544
COMMISSIONERS@CO.ALBANY.WY.US

RECEIVED

September 4, 2015

SEP 08 2015

Kevin Frederick, Administrator
Department of Environmental Quality
Water Quality Division
Herschler Building, 122 West 25th Street
Cheyenne, WY 82002

WATER QUALITY DIVISION
WYOMING

Dear Mr. Frederick:

I am writing to request that the DEQ hold a public hearing in Albany County regarding its decision to reclassify much of the state's surface waters from primary contact recreation to secondary contact recreation. My interest in making this request is to encourage greater citizen awareness of the decision and more public participation in the process. I believe that a hearing in Laramie could help achieve these goals.

As you know, Albany County is home to a great number of recreation users and outdoor enthusiasts, many of whom use streams in the Snowies and elsewhere that are affected by this reclassification.

I do understand there is an opportunity for people to provide written comments but I believe you could achieve more and quite valuable citizen involvement by way of oral statements and testimony at a live hearing.

Thank you for your considering this request.

Sincerely,

Tim Sullivan, Chairman
Albany County Commissioners

TIM CHESNUT
COMMISSIONER

TIM SULLIVAN
COMMISSIONER CHAIRMAN

HEBER RICHARDSON
COMMISSIONER

THE AMERICAN ALPINE CLUB



September 16, 2015

David Waterstreet
Water Quality Division
122 West 25th Street,
Herschler Building 4-W
Cheyenne, WY 82002

Re: Categorical Use Attainability Analysis for Recreation

Dear Mr. Waterstreet:

I am writing on behalf of the American Alpine Club and its sixteen-thousand plus membership to express our concern over your decision to downgrade recreation-based water quality standards on 87,775 stream miles—approximately 76 percent of the state's surface waters—based on a Categorical Use Attainability Analysis for Recreation. We understand that the practical effect of your decision is to allow a 500 percent increase in the levels of *E.coli* in small streams throughout the state. We cannot support an action that would increase the likelihood of gastrointestinal illness in people who use these streams for primary contact recreation.

The American Alpine Club is a 501(c)(3) charitable organization whose vision is a united community of competent climbers and healthy climbing landscapes. Together with our members, the AAC advocates for American climbers domestically and around the world; provides grants and volunteer opportunities to protect and conserve the places we climb; hosts local and national climbing festivals and events; publishes two of the world's most sought-after climbing annuals, the American Alpine Journal and Accidents in North American Mountaineering; cares for the world's leading climbing library and country's leading mountaineering museum; manages the Hueco Rock Ranch, New River Gorge Campground, and Grand Teton Climbers' Ranch as part of a larger lodging network for climbers; and annually gives \$100,000+ toward climbing, conservation, and research grants that fund adventurers who travel the world.

Our members are climbers, mountaineers and adventurers. We often engage in our sport in areas where small tributary streams are the dominant water supply: for example, in high mountain cirques in the Wind River Range and the Bighorns. Many of our members also enjoy climbing in lower elevation desert environments, such as the Sweetwater Rocks, Lankin Dome and the Pedros. In either case, water is a precious commodity and should be managed as such. Climbing and mountaineering can be risky, arduous and physically challenging sports; the last thing we need to worry about when descending to the flat ground is whether the water is safe to rinse off in or splash on our faces.

Like many others, the AAC learned of your decision well after it had become final. I understand your agency is conducting a public hearing in Casper to accept public comment on your decision. We are not able to attend the hearing, but I hope you will consider our

710 10th Street, Suite 100 • Golden, CO 80401 USA • (303) 384-0110
The Henry S. Hall, Jr. American Alpine Club Library • (303) 384-0112
americanalpineclub.org

comments as you consider next steps. We hope you will withdraw your decision and protect all the streams in Wyoming at the highest levels.

With more time, we could provide specific stream information, but that is not realistic in the timeframe you have provided.

Sincerely,

A handwritten signature in black ink that reads "Phil Powers". The signature is written in a cursive, flowing style.

Phil Powers
Executive Director – The American Alpine Club

Figure B-3. Audubon Rockies (2 pages)



116 N. College Avenue, Suite 1
Fort Collins, CO 80524
Phone: 970.416.6931
Fax: 970.416.5944
rockies.audubon.org

September 16, 2015

Wyoming Department of Environmental Quality
Attn: David Waterstreet
122 W. 25th St. Herschler Bldg. 4W
Cheyenne, WY 82002.

Re: Categorical Use Attainability Analysis for Recreation

Dear Mr. Waterstreet,

The National Audubon Society is increasingly concerned about the health of our water systems, especially in arid states such as Wyoming. We appreciate the opportunity to provide comments on the Wyoming Department of Environmental Quality's desire for categorical re-designation of a vast majority – 87,775 miles – of Wyoming's stream miles.

About Audubon Rockies and Our Position

Audubon Rockies is a regional office of the National Audubon Society, with dedicated staff working in Wyoming and Colorado. Audubon's mission is to conserve and restore natural ecosystems, focusing on birds, other wildlife, and their habitats for the benefit of humanity and the earth's biological diversity. Our staff work with National Audubon Society members, members of the public, community leaders, and Audubon chapters in Wyoming, with the goal of protecting birds and their habitat.

As a conservation organization, whose work focuses on avian species and whose staff engages with the public and members, we are concerned about the DEQ's current sweeping proposal to raise the permissible levels of *E. Coli* in more than 76% of the state's surface waters, including thousands of miles of streams in national forest and other public lands. Should the proposal go forward, surface water quality standards on these streams will be weakened to allow levels of *E. Coli* (fecal indicator bacteria) five times higher than the previous limit.

Audubon Rockies is respectfully requesting that the DEQ withdraw its August 2014 decision. Withdrawing the decision does not mean that the aspects of the analyses completed to date are not retained but instead ensures a more transparent, robust, and inclusive process. We acknowledge that there were two comment opportunities years ago but lack of public participation on such a large proposal reflects how few members of the public knew of these. To that end, Audubon Rockies requests that DEQ open another comment period to allow recreational users, including individual members and Audubon chapters around the state, an opportunity to engage on the issue and provide testimony.

The ribbons of rivers and stream that cut through Wyoming's landscapes not only provide people with life sustaining water but also provide crucial habitat for hundreds of species of migrating, nesting, and wintering birds. For example, the food source of avian species, such as Bald Eagles and American Dippers, are directly dependent on the quality of the rivers. Maintaining healthy riparian ecosystems are important for not only for avian species but also our communities.

Where Birds Thrive, People Prosper

Primary Contact Recreation Activities

The Clean Water Act, which regulates quality standards for surface waters, sets a goal that where attainable, water quality that provides for the protection and propagation of fish, shellfish and wildlife, and recreation in and on the water will be achieved. We argue that this proposal by DEQ contradicts the letter and spirit of the Clean Water Act. Given the importance of outdoor recreation to residents, this downgrade could have economic impacts as those participating in outdoor recreation may become concerned about the safety of the water they are encountering.

Audubon staff and members, including those that participate with independent local chapters throughout Wyoming, recreate in areas referred to as "low flow" streams¹. They are among 71% of residents that participate in outdoor recreation each year². This recreation is not limited to birding but involves camping, hiking (day hikes and extended backpacking trips), fishing, hunting, photography, canoeing/rafting, and simply enjoying the beautiful landscapes and wildlife that makes Wyoming unique. Outdoor recreation in Wyoming generates \$4.5 billion annually in consumer spending and \$300 million in state and local tax revenue.

Our staff and members enjoy the outdoors and the outstanding recreational opportunities, sharing them across multiple generations. With friends and families³ in tow, recreational pursuits often involve a myriad of stream encounters that usually includes exposure to the waters in Wyoming's streams – those farther than one mile from towns and schools, and one-half mile from developed campgrounds and public land trailheads.

In closing, Audubon Rockies is concerned about the impacts this decision would have on the ecological health of Wyoming's streams and rivers. Many people directly affected by the decision were not included in the process and many assumptions made about recreational activities were incorrect. Therefore this sweeping downgrade in water quality needs to be re-evaluated. We respectfully request that DEQ open another comment period to allow recreational users, including individual members of the public and independent Audubon chapters around the state, an opportunity to engage on the issue and provide testimony. As part of this process, we strongly encourage that there be public meetings around the state that would afford members of the public an opportunity to participate.

Respectfully,



Daly Edmunds
Regional Policy Coordinator (WY/CO)
Audubon Rockies
dedmunds@audubon.org

¹ Defined as those streams located farther than one mile from towns and schools, and one-half mile from developed campgrounds and public land trailheads.

² https://outdoorindustry.org/images/ore_reports/WY-wyoming-outdoorrecreationeconomy-dia.pdf

³ Children are particularly susceptible to ingesting water while playing in streams.

Where Birds Thrive, People Prosper

Figure B-4. Campbell County Conservation District (3 pages)

OFFICE

601 4J Court, Suite D
PO Box 2577
Gillette, WY 82717-2577
Phone: 307-682-1824
Fax: 307-682-3813
www.cccdwy.net



BOARD OF SUPERVISORS

Lindsay Wood, Chair
Travis Hakert, Vice-Chair
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Bob Maul
BJ Clark

September 16, 2015

David Waterstreet, Watershed Section Manager
Wyoming Department of Environmental Quality
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

Re: Categorical Use Attainability Analysis for Recreation, Public Notice July 23, 2015

Dear Mr. Waterstreet:

The Campbell County Conservation District (CCCD) would like to submit the following comments in response to Categorical Use Attainability Analysis for Recreation (UAA). Our comments are specific to our mission: To provide leadership for the conservation of Campbell County's soils and water, protect the agricultural resource base, promote the control of soil erosion, promote and protect the quality and quantity of Campbell County's water and all other natural resources, preserve and enhance wildlife habitat, protect the tax base and promote the health, safety and general welfare of the county through responsible conservation ethic. This input supplements comments submitted by CCCD, in response to previous solicitation for comments on the UAA model by the Department, on September 30, 2013 and February 25, 2015.

Since 2002 the CCCD has taken a leadership role in water quality assessment, planning and implementation within Campbell County. Specifically CCCD has worked to address waterbodies that are listed on the state's section 303(d) list of impaired waterways. This has included Little Powder River, Donkey Creek, Stonepile Creek and Middle Prong of Wild Horse Creek¹. Over the past 13 years CCCD has developed a comprehensive knowledge of these local waterbodies and have worked diligently with local communities and landowners to enhance and improve the quality of water for public safety and recreational purposes.

In order to focus our comments, it is imperative that the E.coli standard be discussed. The true purpose of the recreation use designation is to determine the appropriate standard for E.coli within a waterbody that will protect the attainable uses of that waterbody. CCCD recognizes that this standard is based on the potential risks associated with full body submersion during

¹ Wyoming Department of Environmental Quality. *Wyoming Water Quality Assessment and Impaired Waters List*. Cheyenne: WDEQ, 2012.

recreational uses. Thus the less likely someone could submerge themselves the less likely they are to ingest water and the potential risk is thus decreased in comparison to full body submersion.

According to the Environmental Protection Agency (EPA), *E. coli* is a type of fecal coliform bacteria commonly found in the intestines of animals and humans². The main *E. coli* strain of concern is *E. coli* 0157:H7. This is the disease causing strain can be produced by human, livestock or wildlife sources. This strain is commonly found in the guts of deer and elk but has also been found in some birds and pigs³. CCCD recognizes that the *E. coli* standard is also used as an indicator of other potentially harmful pathogens, such as *Cryptosporidium*. CCCD feels that although *E. coli* is an effective fecal indicator, it is important to note that its presence alone will not indicate if the water is harmful but instead infers that pathogens may be present⁴.

Background

After the 2007 decision by the EPA to disapprove Wyoming Department of Environmental Quality (WDEQ's) proposed changes to Chapter 1, Water Quality Rules & Regulations, which resulted in all waterways being classified as primary recreational waters, regardless of whether the waterbody was used for recreational purposes. CCCD continued its monitoring program on the three streams listed on the WDEQ's 303 (d) list for *E. coli* impairment, and continued to look for ways to mitigate the impairment. One of the areas that was examined was whether or not any of the waterbodies in Campbell County were in need of a site specific Use Attainability Analysis. As CCCD commented in its previous letters Middle Prong of Wild Horse Creek, post Coal Bed Natural Gas (CBNG) production (2002-2006) has experienced minimal flow. Aside from storm events, the normal flow of this creek is below 5 cfs. This creek is predominantly on private land with little to no access available to the general public. So in 2010 these factors were analyzed and CCCD initiated a site specific Use Attainability Analysis for Middle Prong of Wild Horse. However after work began on the statewide UAA those efforts were put on hold⁵

In 2010 the CCCD was asked to assist in field verification of WDEQ's UAA model to assess its accuracy. These sites were chosen at random throughout the state. In total the conservation district throughout the state performed field verifications on approximately 720 sites. These sites were not always readily assessable. In Campbell County the CCCD personnel visited 28 sites, traveled 2,000 miles and spent approximately \$5,000 in staff time. As CCCD highlighted in our comments from September 30, 2013, there is only one stream that through the UAA model would change from primary to secondary recreation in Campbell County, Middle Prong of Wild Horse Creek⁶. This creek has been on the WDEQ 303 (d) list as impaired for *E. coli* since 2006.

² United States Environmental Protection Agency. "Basic Information about *E. coli* 0157:H7 in Drinking Water". 8 September 2015. <<http://water.epa.gov/drink/contaminates/basicinformation/ecdi.cfm>>.

³ University of California, Davis. Rangeland Watershed Laboratory. "Microbial Water Quality Information Center". 8 September 2015. <<http://rangelandwatersheds.ucdavis.edu/MWQIC/>>.

⁴ Ashbolt, Nicholas J., Willie O.K. Grabow and Mario Snozzi. *Indicators of Microbial Water Quality*. London: World Health Organization. 2001.

⁵ Wyoming Association of Conservation District. *Wyoming Watersheds Progress Report*. Cheyenne: WACD, 2011.

⁶ Wyoming Department of Environmental Quality. *Wyoming Water Quality Assessment and Impaired Waters List*. Cheyenne: WDEQ, 2012.

With this proposed designation change pending final approval from the EPA, Middle Prong of Wild Horse Creek would be removed from the WDEQ 303 (d) due to the fact it has never exceeded the 630 col. /100 mL limit. It is important to note that it does not contain enough water to recreate nor does it have public access.

It has been asserted throughout the various comment periods that our organization in conjunction with the WDEQ would like to apply a "statewide downgrade" in the water quality standards. CCCD would like to point out that this model is looking at the whether or not a particular use can be supported by the waterbody not an impact on the current water quality.

Public Involvement

As a local government, CCCD believes that it is imperative for the general public to have opportunities to comment on and participate in any process CCCD conducts. As such the CCCD held board meeting on, July 13, 2010, August 9, 2010 September 7, 2010 and October 12, 2010 where the UAA model was included on the agenda. At these meeting, which are open to the public, there was discussion about the process of field verifications, results and the comments on the UAA model that were submitted to WDEQ. All minutes from the meetings are available to the general public. Information regarding staff time dedicated to UAA field verification was also included in CCCD's bi-monthly newsletter and distributed around the county. At no time was any public input received by our CCCD.

Protecting the Water Quality of Campbell County in the Future

CCCD is committed to protecting and improving the water quality of the streams in Campbell County, for all users from recreational to agricultural. As such CCCD feels that the adoption of the UAA model will enable our district to focus staff time, funding and resources towards waterbodies that truly receive recreational use and pose a potential risk to human health. Campbell County currently has listed streams or stream segments on Donkey Creek, Stonepile Creek, Middle Prong of Wild Horse Creek and Little Powder River. All of these streams are on the states 303 (d) list for E.coli impairment⁷. Some of these waterbodies are in close proximity to schools, recreational areas, and even travel through the heart of Gillette. CCCD applauds the UAA models elevated level of protection, which automatically includes these streams ephemeral or not, as they are easily accessible by the general population. These waterbodies have an increased chance of coming into contact with general public, and thus should be our main focus.

Sincerely,



Jennifer Hinkhouse
District Manager, CCCD

Cc: Wyoming Association of Conservation Districts
Campbell County Commissioners

⁷ Wyoming Department of Environmental Quality. *Wyoming Water Quality Assessment and Impaired Waters List*. Cheyenne: WDEQ, 2012.

CONVERSE COUNTY CONSERVATION DISTRICT

911 S. WINDRIVER DRIVE

DOUGLAS, WY 82633

307-358-3050 ext. 109

michelle.huntington@wy.nacdnet.net

September 16, 2015

David Waterstreet
Watershed Section Manager
Wyoming Department of Environmental Quality
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

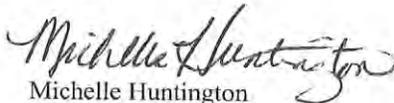
Re: Categorical Use Attainability Analysis (UAA) for Recreation

The Converse County Conservation District strongly supports DEQ's final UAA for Recreation. The UAA takes a logical and comprehensive approach in the fine scale identification of streams in the state having the potential of supporting primary contact recreational activities. Primary contact recreation or primary waters are those waters where recreational activities would be expected to result in full immersion and/or ingestion of the water, any other waters will be considered secondary contact recreation waters. In addition, waters that lack sufficient flows to support primary contact recreation (i.e. ephemeral, small intermittent and small perennial streams), and/or with a mean annual flow of less than 6cfs are designated as secondary contact recreation waters. These designations provide users a more accurate depiction of where primary and secondary contact waters exist in the state.

The rationale and methods used by DEQ are defensible and field verified by both DEQ staff and Wyoming Conservation Districts, including Converse County Conservation District. Together 871 field surveys validated the findings and supports DEQ's identification of primary and secondary contact recreation waters. Converse County Conservation District supports the findings based on the numerous field verifications and believes these to be comprehensive and defensible to those who may question the UAA's determination.

We strongly support DEQ in the development and implementation of this UAA for Recreation. We believe the approval of this strategy will benefit the general public and the state by providing a more accurate depiction of areas meeting the definition of primary contact recreation waters and through the decreased need of future UAAs on streams having very little to no likelihood of being primary contact water. We appreciate the opportunity to comment.

Respectfully,



Michelle Huntington
District Manager

Converse County Conservation District
Board of Supervisors

Stan Mitchem Don Wagoner Shelly Falkenburg Gary Jacobson Doug Horner

Figure B-6. Council for the Bighorn Range (2 pages)

Council for the Bighorn Range
Rob Davidson
P.O. Box 464
Buffalo, WY 82834
September 16, 2015

Mr. Parfitt
Director
Wyoming Department of Environmental Quality
Herscheler Building
122 W. 25th St.
Cheyenne, WY 82002

Dear Mr. Parfitt:

The Council for the Bighorn Range is pleased to provide enter comments on the Wyoming Department of Environmental Quality (DEQ) decision based on the Categorical Use Attainability Analysis for Recreation, reclassifying 87,775 miles of streams from primary contact recreation to secondary contact recreation under the Clean Water Act.

The Council is a grass-roots non-profit 501 C (3) eligible conservation organization with membership drawn from the communities within the Bighorn Mountains region and including citizens who have an active interest in the region, its resources, and its conservation.

We believe the decision that there is not “an existing or attainable use” cannot be defended in the reality of Wyoming’s backcountry recreational use. From the headwaters in wilderness and roadless areas to these, the ephemeral streams make backcountry travel and safety possible. Jokingly referred to having a “screaming Viking bath” in the spring pulse of snowmelt is part of the primitive outdoor experience. Good public policy comes from a wider segment of stakeholders than the DEQ apparently designed this decision around.

The Council asks that all waters managed to achieve the objectives of the Wilderness Act of 1964 or the Wild and Scenic Rivers Act of 1968 and should remain designated as primary contact recreation use in order to maintain existing water quality in these areas. A change in recreation use designation of these waters from primary to secondary would conflict with the Congressional mandates under the Wilderness Act of 1964 and the

Mr. Parfitt
September 16, 2015
Page 2

Scenic Rivers Act of 1968. This would be in conflict with the 1985 and 2005 Resource Land Management Plan and the West Ten Sleep Management Plan 2013 in the Bighorn National Forest. This management direction applies to congressionally designated wilderness waters and their tributaries, designated Wilderness Study Areas (WSA) waters, and the Forest Plan Recommended WSA wilderness waters. Additionally this would also apply to congressionally designated wild and scenic rivers and their tributaries, as well as Forest Plan eligible and suitable rivers.

A UAA in the West Ten Sleep Management Area in the Bighorn National Forest showed unacceptable levels of E.Coli in primary contact recreation and allowed the Bighorn National Forest to address the human created health issue in the Wilderness without having impose onerous regulation or closure of the area.

The designated Wilderness and wild lands of Wyoming principal human use is for visitation and passage. Whenever possible is water is for consumption, bathing, swimming, and just the comfort of immersion.

The Council for the Bighorn Range supports the position and comments provided to the DEQ by the Wyoming Outdoor Council September 16, 2015 as well as concerns about the effects of the UAA decision on the waters of the Bighorn Mountains Region.

Sincerely,



Council for the Bighorn Range

Figure B-7. Crook County Natural Resource District (7 pages)

117 South 21st Street
P.O. Box 1070
Sundance, WY 82729



Crook County Natural Resource District

Phone: 307.283.2870
Website: www.ccnrd.org
Email: crookcountynrd@gmail.com

September 16, 2015

David Waterstreet, Watershed Section Manager
Wyoming Department of Environmental Quality
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

RE: *Categorical Use Attainability Analysis for Recreation, Public Notice July 23, 2015*

On behalf of the Crook County Natural Resource District (CCNRD), I appreciate the opportunity to provide additional comment and input in support of the Wyoming Department of Environmental Quality's (DEQ), Categorical Use Attainability Analysis for recreational use designations on Wyoming's waters.

This input supplements our most recent comments submitted March 9, 2015, by the CCNRD to the EPA and DEQ, in response to the third public notice and solicitation for input and comment issued by the DEQ, on February 23, 2015.

As a local unit of government, Districts are authorized by Wyo. Stat. §§ 11-16-101 *et. seq.*, to implement soil and water conservation projects and programs, including but not limited to, flood prevention, the conservation, development, utilization and disposal of water within the district. The District has taken a leadership role in water quality assessment, planning and implementation on a local level to address those waters within our District that are on the state's section 303(d) list of impaired and threatened waters. As such, we have intricate knowledge and expertise that is recognized by state statute, of local watershed conditions and work extensively with landowners, homeowners and our local communities in implementing best management practices aimed toward enhancing and improving water quality.

The CCNRD strongly supports the Categorical Recreational Use Attainability Analysis proposed and adopted by the Department of Environmental Quality and submitted to EPA on December 1, 2014.

As concerned citizens, we understand the importance of assigning appropriate contact recreation classifications. Many of the waters being changed to secondary contact recreation, in addition to being remote, are low to zero flow waters. Outside of potential human recreational waste impacts, these waters will have little human waste contributions to water systems downstream. Under criteria developed by DEQ, waters that are near public schools, parks, and areas that are more densely populated that are subject to more human waste impacts, were designated for primary contact recreation. We believe those waters are largely designated for primary contact due to their vicinity to municipal areas and the increased likelihood for potential health impacts compared to waters in remote areas that typically have little or no flow.

It is important to note that the UAA determines, based on a set of criterion, if a particular use can be supported. Contrary to the claim that the proposed Categorical Use Attainability Analysis will downgrade water quality, it simply assigns waters a classification based on existing water quality and what use it actually supports.

Board of Supervisors

Chairman: Wayne Garman Vice Chairman: Ted Parsons Treasurer: Clinton Streeter Secretary: Jennifer Hinkhouse Member: Lily Alfalfa



The Categorical UAA is a robust, defensible and appropriate method for designating recreational uses on Wyoming's surface waters. Under the current default of all waters being protected as "primary", absent the adoption and approval of the Categorical UAA, site specific UAA's would be required on 77,514 stream miles. This is an unnecessary burden on the state and local governments when a statistically defensible number of field verifications have validated the attainable recreational uses identified by the Categorical UAA. As well, DEQ offered numerous opportunities for input on the Categorical UAA and invited the submission of additional site specific information from the public and user groups.

Protecting Wyoming's water quality-a collaborative process

The Wyoming Association of Conservation Districts, and its member districts (including the CCNRD), are specifically involved in the implementation of several programs, projects and processes as it relates specific to federal Clean Water Act requirements and/or State Environmental Quality Act. In 2010, the District worked collaboratively with DEQ to conduct field verifications on 25 randomly selected sites in order to provide sufficient level of data points to verify the accuracy of the UAA model. As we move forward with meeting the goal of clean water, it is important that the standard that is applied reflect uses that are attainable, and in the case of primary and secondary contact recreation activities, the inherent risks that exist. Resources, both financial and human, should be focused on waters where the risk to human health is elevated due to the increased potential for ingestion.

We feel it should be noted that other states have adopted the same type of approach in recognition that the standard was developed based on data from high recreation use beach areas and did not account for smaller, intermittent and ephemeral systems. In fact, Colorado has the same secondary standard in place as being proposed by Wyoming.

Lastly, the ability to submit a site specific recreational Use Attainability Analysis for submission to DEQ to change a designation is available under this proposal. This allows entities to submit site specific information to address those waters they feel may or may not support recreational uses as identified in the UAA. The District commends the DEQ's ongoing dedication to working with the public to amass quality data for guiding decisions on how to best protect our waters and the public. At the same time, we also appreciate the DEQ's overall approach in conducting a Categorical UAA. This approach has allowed interested parties to weigh in on proposed designations in one public process, spanning three to four years, versus individual public notice processes occurring over extended periods of time on hundreds of individual UAAs. We urge other parties interested in collaborating with the DEQ to approach proposed amendments to use designations with the same rigorous methods and data collection used to conduct the comprehensive UAA.

It is imperative that Wyoming's waters are accurately protected for the attainable recreational uses. We believe the criteria utilized by the Department in determining primary versus secondary contact recreation uses is appropriate and reflects the intent of the standard and meets EPA's expectations. In closing the Staff and Supervisors of the CCNRD encourage the EPA to approve Wyoming's Categorical Use Attainability Analysis for designation of recreation uses. There has been a tremendous amount of work put into this Categorical UAA by many across the state, and in consultation with EPA.

Sincerely,

Wayne Garman
Chairman CCNRD

Reach Code # 10120201020540



Figure 1. Facing Southeast, upstream.



Figure 2. Facing Northwest, downstream.

Object ID # 22960 - Replacement Site



Figure 1. Facing North, upstream.



Figure 2. Facing South, downstream.

Object ID # 59775 (Replacement Site)



Figure 1. Facing Southeast, upstream.



Figure 2. Facing Northwest, downstream.

Reach Code # 10120203000094



Figure 1. Facing Southeast, upstream.



Figure 2. Facing Northwest, downstream.

Object ID # 58992 (Replacement Site)



Figure 1. Facing Southeast, upstream.



Figure 2. Facing North, downstream.

Figure B-8. Equality State Policy Center (3 pages)



PO Box 961 - Cheyenne, WY 82003 - 307.472.5939 - EqualityState.org

September 16, 2015

David Waterstreet
Watershed Section Manager
Wyoming Department of Environmental Quality
Hand delivered - Casper, Sept. 16, 2015

Dear Mr. Waterstreet,

The Equality State Policy Center (ESPC) is a diverse coalition of Wyoming organizations that works through research, public education, and advocacy to hold Wyoming government state and local governments accountable to the people they represent. ESPC encourages and assists Wyomingites in participating in public policy.

To this end, we have taken a strong interest in the recent process used by the Department of Environmental Quality to downgrade 76% of our state's streams for the recreational contact standard. As background, I wrote an opinion piece on this topic, published in the *Casper Star Tribune* on August 21, 2015. Enclosed is a copy as a portion of ESPC's comments for the record.

With this letter, we wish to reaffirm the concerns raised in the enclosed column and point out that the DEQ's actions have not achieved the goals of transparency and good governance.

The reclassification of these streams will most directly impact the health and safety of the recreating public, yet the agency failed to engage this very constituency. Recreation is a core of Wyoming values: we want to pass on favorite camping, hunting and fishing spots to our children, and ensure these places remain safe and pristine for future generations. And let's not forget, tourism and outdoor recreation are Wyoming's second largest economic sector. The DEQ should recognize the valuable role recreation plays in our state and involve all stakeholders in developing standards that work for all our citizens.

We encourage the DEQ to revisit this issue with a new, more open and collaborative process. ESPC will readily offer assistance in designing this and future processes. It may take more time, but proactive and open decision-making will result in better public policy - a win for all Wyomingites.

It is a challenge - one I'm certain the DEQ and all Wyoming agencies can meet - to deliberately cultivate a culture of openness and public access to government functions and decisions.

Sincerely,

Brianna Jones
Executive Director

Jones: Citizens were left out of E. coli decision



AUGUST 21, 2015 4:45 PM • BY BRIANNA JONES

Raise your hand if you knew about the state's new E. coli plan before it was finalized. The Casper Star-Tribune recently reported that the Wyoming Department of Environmental Quality, in one broad stroke, reclassified more than 76 percent of Wyoming's streams from primary to secondary contact recreation. This means that roughly 88,000 stream miles are now allowed to have five times as much E. coli in them after very little public input from the people that use them most.

This sweeping reclassification was years in the making, but the fact is, almost none of us knew anything about it.

Setting aside the merits of the decision, it's apparent to the Equality State Policy Center that the DEQ failed to adequately reach out to the citizens and groups that would be most affected.

While many conservation districts, which represent mainly agricultural users, were closely involved in the development of this plan, camping organizations, outfitter and guide services, and recreation groups were never notified. For example, in 2014 alone the National Outdoor Leadership School in Lander led 121 expeditions into Wyoming's mountains — and NOLS received no outreach from the DEQ.

Gary Cukjati, Director of NOLS' Rocky Mountain Branch, wrote to the EPA: "At no time... did DEQ contact NOLS, neither informing us of the existence of the process nor seeking comment on their decision, in spite of our being a significant commercial recreation user. It is our understanding that other outfitting operations were similarly unaware of the process." He goes on to say that, as evidenced from the DEQ's own record, "there was a notable lack of comments from the recreating public, who will ultimately bear the impacts of this decision."

What this means is, unless you stumbled upon one of two public notices buried in the classified section of this paper or caught one story in the Pinedale Roundup, you wouldn't have known about the change. If it did cross your radar, you probably wouldn't have understood the impact. For example, in a 30-second Wyoming Public Radio piece a DEQ spokesperson asserted the rule would only affect water bodies that flow occasionally. We now know that's not at all the case; this decision reclassified scores of standing streams across Wyoming that are routinely used for recreation.

A vigorous and open debate is what our country was founded on. As Thomas Jefferson wrote, "...whenever the people are well-informed, they can be trusted with their own

government.” Our opportunity to participate in government and the management of our tax dollars, government agencies, and public assets is not and never should be limited to casting the occasional ballot. And the burden rightfully rests with elected leaders and public employees to deliberately cultivate a culture of openness and public access to government functions and decisions.

It happens all too often that stakeholders and citizens are carelessly, and seemingly deliberately, left out of important decisions. Thankfully, in this instance, the DEQ has the opportunity to revisit this sweeping decision and re-open the process to allow for more comprehensive participation of Wyoming’s citizens and interested recreation groups. And we are calling on the DEQ to do so with earnestness and intent.

The leaders we elect and employ must be thoughtful about public engagement. We shouldn’t have to be outraged or go to court to be heard. Good public policy should be crafted, debated and enacted in the sunshine, and this recent stream reclassification is no exception.

Figure B-9. Grand Teton Medical Clinic (1 page)

Mr. Waterstreet,

Firstly, thank you for again taking public comments on the DEQ's recent decision to accept poorer water quality in our watershed streams

If indeed you are the responsible leader of our State DEQ that I believe you are, you will work to overturn the recent DEQ downgrading of water quality for the State.

Of course, poor water quality (and shit) flows downstream...

As a health professional, the risks are clear.

With CLEAN WATER being one of the most precious commodities on our planet today, this is clearly the wrong direction for our State and the DEQ to be travelling.

IF we want the Federal government to stay out of our business, then YOU and WE must be good stewards of OUR common lands and waters.

This is NOT the way.

For further details and discussion, I ask you to read Mike Koshmrl's well -researched article in the JH News & Guide last week, July 29th.

PLEASE use your influence and power as our DEQ leader to lead on this issue and keep water standards at the highest level... Not those of a Developing Country. I spend almost all of my free-time exploring our wildlands, and know that already, in watersheds like Cliff Creek, Clause Creek, Sandy Marshall, grazing management is VERY poor, and those watersheds are below standards of current protection.

The USFS and DEQ are currently not enforcing the protections that are in place. We should NOT further relax those standards.

PLEASE do the right thing as the Director of the department responsible for Environmental Water Quality and work to keep WY waters something that we all can be proud of!

Sincerely,
Chuck Harris, P.A.-C
Grand Teton Medical Clinic
Wilderness User
Proud WY Resident
Republican Voter



RECEIVED

AUG 10 2015

WATER QUALITY DIVISION
WYOMING

Figure B-10. Greater Yellowstone Coalition (2 pages)



GREATERYELLOWSTONE.ORG
LOCATIONS IN MONTANA, IDAHO & WYOMING

HEADQUARTERS
215 South Wallace Avenue
Bozeman, Montana 59715
406.586.1593

RECEIVED

AUG 10 2015

WATER QUALITY DIVISION
WYOMING

August 6, 2015

Kevin Frederick, Administrator
Water Quality Division - DEQ
Herschler Building
122 West 25th Street
Cheyenne, WY 82002

Re: Request for Public Hearing in Jackson, WY on the DEQ's Categorical Use Attainability Analysis for Recreation

Dear Mr. Frederick,

On behalf of the Greater Yellowstone Coalition, I would like to request that a public hearing be held in Cody, WY to accept public comment on the DEQ's Categorical Use Attainability Analysis for Recreation.

Established in 1983, the mission of the Greater Yellowstone Coalition is to protect the lands, waters, and wildlife of the Greater Yellowstone Ecosystem, now and for future generations. A downgrade of any water quality standard, let alone one that applies to recreation activities across the entire state, is an issue of great importance to our organization.

I understand that the DEQ has scheduled a public hearing in Casper on September 16th to accept public comment on the decision. I have had numerous local inquiries on this issue, however, most do not have time nor the capacity to **attend a hearing in Casper**. Cody has a long history of backcountry users that rely on many of the smaller low flow streams for a swim/bath, fishing without waders, and other such primary contact activities. It is valuable to engage the public by eliminating travel/cost barriers and increasing opportunities to participate.

It is our understanding that you relied on the Categorical UAA for Recreation as the technical basis for your decision to downgrade water quality standards on over 76% of the State's surface waters, roughly 87,775 stream miles. A cursory review of the DEQ's UAA and the Designated Uses Web Map reveals that many of the downgraded streams are located in watersheds used by our members for a variety of recreational activities, and we therefore have a significant and direct interest in this issue.

In addition to holding a **public hearing** in Cody, we request a **60-day extension of time** to submit written comments on the UAA. The UAA document, and the issues it addresses, are difficult and complex and therefore deserve a thorough and thoughtful review, a review that unfortunately is not possible in the current timeframe.

Thank you in advance for your consideration.

Sincerely,

Jenny DeSarro
Wyoming Conservation Associate
1285 Sheridan Ave, Ste. 245
Cody, WY 82414
jdesarro@greateryellowstone.org

AMERICA'S VOICE FOR A GREATER YELLOWSTONE



GREATERYELLOWSTONE.ORG
LOCATIONS IN MONTANA, IDAHO & WYOMING

HEADQUARTERS
315 South Wallace Avenue
Bozeman, Montana 59715
406.586.1888

RECEIVED

AUG 10 2015

August 6, 2015

WATER QUALITY DIVISION
WYOMING

Kevin Frederick, Administrator
Water Quality Division - DEQ
Herschler Building
122 West 25th Street
Cheyenne, WY 82002

Re: Request for Public Hearing in Jackson, WY on the DEQ's Categorical Use Attainability Analysis for Recreation

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Established in 1983, the mission of the Greater Yellowstone Coalition is to protect the lands, waters, and wildlife of the Greater Yellowstone Ecosystem, now and for future generations. A downgrade of any water quality standard, let alone one that applies to recreation activities across the entire state, is an issue of great importance to our organization.

We understand that the DEQ has scheduled a public hearing in Casper on September 16th to accept public comment on the decision. I hope you will understand that for many of our members, the time, cost and inconvenience of attending a hearing in Casper is a barrier to full and active public engagement.

It is our understanding that you relied on the Categorical UAA for Recreation as the technical basis for your decision to downgrade water quality standards on over 76% of the State's surface waters, roughly 87,775 stream miles. A cursory review of the DEQ's UAA and the Designated Uses Web Map reveals that many of the downgraded streams are located in watersheds used by our members for a variety of recreational activities, and we therefore have a significant and direct interest in this issue.

In addition to holding a public hearing in Cody, we request a 60-day extension of time to submit written comments on the UAA. The UAA document, and the issues it addresses, are difficult and complex and therefore deserve a thorough and thoughtful review, a review that unfortunately is not possible in the current timeframe.

Thank you in advance for your consideration.

Sincerely,

Nick Dobric
Wyoming Conservation Coordinator
PO Box 4857
Jackson, WY 83001
ndobric@greateryellowstone.org

AMERICA'S VOICE FOR A GREATER YELLOWSTONE

Figure B-11. GZ Livestock (1 page)

GZ Livestock
Gary and JoAnn Zakotnik
68A West 1st South Road
Eden, WY 82932

David Waterstreet
Watershed Section Manager
122 West 25th Street
Herschler Building 4-W
Cheyenne, WY 82002

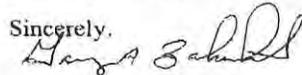
Dear Mr. Waterstreet:

We support the Wyoming Department of Environmental Quality's Categorical Use Attainability Analysis for recreation uses on Wyoming's waters. As we understand it the DEQ and local conservation districts did extensive work using on the ground field techniques, technology, and GIS to make this determination. As the vast majority of streams in Wyoming do not lend themselves to "immersion, full body contact, or frequent use of the water by children" due to low flows and lack of ready accessibility, use of this model represents a reasonable approach to stream classification and is a wise use of taxpayer's money.

We feel that there is ample opportunity for a stream to be upgraded if specific evidence is submitted.

Please use the available resources to address areas where there is significant concern.

Sincerely,



Gary Zakotnik
JoAnn Zakotnik

Figure B-12. Hot Springs Conservation District (1 page)



Hot Springs Conservation District
601 Broadway, Suite A
Thermopolis, WY 82443
864-3488



September 16, 2015

Wyoming Department of Environmental Quality
C/o David Waterstreet, Watershed Section Manager
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

Hot Springs County Conservation District (HSCD) would like to take this opportunity to explain the importance of the Wyoming Department of Environmental Quality's Categorical Use Attainability Analysis for recreational use designation on the waters of Wyoming and what it means to us.

HSCD has worked with WYDEQ to conduct field verifications on 25 randomly selected sites within Hot Springs County. The majority of these sites are located on private property, with ditches that only run during spring run-off, or with small streams that stop flowing by mid to late summer. Unfortunately, at this time, all of these ditches are designated as primary contact streams, meaning they must support the same form of recreation as the Big Horn River. It would be highly irresponsible of HSCD, WYDEQ, EPA, and the state of Wyoming to allow these ditches to remain in a primary contact designation.

HSCD urges you to look closely at the thousands of pages of quantifiable data that our state's Conservation Districts have spent hundreds of hours and much money collecting. HSCD, and all of the other Conservation Districts in our state, work diligently to uphold a standard of operating procedures that make our work credible. We feel we have the responsibility to be good stewards of Wyoming's land, as well as to the waters that run through it. We take on this responsibility with a deep sense of respect that parallels that of our land owners and recreationalists alike.

With that being said, HSCD strongly supports the Categorical Recreational Use Attainability Analysis proposed and adopted by the WYDEQ and submitted to EPA on December 1, 2014.

Thank you,

Darcy Akcell
Darcy Akcell

HSCD Manager

Jerry Lake

Jerry Lake
HSCD Chairman

Figure B-13. Kirby Creek CRM (1 page)

To:
David Waterstreet,
Watershed Section Manager
Wyoming DEQ

From:
Jim Wilson
V Ranch
2406 Kirby Creek Road
Thermopolis, WY 82443

I represent the members of the Kirby Creek CRM, which is a group of landowners in the Kirby Creek watershed. We support the DEQ in their reasonable approach to stream classification concerning primary versus secondary contact.

The ephemeral nature of Kirby Creek does not qualify it for being a primary contact recreation stream. The Kirby Creek watershed area encompasses a little over 128,000 acres, about 200 square miles.

The Kirby Creek CRM urges you to accept the UAA that the agency created in 2014 to determine the designation of streams in Wyoming.

Thank you,

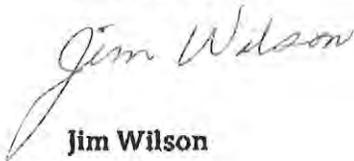

Jim Wilson

Figure B-14. Lake DeSmet Conservation District (2 pages)



621 West Fetterman Buffalo, WY 82834 (307) 684-2526 ext. 4

September 16, 2015

David Waterstreet, Watershed Section Manager
Wyoming Department of Environmental Quality
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

On behalf of the Lake DeSmet Conservation District (LDCD) Board of Supervisors in Buffalo, WY, we appreciate the chance to further comment in support of the Wyoming DEQ's Categorical Use and Attainability Analysis for recreational use designations on Wyoming waters conducted by the Lake DeSmet Conservation District.

The LDCD's Mission Statement is as follows: The Lake DeSmet Conservation District is dedicated to the development and implementation of programs to provide leadership and technical assistance for the conservation of Johnson County's natural resources, agricultural heritage and resource base, to promote the control of soil erosion, to promote and protect the quality and quantity of Wyoming's waters and all other natural resources, to preserve and enhance wildlife habitat, to protect the tax base and to promote the health, safety and general welfare of the residents of the County through responsible conservation planning.

In 2010, when the Wyoming Association of Conservation Districts asked the conservation districts across the state for assistance on behalf of WDEQ in primary and secondary stream designations, the LDCD agreed. The district was given 27 randomly selected sites, some of which were in very remote areas that required hiking several miles into the backcountry and wilderness areas within our district boundaries. The LDCD staff took this job on with respect and professionalism and with the health, safety and welfare of our local citizens in mind. A lot of time and money was spent accessing these sites and visiting with individual landowners and land managers of those sites. Methods for collecting data were provided by WDEQ and followed by the staff. All sites visited received permission from the landowner or land manager, GPS points were recorded and time dated photographs looking both upstream and downstream were taken. Questions provided by WDEQ and WACD were answered by the staff and each

landowner/ land manager as they are the most familiar with the waters within their area during the recreational season, the use of those waters, and how accessible the waters are to the general public. All of the sites within the LDCD were visited during the peak recreation season, between July 9th and October 1st, 2010. The year 2010 was an average and typical year for Johnson County with normal rainfall and temperatures. No extremes were noted.

After all of the data had been gathered and evaluated by WDEQ all sites on the Bighorn National Forest were proposed to remain primary even if their flows were well below the 6cfs required for primary designations. The Bighorn National Forest that lies within the LDCD boundary is used heavily during the recreation season. Most streams are located in or near high recreational areas such as Circle Park where a high use exists outside of the actual Forest Service Campground. Circle Park Creek itself is under 2.0 cfs. The staff and the US Forest Service acknowledged that this and all other forest sites were in a high use areas where camping and recreation is widely dispersed and should remain primary for this reason alone, regardless of flow.

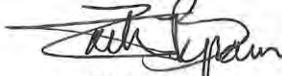
The proposed secondary designations that occurred on private land were well below 6cfs, were inaccessible to the general public and/or were ephemeral streams.

LDCD believes the criteria used by WDEQ in determining primary versus secondary contact recreation uses is appropriate and still meets the intent of the standard and meets EPA's expectations. While flow is important, location of waters and its recreational potential should figure in to the designation as well. WDEQ's questions included the likelihood of possible exposure by determining if the site was near a school, a park or campgrounds and trails helped determine the primary recommendations.

We can assure the public that the LDCD employees conducted these analyses with the best interest of the people of northern Johnson County and the natural resource itself.

In summary, the LDCD, strongly supports the Categorical Recreational Use Attainability Analysis proposed and adopted by the WYDEQ and submitted to EPA on December 1, 2014.

Sincerely,



Zach Byram
District Manager

Figure B-15. Lingle-Fort Laramie Conservation District (5 pages)

LINGLE-FORT LARAMIE CONSERVATION DISTRICT
 1441 EAST M, SUITE B
TORRINGTON, WY 82240
307-532-4880

David Waterstreet, Watershed Section Manager
Wyoming Department of Environmental Quality
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

Mr. Waterstreet,

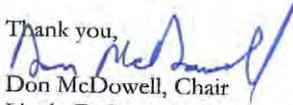
Thank you for the opportunity to address the Categorical Recreational Use Attainability Analysis proposed and adopted by DEQ which was submitted to EPA in 2014. On behalf of the Lingle-Ft. Laramie Conservation District, I would like to support the Categorical UAA as a defensible and appropriate method for designating recreational uses on Wyoming's surface waters.

Wyoming Statute 11-16-103(paragraph b) states: It is hereby declared to be the policy of the legislature to provide for the conservation of the soil, and soil and water resources of this state, and for the control and prevention of soil erosion and for flood prevention or the conservation , development, utilization, and disposal of water, and thereby to stabilize ranching and farming operations, to preserve natural resources, protect the tax base, control floods, prevent impairment of dams and reservoirs, preserve wildlife, protect public lands, and protect and promote the health, safety and general welfare of the people of this state.

The Lingle-Ft. Laramie Conservation District takes the responsibility of water issues very seriously and was one of the first to undertake reclassifying our waters through the UAA process. Our district submitted several site specific UAA's in 2010. The district completed field surveys on randomly selected sites and our findings concluded a secondary designation was more than appropriate. Three sites were dry and would carry water only in a major rainfall or early spring run-off conditions. The other sites were exclusively on private land and public access to the waters are limited or nonexistent. We spent many hours gathering field verification data, discussed the project at least twice in our regular board meetings, and accepted the findings in our October 2010 meeting. I state this because as a local unit of government, all regular monthly meetings are advertised and open to the public. The public had ample opportunity to be part of this process.

Our District urges adoption and approval of the submitted Categorical UAA. The conservation districts have supplied defensible field verifications and validated the attainable recreational uses identified by the Categorical UAA. We feel our data sufficiently verifies the accuracy of the model supplied to DEQ and defaulting all waters as "primary" would place an unnecessary burden on our local district to validate findings already obtained.

Thank you,


Don McDowell, Chair
Lingle-Ft. Laramie Conservation District





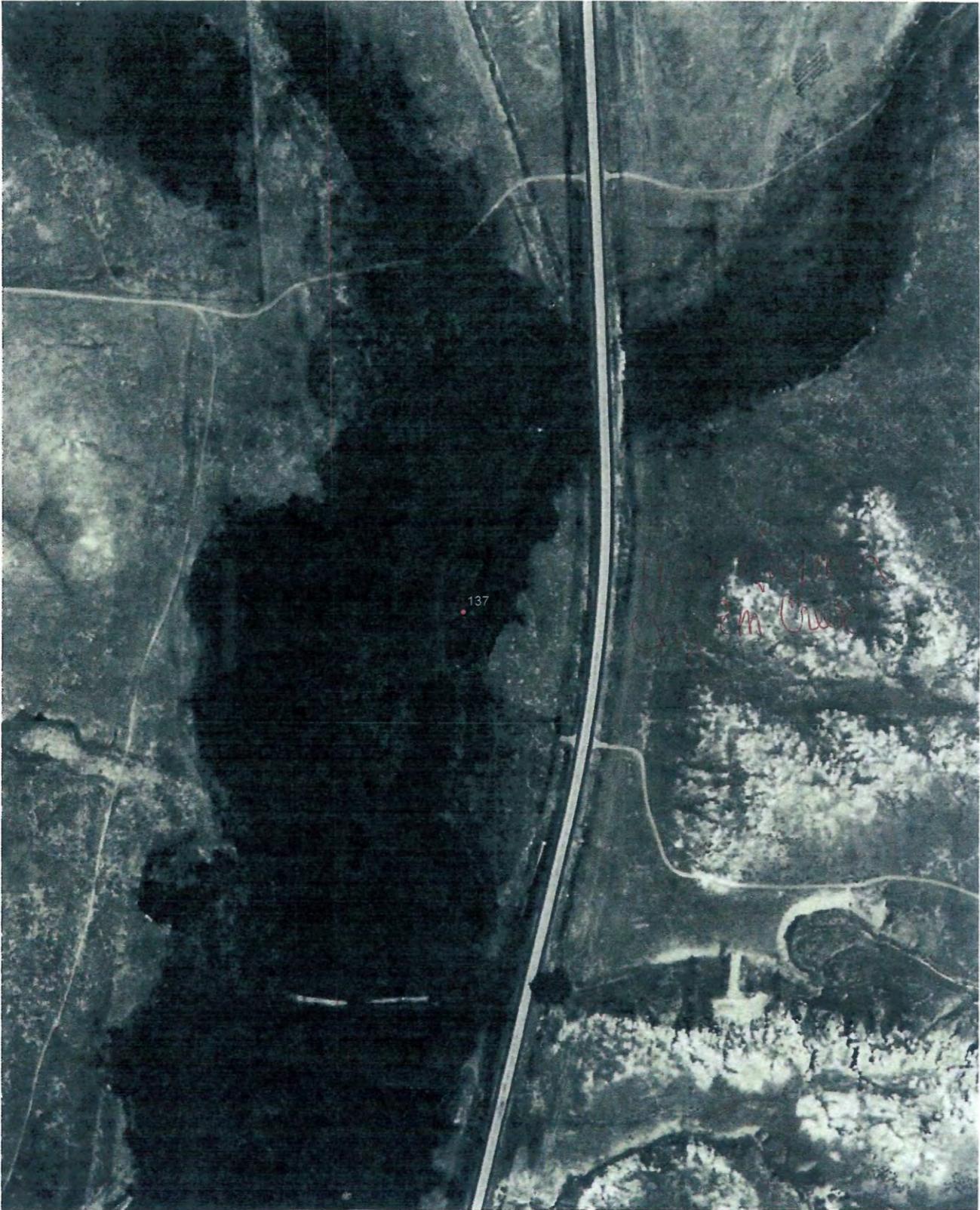




Figure B-16. Lower Wind River Conservation District (2 pages)



508 North Broadway Avenue
Riverton, WY 82501

307-856-7524 EXT 107
www.lowerwindrivercd.com

September 15, 2015

David Waterstreet, Watershed Section Manager
Wyoming Department of Environmental Quality
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

RE: Categorical Use Attainability Analysis for Recreation, Public Notice July 23, 2015

The Lower Wind River Conservation District (LWRCD) Board of Supervisors is writing to support the Wyoming Department of Environmental Quality's (WDEQ) Categorical Use Attainability Analysis (UAA) for recreational use designations on Wyoming's waters. Our district is one of three in Fremont County and encompasses nearly two million acres of land including the communities of Arapahoe, Morton, Kinnear, Pavillion, Shoshoni, Lysite, Lost Cabin, Moneta and Riverton. We represent about 24,000 citizens on natural resource issues including but not limited to soil and water conservation. The soils in the district are shallow sands, silts, loams and clays which contain little organic matter and are low in fertility. Elevations range from 4,600 to 8,100 feet. Temperatures range from -45° to 102° F. **Annual precipitation** averages less than ten inches. All flowing waters within the LWRCD end up in Boysen Reservoir. Main perennial streams are the Big and Little Wind Rivers. Many intermittent and ephemeral streams only flow in the spring during snow melt or in unusual significant rain events.

The LWRCD has been involved with trying to get streams properly classified for recreation since 2009. Our biggest concern is that many dry draws and gullies are classified as primary recreation streams by default. Common sense dictates that these intermittent and ephemeral streams which only flow water during significant snow melt or rainstorms should not be included in a class for swimming and fishing. We collected data and submitted to WDEQ the Use Attainability Analysis for Poison Creek as it is listed on the 303(d) list of impaired waters for E.coli and because it does not flow water unless there is a significant rain event. It is a stream that obviously needs to be listed as a secondary recreation stream. In the Categorical UAA, Poison Creek is listed as primary recreation only from Boysen Reservoir upstream to the town of Shoshoni. Even though the stream does not flow in this segment, it is close to the Rails to Trails and Boysen State Park where people go to recreate. The upstream remainder of Poison Creek is listed as secondary recreation. The LWRCD supports the Categorical UAA proposed listing for Poison Creek.

page 1



508 North Broadway Avenue
Riverton, WY 82501

307-856-7524 EXT 107
www.lowerwindrivercd.com

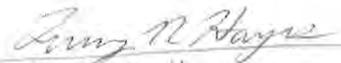
Another stream in our district that is listed for *E. coli* is Muddy Creek. We have been collecting data to determine which segments are meeting the standards, which segments are not and the potential sources of the impairment. The UAA proposes that a segment from Bass Lake Road downstream to Boysen Reservoir be designated primary recreation and the remainder of Muddy Creek upstream secondary recreation. While we do not believe that people go to Muddy Creek to recreate, we support the Categorical UAA listing for Muddy Creek.

We also participated in the field verification of the Categorical UAA model. Our Manager spent many hours learning about the UAA model and determining the effect on streams in our district. Locations and access to the 19 sites, which were randomly selected by WDEQ, were determined. Landowners were contacted for permission to access the sites. Data were recorded and photos taken at each site. The completed data were submitted to WDEQ. The LWRCD spent nearly \$2,000.00 in time, mileage and supplies to collect and submit the data.

When the UAA was published for public comment in September of 2013, the LWRCD made suggestions to improve the accuracy of the UAA model considering that Wyoming is the third driest state in the United States and our district, on the average, has less than ten inches of rain per year. The categorical UAA, while not completely accurate, is much better than the primary designations that currently exist for all dry draws and gullies. Our tax dollars will be better spent working on water quality for streams that truly are primary recreation streams if this UAA is approved by EPA. For those streams that are inaccurately classified in the Categorical UAA, a site specific UAA can be written to request a change in classification by WDEQ.

The LWRCD appreciates the opportunity to again comment on the Categorical UAA. We strongly support the approval of the Wyoming Department of Environmental Quality's Categorical Use Attainability Analysis for Recreation which was adopted by the WDEQ and submitted to the Environmental Protection Agency on December 1, 2014.

Lower Wind River Conservation District
Board of Supervisors


Terry N Hayes


J.W. Hendry


Ron Lucas

page 2

Figure B-17. Medicine Bow Conservation District (1 page)



Medicine Bow Conservation District

P.O. Box 6 - Medicine Bow, WY 82329 - Phone (307) 379-2221 - Fax (307) 379-2224

September 15, 2015

David Waterstreet, Watershed Section Manager
Wyoming Department of Environmental Quality
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

RE: Categorical Use Attainability Analysis for Recreation

Dear Mr. Waterstreet,

The Medicine Bow Conservation District (MBCD) appreciates this opportunity to provide our comments in support of the Wyoming Department of Environmental Quality's Categorical Use Attainability Analysis for recreational use designations on Wyoming's waters.

As a local unit of government, we are authorized by Wyo. Stat. §§ 11-16-101 et seq. to plan and carry out projects and programs for soil conservation, flood prevention, water management, recreation and other purposes within our district boundary. The MBCD does participate in state water quality management programs and our comments are specific to this mission not only as a local government entity within our project area, but support for water quality of all streams in the state.

Through assessment, planning, and implementation of best management practices on water management projects and programs, MBCD has worked with area landowners and our local communities to gain extensive knowledge and understanding of our watershed, its conditions, and best practices to improve water quality.

With MBCD's intricate knowledge of our watershed through these projects, our water quality and stream flow monitoring, and our past collaboration with WDEQ conducting field verifications of recreational uses on randomly selected sites, we feel the Categorical UAA is an appropriate, accurate method for designating primary and secondary recreational uses based on their potential risk of illness on Wyoming's surface waters. This model vastly reduces the amount of time and money that needs to be spent on site-specific use attainability analysis. Site specific use attainability analysis can be very helpful in fleshing out the model in certain cases and remains an option. All the tools currently available for use attainability analysis are still options if there is disagreement about the classification of a particular body of water.

We strongly support the Categorical Recreational Use Attainability Analysis proposed and adopted by the Department of Environmental Quality and submitted to EPA on December 1, 2014, to use as a model for designation of recreational uses. We strongly encourage the EPA to approve this model.

Sincerely,


Ralph Brokaw
Chairman

CONSERVATION - DEVELOPMENT - SELF-GOVERNMENT

Figure B-18. Meeteetse Conservation District (1 page)



Meeteetse Conservation District

P.O. Box 237 • Meeteetse, WY 82433
(307) 868-2484 • mcd@tctwest.net

September 16th, 2015

Mr. David Waterstreet
Watershed Section Manager
122 West 25th Street
Herschler Building 4-W
Cheyenne, WY 82002

RE: *Public Hearing for Categorical Use Attainability Analysis for Recreation*

On behalf of the Meeteetse Conservation District (MCD) Board of Supervisors, I am submitting this letter to reiterate our support of the final Categorical Use Attainability Analysis (UAA) for Recreation conducted by the Wyoming Department of Environmental Quality, Water Quality Division (WDEQ/WQD). The MCD hereby incorporates by reference any and all comments previously submitted by MCD as well as the Wyoming Association of Conservation Districts (WACD).

We commend WDEQ for the tremendous effort that it has endured in order to have the best and most accurate recreation use designations possible for Wyoming streams and rivers. It goes without saying that in order to adequately implement the Clean Water Act we must be working with accurate data and properly classified waters. As you are most certainly well aware, Wyoming Conservation District Law provides that Conservation Districts (CDs) are charged with the statutory responsibility to implement soil and water conservation projects and as such has the technical expertise necessary to conduct the site specific UAAs that resulted in the validation of the model. As with any model, we believe that while there may be some instances where additional site specific verification will be necessary the UAA model has provided a solid base to build on and fine tune. This is demonstrated by the high level of agreement achieved when results of the model are compared to the hundreds of field surveys that were conducted by CDs and WDEQ.

EPA has gone on record to support WDEQ's approach and scientific reasoning in properly identifying streams that do not meet the criteria for primary contact recreation. While we may disagree with the EPA in their assertion that proper public process was not followed previously we remain encouraged and optimistic that this public hearing will fully satisfy EPA and that they will move forward with approving the UAA as it has proved to be the most logistically feasible and economically appropriate means to identifying waters correctly.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steffen Cornell'. The signature is written in a cursive, flowing style.

Steffen Cornell
Resource Specialist
Meeteetse Conservation District

Figure B-19. National Outdoor Leadership School, Sweetwater Fishing Expeditions, Central Wyoming College, Wyoming Catholic College (7 pages)



NATIONAL OUTDOOR LEADERSHIP SCHOOL
THE LEADER IN WILDERNESS EDUCATION

September 16, 2015

Todd Parfitt
Environmental Quality, Department of
122 West 25th St, Herschler Building
Cheyenne, WY 82002

RE: WDEQ's Categorical Use Attainability Analysis for Recreation

Dear Director Parfitt:

The National Outdoor Leadership School respectfully requests the Wyoming Department of Environmental Quality (WDEQ) to withdraw the Categorical Use Attainability Analysis (UAA), or to remove administratively-defined wildlands from the scope of the rule. This would include removing streams in Wilderness, Wilderness Study Areas, Lands with Wilderness Characteristics, Roadless Areas, Areas of Critical Environmental Concern, Special Recreation Management Areas, and candidate and current Wild and Scenic streams and rivers, and their tributaries, from the scope of the Categorical UAA.

As a non-profit outdoor educational institution that operates in the wildlands of Wyoming, we are vested stakeholders in the health and purity of these streams. NOLS was founded in Lander, and this year we celebrate our 50th year of teaching environmental education, and wilderness and leadership skills in the backcountry of Wyoming. The waters of the Wind River Range, Absarokas, Wyoming Range, Tetons, Bighorns, and the Red Desert support our professional operations and the personal outdoor recreational pursuits of our staff. NOLS instructors and students frequently use many of the backcountry streams downgraded in the UAA, where we have come to expect a pristine water quality as part of the wilderness experience.

NOLS and partners wrote an August 15 letter to WDEQ Director Todd Parfitt requesting an additional public hearing in Lander, additional time for public comment, and the ability to submit written comments by email (see Attachment A). WDEQ decided to accept written comments by post prior to the September hearing, or in person at the meeting, but our other requests were denied. We believe that WDEQ can and should do more to ensure adequate public knowledge and engagement for a rule with statewide impacts. For example, the opportunity to submit comments electronically via email is standard practice to ensure ease of access and participation for an equitable public process. Given the great extent of this study's effect on Wyoming waterways, and the likelihood that this categorical, state-wide UAA is the first of its kind in the nation, additional public review and participation is critical to ensure a robust and well-considered rule.

We respectfully request WDEQ to withdraw the Categorical UAA. Should the Categorical UAA go forward with the same original intent, we recommend that all USFS and BLM Wilderness, Roadless Areas, Areas of Critical Environmental Concern, Wilderness Study Areas, Lands with Wilderness Characteristics, Special Recreation Management Areas, and candidate and current Wild and Scenic streams and rivers, and their tributaries, be removed from the scope of the

284 Lincoln Street • Lander, Wyoming 82520-2848 • (800) 710-NOLS • fax: (307) 332-1220 • www.nols.edu



downgrade. These areas are expected by visitors to be pristine in nature, and the waters within them should be held to the highest standard of purity and remain primary contact recreation waters. These public lands are wild places where visitors frequently seek out small streams for relief from the heat, recreation, bathing, and swimming, among other uses. We elaborate on our reasoning for redaction or revision of the Categorical UAA below:

- 1.) **The application of the model is too broad, and the model itself relies on some flawed assumptions.** NOLS recognizes that there are many dry washes and seasonally-dry streams that do not need to be held to primary recreation standards. However, many mountain and foothill streams with six or less cubic feet per second average annual flows have either seasonally-sufficient flows for primary recreation, or they form pools in places where full body immersion is possible and likely. Flows in these streams vary greatly throughout the year, and can fluctuate greatly over days or even hours, and deeper pools can hold water for weeks with no surface flow to replenish them. The ground-truthing done by WDEQ and the Conservation Districts involved in the model development, though well intentioned, did not match the scale of the model nor cover an adequate diversity of mountain, foothill, and wilderness streams. The outdoor recreation community could have assisted with gathering of pertinent data had they been involved, and these challenges could have been addressed in the early stages of the study. There is still opportunity to do so, and we encourage WDEQ to pursue such efforts.

Additionally, the buffer distances assigned to maintain primary recreation standards around public facilities and trailheads are largely irrelevant. We and many others have already made the case that the public will travel many miles through the backcountry, and often even off-trail, to use small streams for primary contact recreation. While additional buffers around established trails would be a step in the right direction, it would still not account for the primary contact recreation of thousands of people in Wyoming's remote wildernesses every summer. These flaws in the study's assumptions suggest that it may be impossible to impose a statewide Categorical UAA. It may be more feasible to conduct smaller, regional-scale Categorical UAAs based on ecological zones and hydrological regimes, and using a refined process with greater public input.

- 2.) **The Categorical UAA unfairly flips the presumption of clean waters for recreation and puts the burden of proof on the public** to show which of the 87,000 downgraded streams should be held to a higher standard. This type of action lacks precedent nationally and is a burdensome task to put on the people of Wyoming. It is our belief that this move goes counter to the purpose and intent of the Clean Water Act. WDEQ's website states, "Since 1973, Wyoming Department of Environmental quality has served as the state's regulatory agency charged with protecting, conserving and enhancing Wyoming's land, air and water for the benefit of current and future generations," and the Wyoming Environmental Quality Act states, "...it is hereby declared to be the policy and purpose of this act to enable the state to prevent, reduce and eliminate pollution; to preserve, and enhance the air, water and reclaim the land of Wyoming...". The Categorical UAA in its current form seems to go counter to these stated purposes. The burden of proof should remain on those who wish to downgrade a stream's recreational



NATIONAL OUTDOOR LEADERSHIP SCHOOL
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contact standard. Lower water quality standards should be the exception, not the rule, in Wyoming's streams.

- 3.) **Public outreach, education, and engagement have been insufficient.** WDEQ may have achieved the minimum public outreach standards defined by Wyoming law, but a rule with such broad impacts should be broadly known and understood by the people of Wyoming before it is implemented. Outreach efforts should include regional public meetings that provide an overview of the impacts and opportunity for public discourse and comment. Municipalities near large wilderness and mountain areas, like Lander, are disproportionately affected by these stream downgrades and should have their own hearings. As we pointed out previously (see Attachment A), US EPA Region 8 wrote in a September 25, 2013 comment letter to WDEQ on the Draft Categorical Use Attainability Analysis for Recreation,

"The EPA is particularly interested in seeing the public feedback on pools within the low flow streams addressed by the UAA that are used for or would support primary contact recreation. Our understanding is that WDEQ proposed primary and secondary use designations based on the best information available to the state, but feedback from people that live near the streams at issue is critical in making the right environmental decision."

In our estimation, it would be unreasonable to expect that sufficient public feedback will be obtained by the conclusion of the September 16 hearing to accurately gauge whether the thousands of pool-forming low flow streams have present or attainable primary contact recreation.

NOLS is likely the largest commercial recreation user of public lands containing streams downgraded by the Categorical UAA. We are proud to teach and practice the highest standards of public land stewardship. NOLS has worked tirelessly to preserve the high quality of lands and waters where we operate, and we implore WDEQ to work with us to maintain these resources to the highest standards and preserve Wyoming's great natural heritage. We respectfully request WDEQ to redact the Categorical UAA, or to remove Wyoming's public wildlands and backcountry areas from its scope.

NOLS welcomes any opportunity to work with WDEQ to refine the Categorical UAA and increase public involvement. We are grateful for your time and careful consideration of these requests, and we look forward to your response.

Sincerely,

Gary Cukjati
NOLS Rocky Mountain Director

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NATIONAL OUTDOOR LEADERSHIP SCHOOL
THE LEADER IN WILDERNESS EDUCATION

**Attachment A: NOLS and Partners August 18, 2015 letter to Director Todd Parfitt re:
WDEQ's Categorical Use Attainability Analysis for Recreation.**

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NATIONAL OUTDOOR LEADERSHIP SCHOOL
THE LEADER IN WILDERNESS EDUCATION



Wyoming Catholic College
Wisdom in God's Country

August 18, 2015

Todd Parfitt
Environmental Quality, Department of
122 West 25th St, Herschler Building
Cheyenne, WY 82002

RE: WDEQ's Categorical Use Attainability Analysis for Recreation

Dear Director Parfitt:

I write this letter on behalf of the National Outdoor Leadership School (NOLS), Sweetwater Fishing Expeditions, Wyoming Catholic College, and the Central Wyoming College Outdoor Education and Leadership Program. We are writing to request the Wyoming Department of Environmental Quality (WDEQ) expand the opportunity for impacted stakeholders to express their views on the Categorical Use Attainability Analysis for Recreation (UAA) and the downgrade of recreational water quality in streams across the state of Wyoming.

As businesses, institutions, and citizens, we are vested stakeholders in the health and purity of Wyoming's streams. The waters of the Wind River Range and the surrounding high plains support both our personal recreation and professional operations. Many of the streams downgraded in the UAA are frequently used by both backcountry recreation enthusiasts and professionals.

While we recognize WDEQ strove to follow the letter of the law regarding public outreach, we feel that additional outreach and opportunity for public comment is necessary. Given the great extent of this study's effect on Wyoming waterways, the likelihood that this categorical, state-wide UAA is the first of its kind in the nation, and the fact that no recreation interests have yet weighed in on the decision, additional public review and participation is warranted.

It is apparent that the outdoor recreation community and the greater body of citizens residing near the downgraded waters were—and most are likely still—entirely unaware of the Categorical UAA and its significance prior to WDEQ's passage of the rule. US EPA Region 8 wrote in a September 25, 2013 comment letter to WDEQ on the Draft Categorical Use Attainability Analysis for Recreation,

*"The EPA is particularly interested in seeing the public feedback on pools within the low flow streams addressed by the UAA that are used for or would support primary contact recreation. Our understanding is that WDEQ proposed primary and secondary use designations based on the best information available to the state, but **feedback from people that live near the streams at issue is critical in making the right environmental decision** (emphasis added)."*

US EPA Region 8 reinforced this point in its letter June 3, 2015 to WDEQ requiring an additional public hearing. EPA reiterated,



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THE LEADER IN WILDERNESS EDUCATION



Wyoming Catholic College
Wisdom in God's Country

"As noted in our prior comment letters, the EPA suggests that during this hearing process WDEQ specifically reach out to recreational user groups. Feedback from people that live near or recreate in such streams regarding existing and potential uses is critical in designating the appropriate recreational use."

We respectfully request WDEQ to:

1. **Host an additional hearing in Lander.** Lander, in the foothills of the Wind River Range, is a prominent access point to the mountains and the home base for many outdoor recreationists, outfitters, and outdoor educational programs and institutions. The public hearing should serve to enhance the regional citizens' understanding of the study and outcomes of the rule, and should provide opportunity for the public to give both written comment and oral testimony. Hearings in local communities provide the opportunity for meaningful conversation and idea-sharing, building constructively beyond simple statements of concern.
2. **Give careful consideration and response to written comments.** We ask that written comments be accepted by post and by email, and that they be given the full weight, evaluation, and response that oral testimony would receive. It is currently unclear from WDEQ's last public UAA notice as to whether emailed comments are being accepted. Written comments allow those who would be unable to attend an in-person hearing to weigh in on the rule, and email is the easiest form of communication for both participants and for the agency's personnel to process. This is especially relevant for outfitters, outdoor camps, environmental educational institutions, and others who operate businesses on public lands and waterways; a group that is disproportionately impacted by the UAA. These entities often schedule their trips and services with clients months out in advance, have limited free time through the summer, and would be unable to attend a public meeting.
3. **Extend the open comment period through September 15th, 2016.** Recent press coverage and the reactions of communities across Wyoming demonstrate that many people are just now hearing about the rule for the first time, and many have yet to learn of it at all. WDEQ stated,

"Documentation provided should be sufficient for WDEQ/WQD to confirm whether primary contact recreation is an existing or attainable use, or not, on a particular stream. Such information may include photographs, flow data, and other information at the level of detail described in the worksheets contained in Appendix C of the Categorical UAA. Modification of a surface water designation established in the Categorical UAA will require the presentation of information sufficient to identify: (1) the location of the stream (e.g., latitude and longitude, object ID provided in the web map, etc.) and (2) the existing and potential recreational activities associated with the stream, given the physical condition of the stream."



NATIONAL OUTDOOR LEADERSHIP SCHOOL
THE LEADER IN WILDERNESS EDUCATION



The time remaining before the September hearing in Casper is insufficient for groups and individuals to adequately review and compose written comments or oral testimony, much less gather the extensive data required to demonstrate primary contact recreation as an attainable use. This one-year extension of the comment period would allow groups to collect data through another summer field season to adequately convey what streams should be held to a primary recreation standard.

We welcome any opportunity to work with WDEQ to enhance public knowledge of, and participation in, the Categorical Use Attainability Analysis. We are grateful for your time and careful consideration of these requests, and look forward to your response.

Sincerely,

Gary Cukjati
Director
NOLS Rocky Mountain
Gary_Cukjati@nols.edu
(307) 332-1417

George Hunker
Owner/Operator
Sweetwater Fishing Expeditions
George@sweetwaterfishing.com
(307) 332-3986

Darran Wells
Associate Professor of Outdoor Education and Leadership
Central Wyoming College
dwells@cwcc.edu
(307) 855-2076

Thomas Zimmer Ph.D
Assistant Professor of Leadership and Outdoor Education
Wyoming Catholic College
tzimmer@wyomingcatholiccollege.edu
(719) 648-1574

Figure B-20. Natrona County Conservation District (1 page)



Natrona County Conservation District

5880 Enterprise Drive, Suite 100 • Casper, Wyoming 82609 • 307-261-5436, ext. 103

September 16, 2015

David Waterstreet
Wyoming Dept. of Environmental Quality
Watershed Section Manager
122 West 25th Street
Herschler Building 4-W
Cheyenne, WY 82002

Dear Mr. Waterstreet:

Natrona County Conservation District is in support of the Categorical UAA for Recreation (August, 2014), which was approved on August 20, 2014.

An incredible amount of research, field work and reconnaissance was conducted by WDEQ as well as the Conservation Districts across the State of Wyoming, and sufficient data was submitted to support the decision to identify primary and secondary contact recreational uses for the waters in Wyoming. Out of the 900 field visits conducted by the Wyoming Conservation Districts, Natrona County Conservation completed 27 field visits and completed surveys for each location, including documenting the visit with photos.

Out of the 27 sites that we visited, only 6 sites even contained water or were damp. An additional 11 sites were dry, but it was evident that during winter run-off or a storm event, there was a possibility of water to flow on the site. Eleven sites that were visited were open fields or prairie lands that didn't seem to have seen a drop of water for many years. All of these locations visited were taken from GPS points that were supposed to be a "primary contact waterbody".

This UAA is not meant at all to "downgrade" waterbodies. It is to designate our state's waterbodies appropriately so that available water funding can be spent on the waterbodies that truly are being utilized as primary contact waters to keep them within the confines of the Clean Water Act.

We encourage the acceptance of the Categorical UAA for Recreation (August, 2014).

Thank you so much for your time.

Sincerely,

Lisa Ogden
District Manager

"Conserving natural resources for our future"

www.nccdwyoming.com

Figure B-21. Niobrara Conservation District (2 pages)



WDEQ/WQD
Attention: David Waterstreet
Herschler Building 4W
122 West 25th St.
Cheyenne, WY 82002

Sept. 3, 2015

RE: Public Hearing for Categorical Use Attainability Analyses for Recreation

The Niobrara Conservation District (NCD) would like to thank the DEQ for the opportunity to comment on the final Categorical UAA for Recreation. We realize there has been a tremendous amount of effort put into the research, ground truthing and preparation of this document. The NCD commends you on the follow through required for EPA approval. This input is in addition to comments submitted during advertised open comment periods on August 27, 2013 and March 5, 2014. As well, the significance of the Categorical UAA to the recreational use designation versus the actual use has been discussed several times over the years at District Board Meetings, which are open to the public.

We would like it to be clear that the NCD completed surveys on 22 sites in Niobrara County. These surveys were completed between August 30, 2010 and September 28, 2010, during the designated recreational season. In the final UAA document there was 100% agreement, within the model, on the recreational use designation of these sites and the completed surveys. Many of these sites were designated as secondary recreational use due to the low flow criteria. The designation of a water body as secondary recreational use does not decrease the existing water quality of these sites. It is simply making a designation based on a set of criteria. We also have sites, based on the model, which will be held to a primary standard due to their proximity to schools, parks and municipalities that do not sustain flow to allow for any type of recreation nor have the access for recreation. However, there is an understanding of the inherent risk due to that proximity.

The NCD understands that the use of mean annual flow to determine recreational use designation is not a perfect system. However, with all streams and draws listed as primary contact, without this Categorical UAA, it would require a tremendous workload on both the DEQ and other entities to complete and process UAAs to properly designate streams for recreational use. The workload would take up valuable manpower, time and money that could be put towards many natural resource concerns. That being said, even once the Categorical UAA is in place there will be streams and stream segments that require a Site Specific UAA for proper recreational designation, either from primary to secondary or secondary to primary. With the final Categorical UAA showing an 80% agreement, over all, with the survey results we would expect that the number of streams requiring a Site Specific UAA for

proper designation would be drastically reduced. This would certainly allow for a better allocation of human and financial resources in the area of natural resource protection.

The Niobrara Conservation District strongly supports the Categorical Use Attainability Analyses for Recreation. The model represents sound science that has been verified and ground truthed on a statistically significant number of sites. There have been numerous opportunities for public input as well as the document and map being on the WYDEQ website for public viewing for almost two years. We would encourage the approval of this UAA based on the amount of work and effort that has gone into the development of the model, the sound science that it is based on and in the interest of proper recreational designation of the waters of Wyoming.

Sincerely,

A handwritten signature in cursive script that reads "Kevin D. Gaukel".

Kevin Gaukel
Chairman
Niobrara Conservation District

CONSERVATION - DEVELOPMENT - SELF-GOVERNMENT

Figure B-22. North Platte Valley Conservation District (1 page)

NORTH PLATTE VALLEY CONSERVATION DISTRICT



1441 EAST M, SUITE B
TORRINGTON, WY 82240
307.532.4880
conservegoshen.com

David Waterstreet, Watershed Section Manager
Wyoming Department of Environmental Quality
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

Mr. Waterstreet,

Thank you for the opportunity to address the Categorical Recreational Use Attainability Analysis proposed and adopted by DEQ which was submitted to EPA in 2014. On behalf of the North Platte Valley Conservation District, I would like to support the Categorical UAA as a defensible and appropriate method for designating recreational uses on Wyoming's surface waters.

The North Platte Valley Conservation District takes the responsibility of water issues very seriously and submitted several site specific UAA's in 2010. Many hours were spent gathering field verification data and the projects were discussed extensively at least three board meetings in 2010. I state this because as a local unit of government, all regular monthly meetings are advertised and open to the public. The public had ample opportunity to be part of this process.

Our District urges adoption and approval of the submitted Categorical UAA. The conservation districts have supplied defensible field verifications and validated the attainable recreational uses identified by the Categorical UAA. We feel our data sufficiently verifies the accuracy of the model supplied to DEQ and defaulting all waters as "primary" would place an unnecessary burden on our local district to validate findings already obtained.

Thank you,


James Sedman, Chair
North Platte Valley Conservation District

SHEEP
CATTLE
HORSES

P. H. LIVESTOCK CO.

Box 937

RAWLINS, WYOMING 82301

NIELS P. HANSEN
PRESIDENT - MANAGER

ANNA K. HELM
SECRETARY - TREASURER

David Waterstreet
Watershed Section Manager
122 West 25th Street
Herschler Building 4-W
Cheyenne, WY 82002

RE: Stream Classification Comments

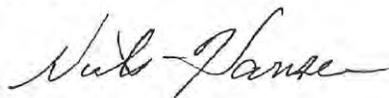
Dear Sir,

My name is Niels Hansen, my family has been ranching in the Rawlins area for well over 100 years. We have been on the same ranch for the last 114 years and I have been managing the family ranch for the past 41 years. Please accept these comments from a longtime Wyoming resident and on who has invested heavily in protecting our land and water resources.

We feel the Model used by DEQ for stream classification is a fair and appropriate approach to classify the streams in Wyoming. Most of Wyoming's streams do not lend themselves to immersion, full body contact, or frequent use by children. When you consider the fact that so many of Wyoming's streams are inaccessible and are low flow and intermittent, any other approach inappropriate.

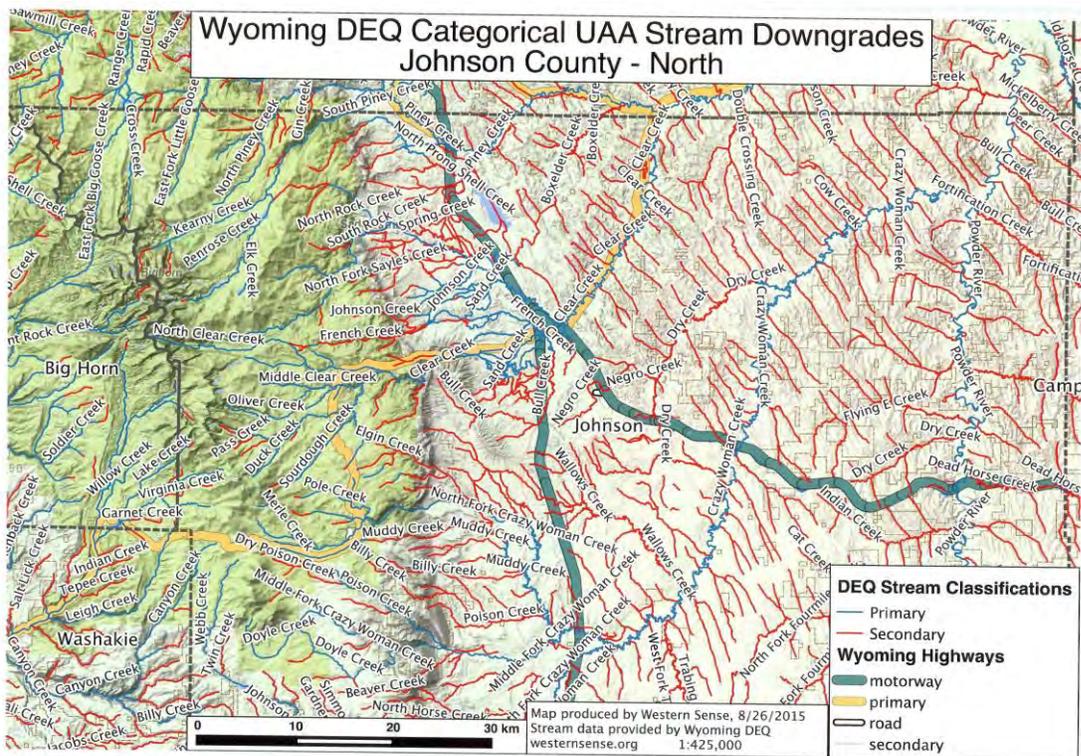
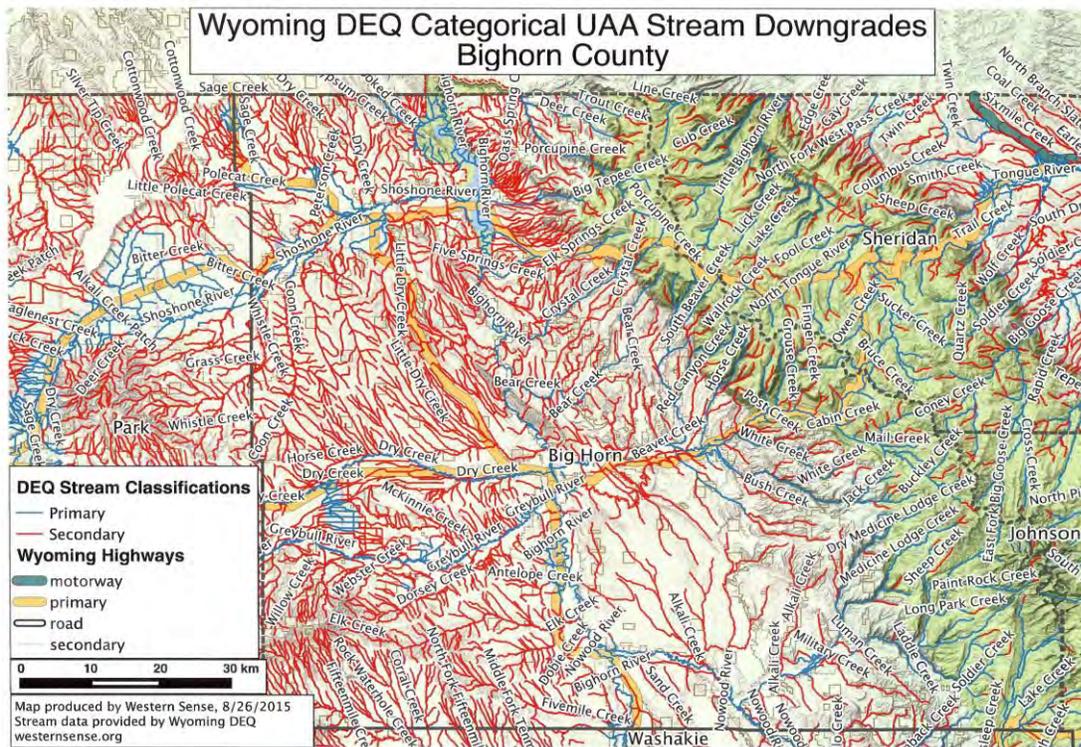
We have been long and strong proponents of using good science when making management decisions rather than allowing political pressure and emotion to dictate decisions. I again urge for the continued use of the DEQ Model.

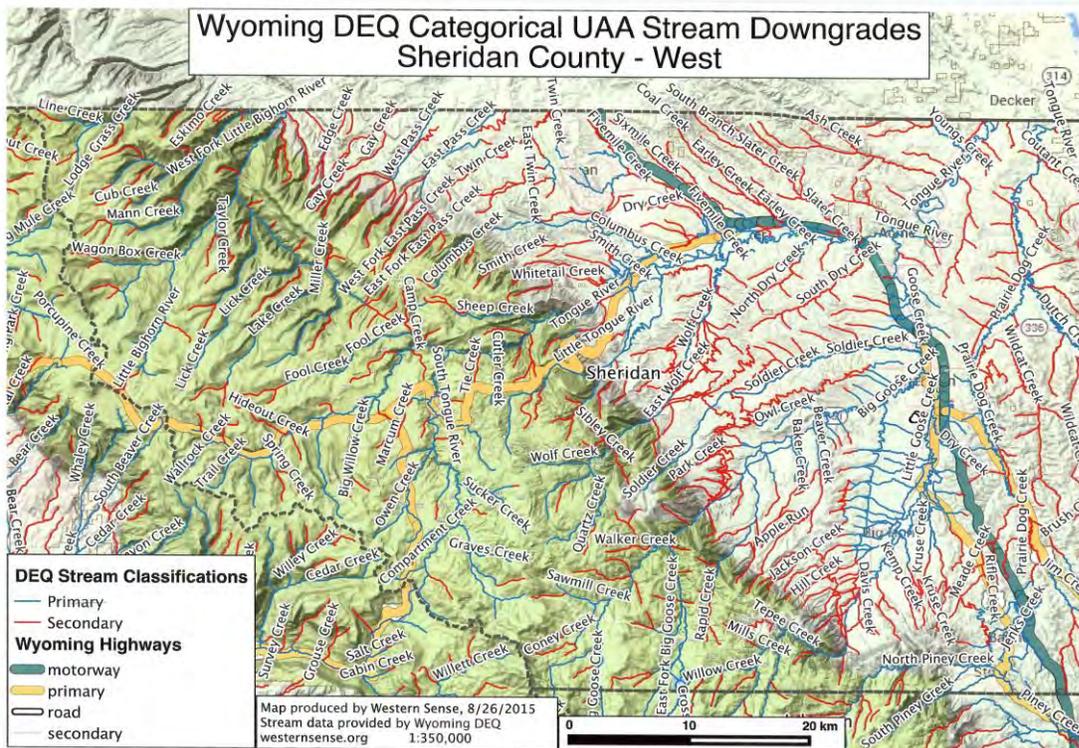
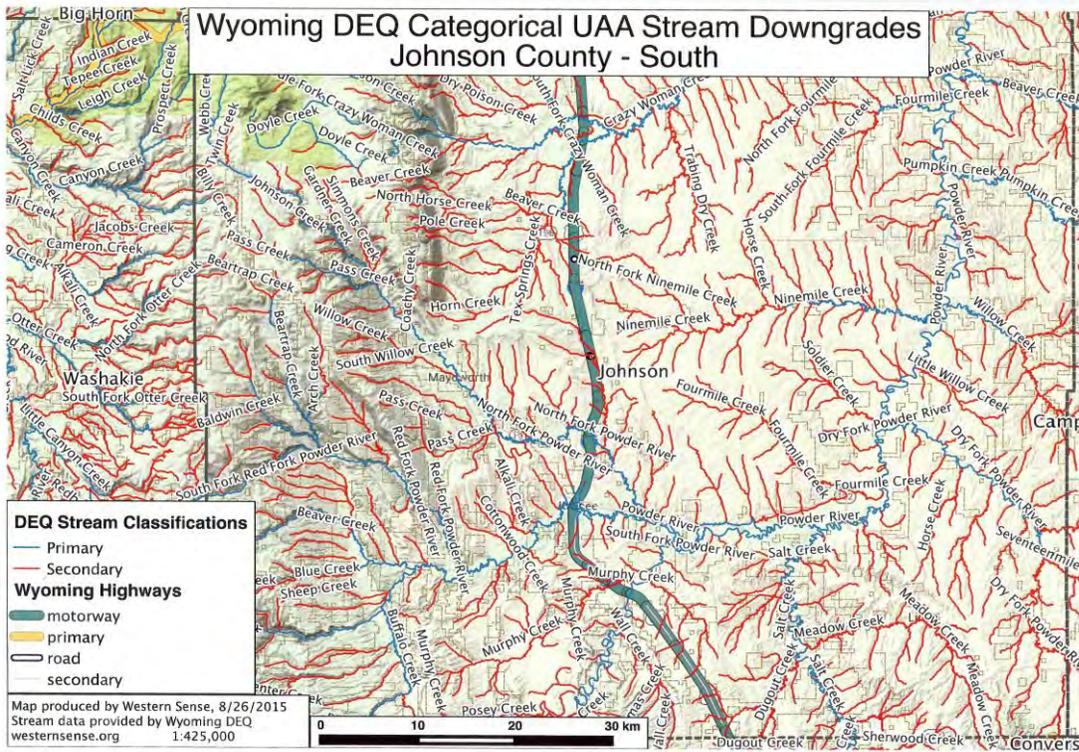
Thank you,



Niels Hansen
President

Figure B-24. Public Land User Committee (5 pages)







Paradise Valley 44 45 34.61 N 107 47 55.09 W WGS84 datum is a pristine swimming hole in the Bighorn Mountains with a rock slide that will cool you down in August, but will flush you over a rock precipice in June. It is NOT a place that forgives mistakes, but locals have enjoyed this remote area for generations, and kept it clean. Across Hwy 14A from Little Bald Mt, Paradise Valley Rock Slide is a cool place for hot days.

Unfortunately, the Wyoming Department of Environmental Quality has decided to increase the amount of E. coli bacteria allowed in small streams (<6 cubic feet / second on average) from a level where dunking your head is refreshing, to a level 5x higher where immersing your head is unhealthy. The usual source of E. coli in Wyoming streams on public lands are cow pies. The Wyoming DEQ caved in to grazing lease wishes for reduced costs by allowing more pollution.

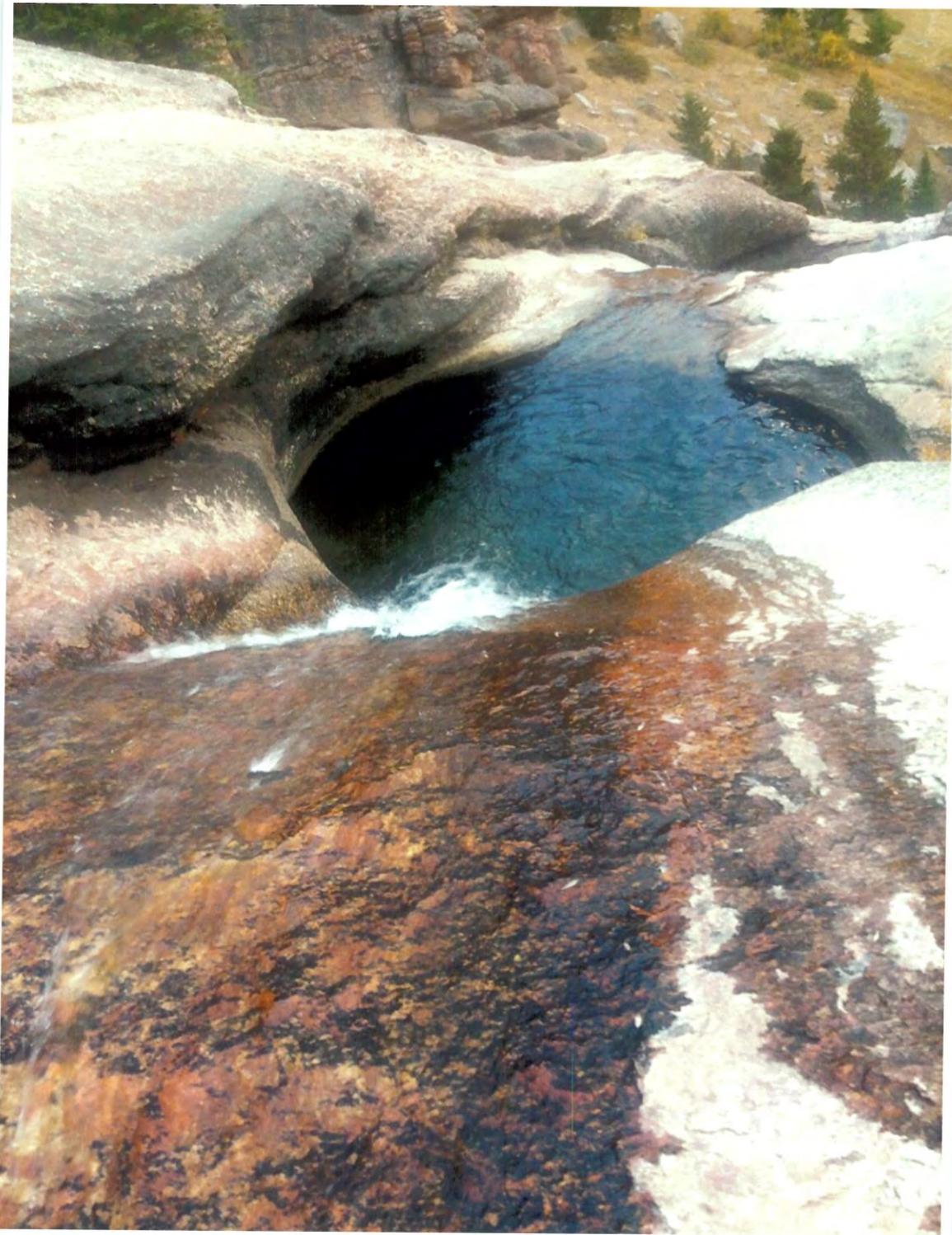
This matters because Wyoming is a fence out state, so if there is no regulation to force ranchers to keep cows out of the streams, cows will poop in streams all summer, and the problem will get worse. The DEQ is holding a hearing in Casper, WY on September 16, 2015. If you would like a hearing in your area please write to David Waterstreet, Watershed Section Manager, Wyoming Department of Environmental Quality, 122 West 25th Street, Herschler Building 4-W, Cheyenne, WY 82002 or by fax at 307-777-5973.



Between the Medicine Wheel & County Line Road off US Highway 14-A in the Bighorn Mountains are many wonderful places. Paradise Valley has waterfalls for viewing, spectacular views of the Bighorn Mountains, and water slides for fun!

Under WY DEQ rule changes, kids dunking their heads in the water will be put at risk for E. coli bacteria exposure that can cause serious health issues.





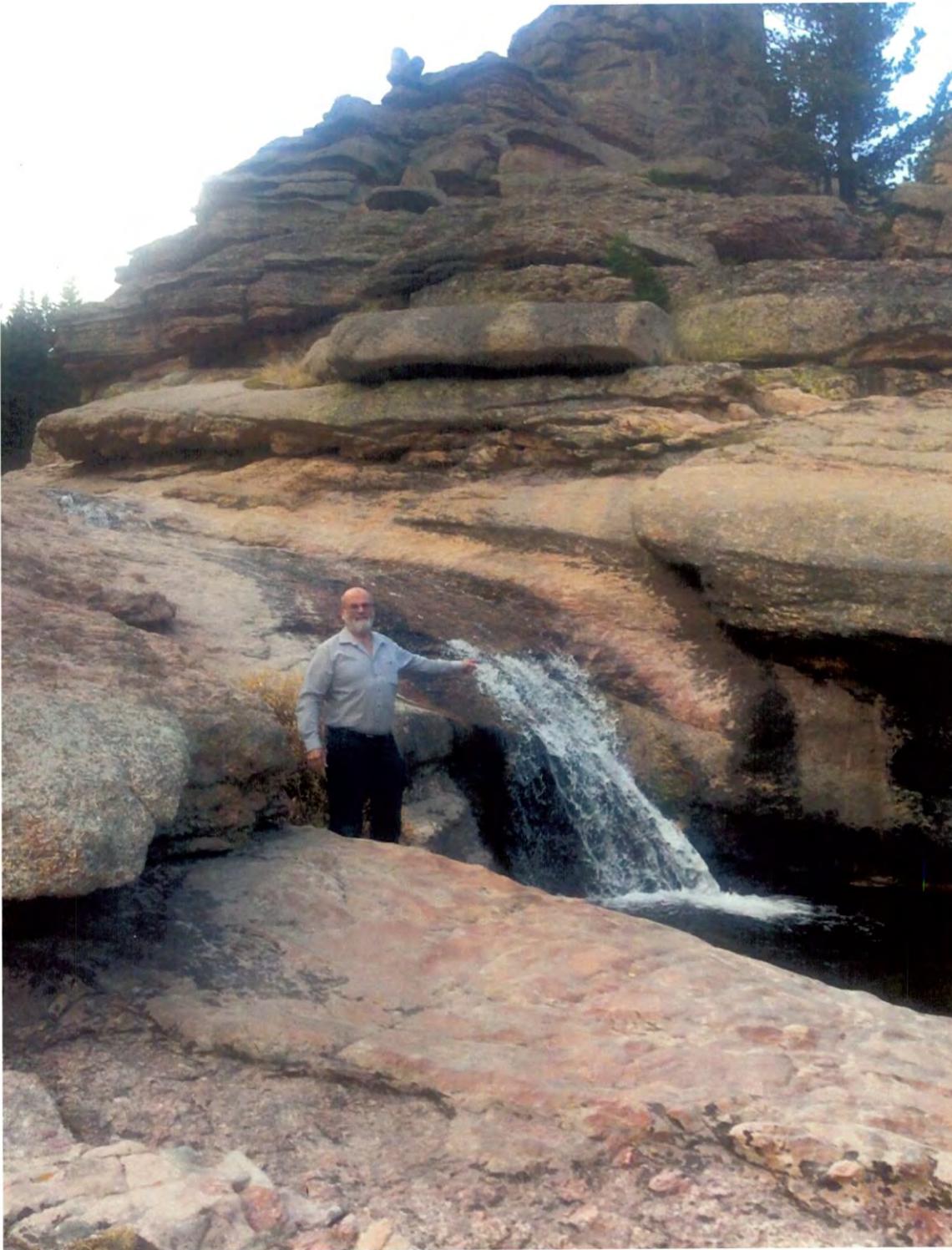


Figure B-25. Rendezvous Sports (1 page)



Dear Wyoming DEQ,

As someone who spends a lot of my life with my head underwater, water quality is very important to me. My entire family enjoys swimming, paddling and recreating in rivers and streams of all sizes throughout the mountains of northwest Wyoming. In addition many of us in Teton County worked tirelessly to win Wild & Scenic Status for the Snake River watershed for its outstanding values – including its amazing water quality. Therefore I am extremely disappointed with your decision to downgrade water quality on small rivers and streams.

As a state at the top of the continent Wyoming must always strive to have the cleanest water in the world. Clean pure mountain water is a legacy that everyone in Wyoming should be proud of. I urge you to please reconsider your hasty decision and insure that mountain streams and rivers in Wyoming have amazing clean water for future generations to enjoy.

Sincerely,

A handwritten signature in black ink, appearing to be "Aaron, Tamsen, Noah, Nate and Neve Pruzan".

Aaron, Tamsen, Noah, Nate and Neve Pruzan

1855 Hard Winter Lane

Wilson, WY 83014

Figure B-26. Residents of Laramie (1 page)

RECEIVED

Kevin Frederick, Administrator
Water Quality Division
Wyoming Department of Environmental Quality
122 W 25th St.
Cheyenne, WY 82001

SEP 15 2015

WATER QUALITY DIVISION
WYOMING

Subject: Request for a public hearing regarding WDEQ's Categorical Use Attainability Analysis for Recreation

Dear Administrator Frederick,

We, the undersigned, are individuals who live in or around Laramie, Wyoming. We recently learned about the WDEQ's notice announcing that a public hearing will be held Wednesday, September 16 in Casper, WY to allow citizens an opportunity to provide input regarding low-flow streams, which support primary contact recreation. While we are eager to participate, many of us are employed full-time and it is unreasonable, both from a time and personal standpoint, for us to attend a meeting held at a location two-and-a-half hours away on a weeknight. We write to request that an additional hearing be held in Laramie in order to provide a more reasonable opportunity for participating in this public process.

We are grateful for your time and consideration.

Sincerely,


Kit Friedman

Emilene Ostlund
Emilene Ostlund

Melanie Matthews
Melanie Matthews

Nyla Hurley

Nancy K. Reed
SHEALYN ARNDT
Jheaghe

Austin Woody
Austin Woody


Teddi Hofmann

Jenna Carlson
Jasen Carroll
Bullock

Simone Buiers
Alou Anderson
Taylor Kay
Kayla Mallick
Samantha Case
Courtney B. Carlson
COURTNEY B. CARLSON

Figure B-27. Residents of Park County (8 pages)

PETITION FOR A PUBLIC HEARING REGARDING DEQ'S CATEGORICAL USE ATTAINABILITY ANALYSIS FOR RECREATION

Submitted by concerned businesses and citizens of Park County to:

**Mr. Kevin Frederick, Administrator,
Department of Environmental Quality/ Water Quality Division**

We, the undersigned businesses and residents of Park County, Wyoming, submit this request for a hearing in Cody, Wyoming, to accept public comment on the DEQ's August 20, 2014, decision to downgrade water quality standards for recreation on over 75% of the state's small streams, approximately 87,775 stream miles. The agency's decision allows concentrations of harmful E.coli bacteria to increase 5 times the level that is declared safe by EPA for swimming and other "primary contact recreation" uses, such as bathing, kayaking and tubing.

The DEQ has scheduled a public hearing in Casper on September 16th to accept public comment on that decision. Although we applaud the DEQ's decision to hold a hearing in Casper, the time and expense of traveling to Casper for many Park County residents makes it difficult to participate in this process.

Many of the downgraded streams are located in areas used by local residents and visitors alike, including public lands managed by the Shoshone National Forest and the Bureau of Land Management. We have not had sufficient time or opportunity to review or comment on the decision, and therefore request the opportunity to do so.

KENNY GASCH
Name (please print above)

Kenny Gasch
Signature (above)

JACKSON HOLE MTN GUIDES
Business or Affiliation (if any, list above)

Mailing Address:

2101 GAIL LANE
CODY, WY. 82414

Melissa Allen
Name (please print above)

Melissa Allen
Signature (above)

Sunlight Sports
Business or Affiliation (if any, list above)

Mailing Address:

1131 Sheridan Ave.
Cody, WY 82414

PETITION FOR A PUBLIC HEARING REGARDING DEQ'S CATEGORICAL USE ATTAINABILITY ANALYSIS FOR RECREATION

Patrick Bealey
Name (please print above)

Patrick Bealey
Signature (above)

Bealey Law, P.C.
Business or Affiliation (if any, list above)

Mailing Address: 104 Cooper Lane
Cody, WY 82414

BRUCE LARSEN
Name (please print above)

B. Larsen
Signature (above)

BISON SKIS
Business or Affiliation (if any, list above)

Mailing Address: 1632 20th St
Cody WY 82414

Christina Rammeister
Name (please print above)

CR
Signature (above)

Sunlight Sports
Business or Affiliation (if any, list above)

Mailing Address: 519 18th St.
Cody, WY 82414

Zayne Hebbler
Name (please print above)

Zayne Hebbler
Signature (above)

Sunlight Sports
Business or Affiliation (if any, list above)

Mailing Address: 4912 Powell highway
Cody, WY 82414

Kristina Beatty
Name (please print above)

Kristina Beatty
Signature (above)

Sunlight Sports
Business or Affiliation (if any, list above)

Mailing Address: 4144 Cooper Lane
Cody WY 82414

Lacy Ebersberger
Name (please print above)

Lacy Ebersberger
Signature (above)

Sunlight Sports
Business or Affiliation (if any, list above)

Mailing Address: 101 W. Baldridge Dr.
Powell, WY 82435

PETITION FOR A PUBLIC HEARING REGARDING DEQ'S CATEGORICAL USE ATTAINABILITY ANALYSIS FOR RECREATION

Randy Charles
Name (please print above)

[Signature]
Signature (above)

NWC College
Business or Affiliation (if any, list above)

Mailing Address:
225 F St
Cody, WY 82414

SHEILA CHARLES
Name (please print above)

[Signature]
Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:
225 F St.
Cody WY 82414

YVETTE WHITAKER
Name (please print above)

[Signature]
Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:
200 RIDGE VIEW TRL
CODY, WY 82414

Aggie Kelley
Name (please print above)

[Signature]
Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:
55 Skull Horse Road
Cody, WY 82414

Emily Reed
Name (please print above)

[Signature]
Signature (above)

Concerned Citizen
Business or Affiliation (if any, list above)

Mailing Address:
1275 E 1000 N Apt 303
Logan, UT 84301

[Signature]
Name (please print above)

[Signature]
Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:
801 13th
Cody

PETITION FOR A PUBLIC HEARING REGARDING DEQ'S CATEGORICAL
USE ATTAINABILITY ANALYSIS FOR RECREATION

Alta Clark
Name (please print above)
[Signature]
Signature (above)
Sunlight Sports
Business or Affiliation (if any, list above)

Mailing Address:

501 18th St.
Cody WY 82414

Erin Henderson
Name (please print above)

[Signature]
Signature (above)

Sunlight Sports
Business or Affiliation (if any, list above)

Mailing Address:

190 South Crugwater Dr.
Cody, WY 82414

Name (please print above)

Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:

David Herrich
Name (please print above)

[Signature]
Signature (above)

Sunlight Sports
Business or Affiliation (if any, list above)

Mailing Address:

4343 North Fork Hwy
Cody, WY 82414

Name (please print above)

Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:

Name (please print above)

Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:

PETITION FOR A PUBLIC HEARING REGARDING DEQ'S CATEGORICAL USE ATTAINABILITY ANALYSIS FOR RECREATION

Matt Betke
Name (please print above)

[Signature]
Signature (above)

North Fork Anglers
Business or Affiliation (if any, list above)

Mailing Address:
1107 Sheridan Ave.
Cody, WY 82414

Steve Rickert
Name (please print above)

[Signature]
Signature (above)

North Fork Anglers
Business or Affiliation (if any, list above)

Mailing Address:

← same

Ryan Wallace
Name (please print above)

[Signature]
Signature (above)

North Fork Anglers
Business or Affiliation (if any, list above)

Mailing Address:
1107 Sheridan ave
Cody, WY 82414

Name (please print above)

Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:

Mike Arnold
Name (please print above)

[Signature]
Signature (above)

North Fork Anglers
Business or Affiliation (if any, list above)

Mailing Address:
1107 Sheridan Ave
Cody WY 82414

Name (please print above)

Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:

PETITION FOR A PUBLIC HEARING REGARDING DEQ'S CATEGORICAL USE ATTAINABILITY ANALYSIS FOR RECREATION

Submitted by concerned businesses and citizens of Park County to:

**Mr. Kevin Frederick, Administrator,
Department of Environmental Quality/ Water Quality Division**

We, the undersigned businesses and residents of Park County, Wyoming, submit this request for a hearing in Cody, Wyoming, to accept public comment on the DEQ's August 20, 2014, decision to downgrade water quality standards for recreation on over 75% of the state's small streams, approximately 87,775 stream miles. The agency's decision allows concentrations of harmful E.coli bacteria to increase 5 times the level that is declared safe by EPA for swimming and other "primary contact recreation" uses, such as bathing, kayaking and tubing.

The DEQ has scheduled a public hearing in Casper on September 16th to accept public comment on that decision. Although we applaud the DEQ's decision to hold a hearing in Casper, the time and expense of traveling to Casper for many Park County residents makes it difficult to participate in this process.

Many of the downgraded streams are located in areas used by local residents and visitors alike, including public lands managed by the Shoshone National Forest and the Bureau of Land Management. We have not had sufficient time or opportunity to review or comment on the decision, and therefore request the opportunity to do so.

Billie-Nicole Boenm
Name (please print above)

Billie-Nicole Boenm
Signature (above)

Busy Bee Cleanings, LLC
Business or Affiliation (if any, list above)

Mailing Address:

910 Southfork Rd.
Cody, WY 82414

Willow Nott
Name (please print above)

Willow Nott
Signature (above)

River Rafting Guide
Business or Affiliation (if any, list above)

Mailing Address:

PETITION FOR A PUBLIC HEARING REGARDING DEQ'S CATEGORICAL
USE ATTAINABILITY ANALYSIS FOR RECREATION

Scott Stingley
Name (please print above)

Scott Stingley
Signature (above)

Business or Affiliation (if any, list above)

Mailing Address: 910 South Fork Rd
Cody WY 82414

Robin McClure
Name (please print above)

Robin McClure
Signature (above)

Business or Affiliation (if any, list above)

Mailing Address: 177 Blackburn St
Cody, WY 82414

John F. McClure
Name (please print above)

John F. McClure
Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:
177 Blackburn St.
Cody, 82414

Bruce Ostermann
Name (please print above)

Bruce Ostermann
Signature (above)

Business or Affiliation (if any, list above)

Mailing Address: 1604 Howell Ave.
Worland, WY
82401

Andrew Quick
Name (please print above)

Andrew Quick
Signature (above)

Gradient Mountain Sports
Business or Affiliation (if any, list above)

Mailing Address:
1390 Sheridan Ave
Cody WY 82414

Name (please print above)

Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:

PETITION FOR A PUBLIC HEARING REGARDING DEQ'S CATEGORICAL USE ATTAINABILITY ANALYSIS FOR RECREATION

Submitted by concerned businesses and citizens of Park County to:

**Mr. Kevin Frederick, Administrator,
Department of Environmental Quality/ Water Quality Division**

We, the undersigned businesses and residents of Park County, Wyoming, submit this request for a hearing in Cody, Wyoming, to accept public comment on the DEQ's August 20, 2014, decision to downgrade water quality standards for recreation on over 75% of the state's small streams, approximately 87,775 stream miles. The agency's decision allows concentrations of harmful E.coli bacteria to increase 5 times the level that is declared safe by EPA for swimming and other "primary contact recreation" uses, such as bathing, kayaking and tubing.

The DEQ has scheduled a public hearing in Casper on September 16th to accept public comment on that decision. Although we applaud the DEQ's decision to hold a hearing in Casper, the time and expense of traveling to Casper for many Park County residents makes it difficult to participate in this process.

Many of the downgraded streams are located in areas used by local residents and visitors alike, including public lands managed by the Shoshone National Forest and the Bureau of Land Management. We have not had sufficient time or opportunity to review or comment on the decision, and therefore request the opportunity to do so.

Tim Wade
Name (please print above)

[Signature]
Signature (above)

North Fork Anglers
Business or Affiliation (if any, list above)

Mailing Address:
1107 Sheridan Ave
Cody WY 82414

Name (please print above)

Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:

Figure B-28. Residents of Teton County (10 pages)

RECEIVED

PETITION FOR A PUBLIC HEARING REGARDING DEQ'S CATEGORICAL RECLASSIFICATION OF STREAMS USED FOR RECREATION

AUG 24 2015

Submitted by concerned businesses and residents of Teton County to:

Mr. Kevin Frederick, Administrator, Department of Environmental Quality/Water Quality Division

WATER QUALITY DIVISION WYOMING

We, the undersigned businesses and residents of Teton County, Wyoming, submit this request for a public hearing in Jackson, WY, to accept public comment on the DEQ's August 20, 2014, decision to downgrade water quality standards for recreation on over three-quarters (76.1%) of the State's small streams, encompassing approximately 87,775 stream miles. The agency's decision allows concentrations of harmful E.coli bacteria to increase 5 times the level that is declared safe by EPA for swimming and other "primary contact recreation" uses, such as bathing, kayaking and tubing.

The DEQ has scheduled a single public hearing in Casper on September 16th to accept public comment on the decision. Although we appreciate the DEQ's decision to hold a public hearing in Casper, the time, inconvenience and expense of traveling to Casper for many Teton County residents makes it difficult to participate in this process.

Many of the downgraded streams are located in areas used by local residents and visitors alike, including Congressionally-designated Wilderness Areas managed by the U.S. Forest Service. We have not had sufficient time or opportunity to review or comment on the decision, or to understand its implications and therefore request the opportunity to do so.

Mail or fax completed petition to: Kevin Frederick, DEQ Water Quality Administrator 122 West 25th St., Cheyenne, WY 82002 FAX TO: (307) 777-5973

Andrew Carson Name (please print above)

Daniel Carson Name (please print above)

Andrew Carson Signature (sign above)

Daniel Carson Signature (sign above)

Cony Corp. Business or Affiliation (list above, if any)

[Redacted] Business or Affiliation (list above, if any)

Mailing Address: Box 201 Wilson, WY 83014

Mailing Address: PO Box 164 Wilson, WY 83014

PETITION FOR A PUBLIC HEARING REGARDING DEQ'S CATEGORICAL RECLASSIFICATION OF STREAMS USED FOR RECREATION

Charlie Thomas
Name (please print above)

Charlie Thomas
Signature (above)

Maggie Furniture
Business or Affiliation (if any, list above)

Mailing Address:

STEVE CUNLAN
Name (please print above)

[Signature]
Signature (above)

JAWIG
Business or Affiliation (if any, list above)

Mailing Address:
800 WENZEL LANE
WILSON, WYO. 83014

Tim Young
Name (please print above)

[Signature]
Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:
Box 153 Wilson, WY 83014

Stephanie Sweet
Name (please print above)

Stephanie Sweet
Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:
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Wilson, WY 83014

Nancy Wise Carson
Name (please print above)

Nancy Carson
Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:
P.O. Box 709
Wilson WY 83014

Amanda Moyer
Name (please print above)

[Signature]
Signature (above)

CWC
Business or Affiliation (if any, list above)

Mailing Address:
PO Box 164
Wilson, WY 83014

PETITION FOR A PUBLIC HEARING REGARDING DEQ'S CATEGORICAL
RECLASSIFICATION OF STREAMS USED FOR RECREATION

Mark DeOrsay
Name (please print above)

[Signature]
Signature (above)

Business or Affiliation (if any, list above)

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Jackson, WY 83002

Sawyer Thomas
Name (please print above)

[Signature]
Signature (above)

Business or Affiliation (if any, list above)

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Wilson WY 83014

Mary Lee White
Name (please print above)

[Signature]
Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:
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Wilson WY 83014

Joe Morin
Name (please print above)

[Signature]
Signature (above)

Teton Scenic Floats & Fly Fishing Inc
Business or Affiliation (if any, list above)

Mailing Address: PO Box 3854
Jackson, WY 83001

Anika Youcha
Name (please print above)

[Signature]
Signature (above)

Business or Affiliation (if any, list above)

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Jackson WY
83001

TRAVIS LUSTFIELD
Name (please print above)

[Signature]
Signature (above)

LUSTFIELD CONST.
Business or Affiliation (if any, list above)

Mailing Address:

PETITION FOR A PUBLIC HEARING REGARDING DEQ'S CATEGORICAL
RECLASSIFICATION OF STREAMS USED FOR RECREATION

CONRAD DORNAN
Name (please print above)

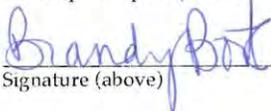

Signature (above)

Scerads
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US PO Box 22
Moose WY
83012

Brandy Borts
Name (please print above)


Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:

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Andrea Dillon
Name (please print above)


Signature (above)

Business or Affiliation (if any, list above)

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Ben Morley
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Signature (above)

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Jackson, WY 83002

Joe Knabe
Name (please print above)

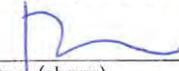

Signature (above)

Business or Affiliation (if any, list above)

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Rebecca Katz
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JACKSON, WY 83002

PETITION FOR A PUBLIC HEARING REGARDING DEQ'S CATEGORICAL
RECLASSIFICATION OF STREAMS USED FOR RECREATION

Jim Roscoe
Name (please print above)

Jim Roscoe
Signature (above)

ROSCOE COMPANY
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Box 1789
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Jeanne M. Roney
Name (please print above)

JM Roney
Signature (above)

SGSD #1
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3 E. Green River Rd
Pinedale 82941

Chani Buchner-Linke
Name (please print above)

Chani Linke
Signature (above)

Business or Affiliation (if any, list above)

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PO Box 1022
Jackson, WY 83001

LOCELYN S WASSON
Name (please print above)

Locelyn S Wasson
Signature (above)

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83014

JOHN WASSON
Name (please print above)

John Wasson
Signature (above)

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WILSON WY 83014

Kim Schmitz
Name (please print above)

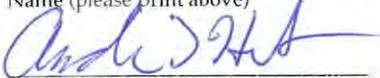
Kim Schmitz
Signature (above)

AMGA guide
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Mailing Address:

Box 2452
Jackson Wyo
83001

PETITION FOR A PUBLIC HEARING REGARDING DEQ'S CATEGORICAL
RECLASSIFICATION OF STREAMS USED FOR RECREATION

Andrew J. Huta
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Signature (above)

Business or Affiliation (if any, list above)

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Jackson WY 83001

Name (please print above)

Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:

Name (please print above)

Signature (above)

Business or Affiliation (if any, list above)

Mailing Address:

Name (please print above)

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Business or Affiliation (if any, list above)

Mailing Address:

Name (please print above)

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Business or Affiliation (if any, list above)

Mailing Address:

Name (please print above)

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Business or Affiliation (if any, list above)

Mailing Address:

PETITION FOR A PUBLIC HEARING REGARDING DEQ'S CATEGORICAL RECLASSIFICATION OF STREAMS USED FOR RECREATION

Ronnie Turpin
 Name (please print above)

[Signature]
 Signature (above)

Turpin Gallery
 Business or Affiliation (if any, list above)

Mailing Address:

Brian Warren
 Name (please print above)

[Signature]
 Signature (above)

Jackson Hole Mountain Guides
 Business or Affiliation (if any, list above)

Mailing Address:

Patrick Peterson
 Name (please print above)

[Signature]
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Alexander Murausen
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Philip H. Jones
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[Signature]
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Elizabeth Alva Rose
 Name (please print above)

[Signature]
 Signature (above)

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POB 3941
Jackson, WY 83001

PETITION FOR A PUBLIC HEARING REGARDING DEQ'S CATEGORICAL RECLASSIFICATION OF STREAMS USED FOR RECREATION

Tom Harris
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Tom Harris
Signature (above)
EXON Mtn. GUIDES
Business or Affiliation (if any, list above)

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83002

Jackson Buscher
Name (please print above)
Jackson Buscher
Signature (above)
Jackson Hole Mtn. Guide
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Amee Barnes
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Amee Barnes
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Wilson

Rob Hess
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Rob Hess
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Jackson, WY. 83002

Alexis Dittmer
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Alexis Dittmer
Signature (above)
~~Business or Affiliation (if any, list above)~~

Mailing Address:

Brian PraX
Name (please print above)
Brian PraX
Signature (above)
NA
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PO Box 3185
JH, WY 83001

PETITION FOR A PUBLIC HEARING REGARDING DEQ'S CATEGORICAL RECLASSIFICATION OF STREAMS USED FOR RECREATION

Christine Lichtenfels
Name (please print above)

Name (please print above)

[Signature]
Signature (above)

Signature (above)

Business or Affiliation (if any, list above)

Business or Affiliation (if any, list above)

Mailing Address:
PO Box 10324
Jackson WY 83002

Mailing Address:

NAT PATRIDGE
Name (please print above)

Name (please print above)

[Signature]
Signature (above)

Signature (above)

EXUM
Business or Affiliation (if any, list above)

Business or Affiliation (if any, list above)

Mailing Address:
POB 8903
83002

Mailing Address:

Name (please print above)

Name (please print above)

Signature (above)

Signature (above)

Business or Affiliation (if any, list above)

Business or Affiliation (if any, list above)

Mailing Address:

Mailing Address:

Figure B-29. Saratoga-Encampment-Rawlins Conservation District (3 pages)



SARATOGA-ENCAMPMENT-RAWLINS CONSERVATION DISTRICT

101 Cypress Avenue, P.O. Box 633, Saratoga, WY 82331

Phone: 307-326-8156, FAX: 307-326-8572 www.SERCD.ORG

September 16, 2015

David Waterstreet, Watershed Section Manager
Wyoming Department of Environmental Quality
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

RE: Categorical Use Attainability Analysis for Recreation, Public Notice July 23, 2015

Dear Mr. Waterstreet,

The Saratoga-Encampment-Rawlins Conservation District (SER CD) appreciates the opportunity to provide additional comments pertaining to the above referenced Categorical Use Attainability Analysis (UAA) for Recreation for the public hearing record as outlined in the public notice on July 23, 2014. These written comments supplement oral testimony and previous comments submitted by SER CD in response to public notices and solicitation for input and comment issued by the Department.

SER CD's Authorities

SER CD is authorized by Wyo. Stat. §§ 11-16-101 et. seq., with the statutory responsibility to implement soil and water conservation projects and programs, including but not limited to flood prevention, the conservation, development, utilization and disposal of water within the district. Our comments are specific to our mission: *develop and direct programs to promote long-term conservation and enhancement of our natural resources while contributing to the economic stability of the district and its residents.*

The SER CD Board of Directors are elected by District constituents on the general election ballot by all voters within our district bounds. The Board members and SER CD staff are committed to the protection of water quality as we all live, work, and recreate in the District. The SER CD has dedicated itself to the people, water, land, and all natural resources of Carbon County. Agriculture and tourism are vital to our District and its residents. Both are dependent on the water quality of surface waters. SER CD has and continues to be proactive in its concern for the water quality of the District. It has invested considerable financial resources into water quality

work, have intricate knowledge and expertise of local watershed conditions, and work extensively with landowners and our local communities to implement Best Management Practices (BMPs) aimed toward enhancing and improving water quality.

Support for Categorical Use Attainability Analysis for Recreation

SER CD strongly supports the Categorical Recreational UAA proposed and adopted by the Wyoming Department of Environmental Quality (WDEQ) and submitted to the Environmental Protection Agency (EPA) on December 1, 2014.

The Categorical UAA is a method for designating recreational uses on Wyoming's surface waters. We firmly believe that using this method will not compromise water quality protection in our District. The model is not reducing the responsibility of anyone to perform BMPs to protect Wyoming's surface waters.

SER CD was directly involved in assisting the WDEQ in ensuring that the Categorical UAA for contact recreation use designations is a scientifically defensible and accurate approach to addressing the accurate designation of primary and secondary contact recreation uses on Wyoming's waters. It is our priority that those waters capable of supporting primary recreation uses are accurately designated to ensure that human health is protected.

SER CD staff assisted WDEQ in 2010 in validating the UAA model with field verifications at thirteen sites in Carbon County within SER CD boundaries. In June of 2010, WDEQ provided many Conservation Districts in Wyoming detailed verification protocols and computer generated, randomly selected site locations to ground truth for WDEQ UAA model verification. More specifically, the WDEQ addressed EPA's 2010 concerns by including questions answered by the land managers or landowners as a part of the field verification protocol. Questions were asked of the land manager representative or the private landowner and signatures obtained at each of the field verification sites which accompanied the Categorical UAA checklist information.

All work conducted at these sites was in the best interest of the people of the county and its resources. GPS coordinates were provided for all verified locations for accuracy and to enable others to visit the exact area of the site visited by the districts.

Of the thirteen sites verified within SER CD during the summer and early fall of 2010, 77% of the sites were appropriately identified as secondary contact recreation per the Categorical UAA. One additional site was identified as secondary contact recreation in SER CD's ground truthing work but WDEQ left it as primary with flow of more than 6 cfs. Utilizing the Categorical UAA will optimize the number of appropriately designated streams as primary or secondary and save the district significant time and money in conducting site-specific recreational use UAAs. The Categorical UAA allows SER and other districts to focus our attention on the waters that can actually support primary contact recreation. Another added benefit of this model is that it

classifies waters as primary contact recreation that are close to towns, schools, and recreation areas even though they may exhibit flows well below 6 cfs.

With all the ground-truthing work conducted to strengthen the model, we are confident the WDEQ Categorical UAA is scientifically based and defensible. We understand some streams may need recreational designation adjustments. The ability to submit a site specific recreational UAA for submission to WDEQ to change a designation is still available under this proposal. This allows for those instances where someone may have failed to participate in the numerous public input processes and feel the Categorical UAA failed to identify recreational uses, to submit site specific information to WDEQ to address those waters.

We believe the WDEQ Categorical Recreational UAA public input process was adequate and appreciate the multiple opportunities to provide input. WDEQ provided ample opportunity for public involvement and comments. The public comment process for this effort was extensive, spanning three to four years, and made available to any interested party. SER CD monthly, public Board meetings are advertised and we discussed this topic numerous times throughout the WDEQ Categorical Recreational UAA development process.

We look forward to EPA's approval of Wyoming's Categorical Use Attainability Analysis for Contact Recreational use designations as submitted by Wyoming Department of Environmental Quality and to continuing focused water quality work where recreational use is attainable to protect citizens who recreate in the waters of our District.

Sincerely,



Jack Berger
Chairman

JB/lc

Cc: The Honorable Matt Mead, Governor State of Wyoming
Todd Parfitt, Director, Wyoming DEQ
Doug Miyamoto, Director, Wyoming Department of Agriculture

Figure B-30. Sierra Club Wyoming Chapter (4 pages)



P.O. Box 1736 * Laramie WY 82073 * 307-742-0056

September 16, 2015

Mr. David Waterstreet
Wyoming Department of Environmental Quality
122 W. 25th St., Herschler Bldg 4W
Cheyenne, WY 82002

Dear Mr. Waterstreet:

I submit these comments today on behalf of Sierra Club Wyoming Chapter's several thousand members and supporters throughout Wyoming, in response to the Department of Environmental Quality's proposed rule to reclassify many thousands of miles of Wyoming streams from suitable for primary recreational contact to secondary recreational contact.

Our members and supporters have several concerns with the proposed changes in stream classification. We'd like to highlight these, and ask that the Department take steps to remedy the shortcomings in the current proposal.

One big concern relates to the failure of the Department to communicate with the citizens of Wyoming about this proposed change. Many people knew nothing about this proposed change until very recently, and they do not believe the Department has provided them with a reasonable opportunity to be involved in the decision. We therefore request that the Department give the public more time to learn about these proposed changes and more time to express their opinions and to share their knowledge about specific streams to the Department. We request that the Department hold additional public hearings on the proposed changes in communities throughout Wyoming, with clear maps and descriptions of the affected streams, so that everyone can understand what is being proposed and can share their personal knowledge of how these streams are used.

A second significant concern relates to the broad assumptions made by the Department in identifying which streams to reclassify. While we understand the desire to identify streams with so little water that recreational uses like swimming, floating, playing, and cooling off could not take place, this proposal is based on assumptions that cause many miles of streams to be incorrectly reclassified.

People in Wyoming are outdoorsy folks, often walk miles from developed recreation areas and trailheads, and often play in streams while out and about on the landscape. On a hot summer day, it's quite common for hikers to refresh themselves in the cool water of

streams, large and small. Assuming that people don't use smaller streams is simply not true.

Using average annual flows to classify stream size completely obscures seasonal fluctuations in stream flow. Higher flows during spring and summer runoff correspond closely with times of high recreational use. Stream size classification should be based on seasonal flow data, not average annual flow data, and a minimum flow of 6 cfs is too high. Streams with 6 cfs frequently have nice wading and dipping pools, and should not arbitrarily be downgraded.

Streams in designated wilderness areas, wilderness study areas, ~~and riparian~~^{CU}, and other remote backcountry areas should not be reclassified. Water quality in these areas should be maintained at the highest level.

The Department's request that citizens identify specific streams for reevaluation by legal description is problematic, and we hope the Department will be willing to take a step back and respond to the underlying problems with this entire approach. Most people don't have the ability to identify every stream reach that this proposal would incorrectly reclassify as unable to support recreational uses. With that in mind, we note the following areas of special concern:

- The Snowy Range: very heavily used for recreation, including small streams proposed for reclassification too numerous to list.
- Medicine Bow National Forest: very heavily used for recreation, including (but not limited to) Brush Creek, Lodgepole Creek and Crow Creek tributaries
- Teton County: very heavily used for recreation, including (but not limited to) Gros Ventre River tributaries and Palisades area streams
- Wind River Range: very heavily used for recreation, all streams

The Department has a good opportunity to refine this proposal and dramatically improve it. While today's public hearing is a good first step, we very much hope you will continue to listen to the people of Wyoming who are deeply concerned about this proposal. Please take the time you need to refine this proposal, and please allow the people who use our public lands and streams to fully participate in the process.

Thank you.



Connie Wilbert
Associate Organizer
Sierra Club Wyoming Chapter



**SIERRA
CLUB**
Wyoming
Chapter

RECEIVED

AUG 17 2015

WATER QUALITY DIVISION
WYOMING

August 11, 2015

Kevin Frederick, Administrator

Water Quality Division, Department of Environmental Quality

Herschler Building, 122 West 25th St. Cheyenne, WY 82002

Re: Request for Public Hearing on the DEQ's Categorical Use Attainability Analysis for Recreation

Dear Mr. Frederick,

On behalf of the Sierra Club Wyoming Chapter, I would like to request that a public hearing be held in Jackson, Wyoming, to accept public comment on the DEQ's Categorical Use Attainability Analysis for Recreation.

Established in 1892, the mission of the Sierra Club is to explore, enjoy and protect our planet. A downgrade of any water quality standard, let alone one that applies to recreation activities across the entire state, is an issue of great importance to the Sierra Club Wyoming Chapter's members and supporters.

Based on recent news coverage, we understand that the DEQ has scheduled a public hearing in Casper on September 16th to accept public comment on the decision. I hope you will understand that for many of our members, the time, cost and inconvenience of attending a hearing in Casper is a barrier to full and active public engagement.

It is our understanding that you relied on the Categorical UAA for Recreation as the technical basis for your decision to downgrade water quality standards on over 76% of the State's surface waters, roughly 87,775 stream miles. A cursory review of the DEQ's UAA and the Designated Uses Web Map reveals that many of the downgraded streams are located in watersheds used by our members for a variety of recreational activities, and we therefore have a significant and direct interest in this issue.

In addition to holding a public hearing in Jackson, we request a 60-day extension of time for the public, interest groups, and other stakeholders to submit written comments on the UAA. The UAA document, and the issues it addresses, are difficult and complex and therefore deserve a through and thoughtful review, a review that unfortunately is not possible in the current timeframe.

Thank you in advance for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Lloyd Dorsey". The signature is written in a cursive style with a large initial "L".

Lloyd Dorsey, Conservation Director

Sierra Club Wyoming Chapter

Box 12047 Jackson, WY 83002

307-690-1967 lloyd.dorsey@sierraclub.org

Figure B-31. Sims Cattle Company LLC (1 page)

September 14, 2015

David Waterstreet, Watershed Section Manager
Wyoming Department of Environmental Quality
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY. 82002

RE: Categorical Use Attainability Analysis for Recreation

Dear Mr. Waterstreet

Sims Cattle Company LLC appreciates this opportunity to provide our comments in support of the Wyoming Department of Environmental Quality's Categorical Use Attainability Analysis for recreational use designations on Wyoming's waters.

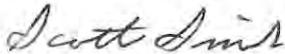
The vast majority of Wyoming streams do not lend themselves to "immersion, full body contact, or frequent use of the water by children" due to low flows and lack of ready accessibility.

The Model used by DEQ represents a reasonable approach to stream classification as specific evaluation of over 700 streams, many only remotely accessible, would be impractical. This process maintains full opportunity for individual streams to be upgraded based upon submission of specific evidence.

Despite claims that are being made, these classifications were done with full opportunity for public input. There were at least two public meetings and notice was published in statewide media.

We strongly support the Categorical Recreational Use Attainability Analysis proposed and adopted by the Department of Environmental Quality and submitted to EPA on December 1, 2014, to use as a model for designation of recreational uses. We strongly encourage the EPA to approve this model.

Sincerely,



Scott Sims
Manager

Figure B-32. Snake River Fund (4 pages)

September 16, 2015

Wyoming Department of Environmental Quality
Water Quality Division
Attn: David Waterstreet, Watershed Section
Manager
122 West 25th Street
Herschler Building 4-W
Cheyenne, WY 82002

Re: Designation of Wyoming
streams for secondary contact
recreation as described in Wyoming
Department of Environmental
Quality/Water Quality Division's
(WDEQ/WQD's) final Categorical
Use Attainability Analysis for
Recreation

By fax to: 307-777-5973

Letter of public comment

Dear Mr. Waterstreet,

Thank you and your colleagues at the Wyoming Department of Environmental Quality, Water Quality Division, for inviting public comment on the designation of certain Wyoming streams for secondary contact recreation.

I write on behalf of the Snake River Fund. The Snake River Fund is a Wyoming non-profit corporation formally established in 2002. We promote stewardship of and public access to the Snake River watershed in Wyoming. We do so using three principal tools: partnerships, education, and public outreach. For the purposes of this letter, we have two salient characteristics:

- (1) our geographic area of concern is the Snake River watershed in the State of Wyoming, principally above the Wyoming State Highway 89 bridge across the Snake River at Alpine, Wyoming; and
- (2) our dedication to the stewardship of the Snake River watershed in Wyoming includes a successful history of leadership in securing, in 2009, federal Wild & Scenic River status for 315 miles of those waterways on the Bridger-Teton National Forest. This letter of comment is a further extension of that stewardship commitment.

In addition to having the broad, mission-based reason for writing to you, as noted above, we have two practical concerns too. Particularly within our geographic area:

- (1) we support clean, safe water for people to use for outdoor recreation, including water moving in channels that carry six or fewer cubic feet per second; and
- (2) we have health and safety-based concerns regarding the State of Wyoming's plan to reclassify more than three-quarters of our streams to allow for levels of e. coli that would be unhealthy for swimming, backcountry camper use, and playing.

Our concern is real and practical, not just theoretical. Our supporters periodically get wet in some of these small streams. Their expectation, when in these high country locales, is that the

By providing this information, you are providing access to the Snake River Watershed in Wyoming. This is a geographic area, Watershed, education and public outreach.

water is clean. They further expect that our state and federal governing agencies are taking reasonable measures to keep the water safe and clean.

Our request with respect to your proposed regulatory action is simple. **Please exempt all waters in the Snake River watershed in the State of Wyoming from the proposed water quality degradation allowance portended by the “Categorical Use Attainability Analysis for Recreation.”** We understand you may prefer to receive a listing of particular streams of interest rather than a broad brush watershed designation. One of our basic points, alluded to above, is that the high water quality standards that befit the small streams in our area of concern is genuinely held at a broad, inclusive level. It would be our mistake to declare this stream or that stream of particular interest, and leave out any number of unspecified streams. Public use and recreation, and public exposure to better or poorer water quality, occurs diffusely, spontaneously, intermittently, and, cumulatively, foreseeably *throughout* our watershed. This makes our watershed scale exemption request appropriately specific to the regulatory question presented.

In addition to the mission, practical, and public health and safety concerns noted above, we also draw your attention to matters of legal significance. To wit:

1. Water quality and flow are key components of the federal Wild & Scenic Rivers Act (WSRA, Public Law 90-542, 16 U.S.C. 1271 et seq.). The WSRA mandates protection of rivers in at least two ways. First, designated rivers must be kept free of additional impoundments; and, second, water quality in designated rivers, as of the date of federal congressional designation, (date of Snake Headwaters statutory enactment, citation below - **March 30, 2009**), must be maintained. In plain terms, the WSRA sets a non-degradation standard. The Wyoming DEQ-WQD proposed Categorical UAA regulation, on the other hand, would expressly allow water quality degradation. The existing federal standard and the proposed state standards occupy the same field of regulatory influence, and they are not in sync. When that happens, and where the federal standard is more stringent than the state standard, the federal standard prevails. Additionally, those streams in the Snake River watershed on the Bridger-Teton National Forest identified as being *eligible or suitable* for future WSRA designation must be protected from anything that could preclude such future designation.
2. The Bridger-Teton National Forest, (hereafter B-TNF) has not yet completed the statutorily required adjudication of streams protected under the Craig Thomas Snake River Headwaters Legacy Act of 2008 (Public Law 111-11, a statute of specific designation secondary to 16 U.S.C. 1271). That adjudication includes determining the water quality and quantity necessary to protect each “outstandingly remarkable value” (ORV) that distinguishes each designated river segment. To preemptively allow an intentional degradation measure, as now proposed by the Wyoming Department of Environmental Quality, Water Quality Division, is contrary to the WSRA and the implementation duties that Congress has bestowed on the United States Forest Service. That is ill-advised. More to the point, it’s wrong.

3. In order for a river to be considered as a candidate for consideration for future WSRA designation, a river segment must be free-flowing and possess one or more Outstandingly Remarkable Values (ORVs). Thus, eligibility analysis consists of an examination of the river's hydrology, including any man-made alterations, and an inventory of its natural, cultural, and recreational resources. In order to be assessed as outstandingly remarkable, a river-related value must be a unique, rare, or exemplary feature that is significant at a comparative regional or national scale. The majority, if not all, identified segments within the B-TNF Wild & Scenic River (WSR) system possess a Recreation ORV management mandate/focus that identifies water & shore-based recreation as an important and existing resource value. That means human recreation must be presumed to occur in the small streams on the B-TNF that might be allowed to degrade per the DEQ's proposed UAA, and the health and safety of the recreating public needs protection.
4. Any segment listed in the Nationwide Rivers Inventory, (a 1979 Presidential Directive that includes over 3,400 segments of streams, hereafter NRI), requires the following: "all federal agencies must seek to avoid or mitigate actions that would adversely affect one or more NRI segments," (<http://www.nps.gov/ncrc/programs/rtca/nri/index.html>). Water quality in candidate streams is something that the US Forest Service, including the Bridger-Teton National Forest, is charged with protecting pursuant to their Forest Plan, the WSRA, and Forest Service Manual. The USFS has no leeway in deciding which streams to keep protected or allow to be degraded. They are required to maintain high water quality in all such waters. That means the conflict between the State of Wyoming's proposed pro-degradation rule and the United States government's stewardship and non-degradation duty extends to all NRI waters, and the more stringent federal standard again prevails over the proposed less-stringent state standard.
5. The United States' water quality protection duty includes tributaries ("immediate environments" as set forth in section 1(b) of the WSRA) to the designated Wild & Scenic stream segments which have by state legislation already been included as secondary streams. Put another way, the tributaries to the WSRA designated rivers and streams are beneficiaries of the federal protection afforded those protected downstream waters. The proposed pro-degradation Wyoming DEQ rule is in conflict with this preexisting, and legally superior, duty. The WSRA precludes the managing federal agency from allowing an action that would unreasonably diminish the water quality in a section of river that is upstream from any WSRA designated reach of water. Unless the DEQ-WQD proposed rule exempts the waters in the Snake River drainage above the Wyoming Highway 89 bridge at Alpine, Wyoming, the United States will be pushed into a legal fight with the State of Wyoming. As previously noted, the United States is likely to win that fight.
6. We respectfully request that moving waters identified in the Craig Thomas Snake River Headwaters Legacy Act of 2008, and tributaries to those protected waters,

extending to their sources, be expressly exempted from the proposed rule. Please also exempt from the jurisdiction of any pro-degradation state rule all streams identified and listed or required in the NRI or the B-TNF Forest Plan. Please also exempt all moving waters in Wyoming in federally designated Wilderness Areas, Wilderness Study Areas, and areas now being managed to purposefully retain their eligibility for future addition to the National Wilderness Preservation System.

Thank you for sparing us and yourselves the headaches of seeking an exemption from the application of this proposed regulation inside Yellowstone and Grand Teton National Parks. On the strength of public health and safety considerations, as well as the legal concerns raised in this letter, would you please extend that exemption to all waters flowing in the Snake River watershed in the State of Wyoming? We would be grateful if you would.

Thank you.

Sincerely,



Len Carlman
Snake River Fund Executive Director

Figure B-33. South Big Horn Conservation District (2 pages)



SOUTH BIG HORN CONSERVATION DISTRICT

408 Greybull Avenue
Greybull, Wyoming 82426
(307) 765-2483

September 16, 2015

Wyoming Department of Environmental Quality
C/o David Waterstreet, Watershed Section Manager
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

RE: *Categorical Use Attainability Analysis for Recreation, Public Notice July 23, 2015*

On behalf of the South Big Horn Conservation District (SBHCD) Board of Supervisors, we appreciate this opportunity to provide comment and input in support of the Wyoming Department of Environmental Quality's (DEQ) Categorical Use Attainability Analysis (UAA) for recreational use designations on Wyoming's waters.

As a local unit of government, SBHCD is authorized by Wyo. Stat. §§ 11-16-101 *et. seq.*, to implement soil and water conservation projects and programs, including but not limited to, flood prevention, the conservation, development, utilization and disposal of water within south Big Horn County. SBHCD has taken a leadership role in water quality assessment, planning and implementation in south Big Horn County. Prior to 2000 SBHCD started a comprehensive watershed plan, along with an ongoing surface water monitoring program that still is in place. As such, the SBHCD staff and board members have intricate knowledge and expertise of local watershed conditions and work extensively with landowners, homeowners and our local communities in implementing best management practices aimed toward enhancing and improving water quality. Since that time, SBHCD has obtained hundreds of thousands of dollars in grants which have been matched with private moneys to implement best practices with the goal of improving water quality. These practices have included septic tank replacements, feedlot removals, off-stream watering, and irrigation practices to reduce erosion, sedimentation, and overland runoff.

SBHCD strongly supports the Categorical Recreational Use Attainability Analysis proposed and adopted by the DEQ and submitted to EPA on December 1, 2014.

In 2010, the SBHCD worked collaboratively with DEQ to conduct field verifications on 28 randomly selected sites within south Big Horn County. This was a small part of a larger statewide conservation district effort of over 720 total sites in order to provide a sufficient level of data points to verify the accuracy of the model DEQ was developing. Conservation Districts invested hundreds of hours and thousands of dollars in conducting these verifications to assist in the development of the model.

In years past our District has reviewed the stream classifications and been amazed at how inaccurate they were based on our local knowledge, a consequence of the current default of all waters being protected as "primary" in the absence of an individual UAA on each stream. All of the larger streams in our District were listed as impaired on the 303(d) list due to fecal coliform and we were struggling to

set priorities to best work on these problems. Due to growing concerns about issues that could arise from mis-classification of streams, our District was about to launch an effort to file UAA's on possibly hundreds of streams and dry washes to get them properly classified so that we could better focus our BMP implementation efforts where they would do some good. This would have taken an enormous amount of time and cost, not to mention the workload it would have created for DEQ. We were very pleased to hear about the efforts to develop the Categorical UAA if it could improve on the accuracy of stream classifications over the default method. While we don't expect the Categorical UAA is 100% accurate, it allows us to review streams and identify a minority as being mis-classified instead of the majority being misclassified and the previous process is still in effect to submit individual UAA's. Using the Categorical UAA reduces the need for massive submissions of UAA's on streams, allowing conservation districts and DEQ to better focus their limited resources where they will do the most good.

It is imperative that Wyoming's waters are accurately protected for the attainable recreational and other uses.

Throughout this process, the progress of the Categorical UAA development, its purposes and our role in it was frequently discussed in our monthly Board meetings, which are regularly scheduled and public participation is openly encouraged. We had 4 meetings in 2010 in which this was a significant topic of discussion. The development of the Categorical UAA was a highly open process with multiple opportunities for public involvement. It is disingenuous for some to bury their heads in the sand while the Categorical UAA was developed and discussed in many public bodies, then claim lack of knowledge at the very end.

We have additionally heard detraction from the Categorical UAA saying that it will reduce the protections for Wyoming Water. We strongly disagree with this contention. The Categorical UAA in no way changes the water standards. It does take a major step forwards in properly classifying the State's waters, and we believe claims that it reduces the protections are arguments against the standards that have been set and have nothing to do with the Categorical UAA.

In closing, SBHCD strongly supports the adoption of the DEQ's Categorical UAA. SBHCD and other conservation districts throughout the state have put in considerable time, effort, and expense in helping to develop a sound, scientific approach to improving stream classification within the state. Adoption will allow our District to allocate more time and resources to implementing efforts to protect waters within our District and improve their water quality where needed to meet their designated uses instead of focusing our efforts on paperwork which does nothing to put conservation on the ground.

Respectfully submitted,



George S. Kelso
Chairman
South Big Horn Conservation District

Cc Bobbie Frank, WACD
Cathy Rosenthal, WACD

Figure B-34. South Goshen Conservation District (1 page)

SOUTH GOSHEN CONSERVATION DISTRICT
 1441 EAST M, SUITE B
TORRINGTON, WY 82240
307-532-4880
conservegoshen.com

David Waterstreet, Watershed Section Manager
Wyoming Department of Environmental Quality
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

Mr. Waterstreet,

Thank you for the opportunity to address the Categorical Recreational Use Attainability Analysis proposed and adopted by DEQ which was submitted to EPA in 2014. On behalf of the South Goshen Conservation District, I would like to support the Categorical UAA as a defensible and appropriate method for designating recreational uses on Wyoming's surface waters.

The South Goshen Conservation District takes the responsibility of water issues very seriously and submitted several site specific UAA's in 2010. We spent many hours gathering field verification data and discussed the project at five consecutive board meetings in 2010. I state this because as a local unit of government, all regular monthly meetings are advertised and open to the public. The public had ample opportunity to be part of this process.

Our District urges adoption and approval of the submitted Categorical UAA. The conservation districts have supplied defensible field verifications and validated the attainable recreational uses identified by the Categorical UAA. We feel our data sufficiently verifies the accuracy of the model supplied to DEQ and defaulting all waters as "primary" would place an unnecessary burden on our local district to validate findings already obtained.

Thank you,

Dan Jackson, Chair
South Goshen Conservation District

Figure B-35. Sublette County Conservation District (2 pages)



September 16, 2015

Wyoming Department of Environmental Quality
C/o David Waterstreet, Watershed Section Manager
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

RE: *Categorical Use Attainability Analysis for Recreation, Public Notice July 23, 2015*

On behalf of the Sublette County Conservation (SCCD) District Board of Supervisors, we appreciate this opportunity to provide comment and input in support of the Wyoming Department of Environmental Quality's (WYDEQ) Categorical Use Attainability Analysis (UAA) for recreational use designations on Wyoming's waters.

As a local unit of government, SCCD is authorized by Wyo. Stat. §§ 11-16-101 *et. seq.*, to implement soil and water conservation projects and programs, including but not limited to, flood prevention, the conservation, development, utilization and disposal of water within Sublette County. SCCD have taken the leadership role in water quality assessment, planning and implementation in Sublette County. In 2000 SCCD started a comprehensive surface water monitoring program that still is in place today on 56 sites in the County, representing the over 7,490 stream miles. As such, the SCCD staff and board members have intricate knowledge and expertise of local watershed conditions and work extensively with landowners, homeowners and our local communities in implementing best management practices aimed toward enhancing and improving water quality.

SCCD strongly supports the Categorical Recreational Use Attainability Analysis proposed and adopted by the WYDEQ and submitted to EPA on December 1, 2014.

In 2010, the SCCD worked collaboratively with WYDEQ to conduct field verifications on 63 randomly selected sites within Sublette County. This was part of a larger statewide conservation district effort of over 720 total sites in order to provide sufficient level of data points to verify the accuracy of the model. Conservation Districts invested hundreds of hours and thousands of dollars in conducting these verifications.

The Categorical UAA is a robust, defensible and appropriate method for designating recreational uses on Wyoming's surface waters. Under the current default of all waters being protected as "primary", absent the adoption and approval of the Categorical UAA, site specific UAA's would be required on 77,514 stream miles. This is an unnecessary burden on the state and local governments when a statistically defensible number of

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Email: sccd@sublettecd.com
Website: www.sublettecd.com
Conservation – Development – Self-Government

field verifications have validated the attainable recreational uses identified by the Categorical UAA. As well, WYDEQ offered numerous opportunities for input on the Categorical UAA and invited the submission of additional site specific information from the public and user groups.

SCCD believes the criteria utilized by WYDEQ in determining primary versus secondary contact recreation uses is appropriate and reflects the intent of the standard and meets EPA's expectations. In addition, we believe they have conservatively approached designation of recreational waters where despite flow conditions, waters are located in areas where a higher likelihood of exposure to the water exists such as those in or near schools, public parks or near recreational campgrounds, etc.

It is imperative that Wyoming's waters are accurately protected for the attainable recreational uses.

As WYDEQ, SCCD, and others move forward with meeting the goal of clean water, it is important that the standard that is applied reflect the uses that are attainable, or in the case of primary and secondary contact recreation activities, the inherent risks that exist. Resources, both financial and human, should be focused on waters where the risk to human health is elevated due to the increased potential for ingestion. We have an obligation to ensure we are focusing our resources where contact recreation activities occur and a greater risk of ingesting quantities of water exists. It is irresponsible to do otherwise, however the current approach places both the SCCD and WYDEQ in that position.

The ability for SCCD to submit a site specific recreational Use Attainability Analysis to WYDEQ to change a designation is still available under this proposal. This allows SCCD the flexibility to change designations on streams if we find the Categorical UAA placed a stream in the wrong category.

In closing SCCD strongly encourages EPA to adopt WYDEQ's Categorical UAA. SCCD and others have put in a tremendous amount of time and effort to develop a sound scientific approach to stream designation.

Respectfully Submitted,



Michael Henn
District Manager

Cc Bobbie Frank, WACD
Cathy Rosenthal, WACD

Figure B-36. Teton Conservation District (8 pages)



Date: 8/20/15

To: David Waterstreet
Wyoming Department of Environmental Quality
Watershed Section Manager
122 W. 25th Street, Herschler Building 4-W
Cheyenne, WY, 82002

Re: WDEQ Categorical UAA Comments

Dear Mr. Waterstreet,

The Teton Conservation District (TCD) sincerely thanks you for the opportunity to provide input during this Categorical UAA process, through written comments, and public hearing. We know and understand the challenge that managing E. coli criteria throughout Wyoming is to WDEQ, and Conservation Districts. We also believe that the intention of this categorical approach is logical, but could be adjusted slightly to both reduce environmental and human health concerns, but also increase public and EPA support for this process. Because our District's primary use on public lands is recreation, and our County's primary revenue source is recreation, we feel that special consideration should be paid to water quality criteria in our streams and rivers. In this letter I will first [1] describe simple but important tools that could be enforced statewide to increase the ability of this ruling to achieve its intent. Then [2], I will describe stream sections within our District that should be considered as 'primary contact' streams due to specific uses.

[1] Across Wyoming landscapes for which recreation is the predominant use, and livestock grazing is not present, possible E. coli sources include wildlife, humans, and pets. Because management of E. coli derived from wildlife sources will likely not occur, human and pet fecal waste are the two sources that 'secondary contact' criteria will increase acceptable limits. It is the opinion of TCD that in no circumstance should we allow human and pet waste to contribute to E. coli concentrations where 'primary contact' is not recommended. As a result, we recommend that E. coli concentrations never be allowed to exceed 'primary contact' standards, if the predominant sources are shown to be human or pet waste using DNA techniques. Another way to approach this issue on public lands is by altering your model to only change stream designation to 'secondary contact' in those areas where active grazing allotments occurs.

Two additional caveats to the current model that could reduce unnecessary downstream impairment are: not changing recreational use standards to 'secondary contact' in tributaries to Class 1 Waters; and not changing recreational use standards to 'secondary contact' in tributaries that drain into waters impaired due to E. coli, or other water quality issues pertaining to human, wildlife, or livestock waste. Although major waterways will maintain 'primary contact' standards, I believe that this type of adjustment to the existing model would affect a relatively small amount of waters, and is a proactive solution to future potential detriment that could result in stream listing, and associated requirements. Class 1 Waters have a high level of protection, and watershed science clearly shows that upstream effects can result in downstream problems. For this same purpose, maintaining high standards for tributaries of streams impaired by E. coli

Conserving our natural resources – air,
land, water, vegetation, and wildlife



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WATER QUALITY DIVISION
WYOMING

concentrations will assure that managers have the ability to directly address impairment of 'primary contact' waters with a watershed approach.

It is also worth mentioning that within Grand Teton National Park, E. coli from human sources have been sampled from high elevation waters, where backcountry use is high. In this case, sampling of elevated E. coli that was matched by DNA to humans resulted in regulations that require climbers and hikers to pack out waste. I mention this because while waters within Grand Teton National Park will remain as 'primary contact' streams, many of the streams flowing from the west slope of the Tetons share substrate and use characteristics with those within Grand Teton, but are less regulated in terms of human use. Considering the sensitivity of areas with coarse substrates, incapable of filtering or processing contaminants could be incorporated within a Categorical UAA, and could result in water quality protection in areas that are used predominantly by humans, who are also using these water sources for bathing, drinking, etc.

[2] The approved statewide model may provide a better representation of human use at a statewide scale; however, in the Teton Conservation District there are many small streams that receive extremely high levels of human use, which results in 'primary contact' due to volume of use, instead of stream character. Below, I will provide examples of a few areas that should be classified as 'primary contact' due to unique recreational uses, which were not picked up in the Categorical UAA. For these examples, I am aware that site specific UAA process can be used to request future recreational classification changes, however by sharing these examples at this time, I hope to save WDEQ and TCD time and energy.

[Inset A] There are roughly six stream sections that have been given 'secondary contact' criteria within the small drainages immediately southeast of the Town of Jackson. These tributaries are all located in very close proximity to Jackson's local trail system, which have remarkable heavy use. US Forest Service records show that 70-90 dogs use the Cache Creek trail a day, which is important because of the amount of human opportunity for contact with these streams, and because of the large amount of human and pet waste, which is at a point that the Forest Service has implemented closures and restrictions to limit water quality degradation. These streams should remain as 'primary contact.'

[Inset B] The section of Spring Creek, which flows along Spring Gulch road should also be maintained as a 'primary contact' stream section. This is because its output flows directly through Teton Science School owned property, and is actually used as an outdoor classroom for many students on an annual basis. The high level of contact by school students in the stream section immediately downstream of the section now categorized as 'secondary contact' does not take into account the large amount of use by children, in a setting that is designed to give students a hands on experience of aquatic systems and sciences. This stream section should be maintained as 'primary contact.'

[Inset C] In the headwaters of Flat Creek, there are currently two stream sections that flow into Flat Creek Lake that are currently categorized as 'secondary contact.' This lake is used as a recreational guest ranch that has swimming boating and general aquatic recreation as a highlight

of their services. As well, it is a popular recreation area for the public, who use it for the same set of aquatic recreational activities. These stream sections should remain as 'primary contact.'

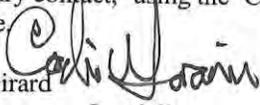
There are multiple routes by which some of the concerns listed within this letter could be addressed by WDEQ. A simple strategy to reduce conflict is allowing individual Conservation Districts to accept or deny the Categorical UAA. Or, WDEQ could exempt Teton County from this analysis, due to our unique public land uses. I mention these two options, because we currently do not have waters that are impaired due to E. coli, and therefore are not have issues the existing recreational use contact standards, which are obviously troublesome in other Districts.

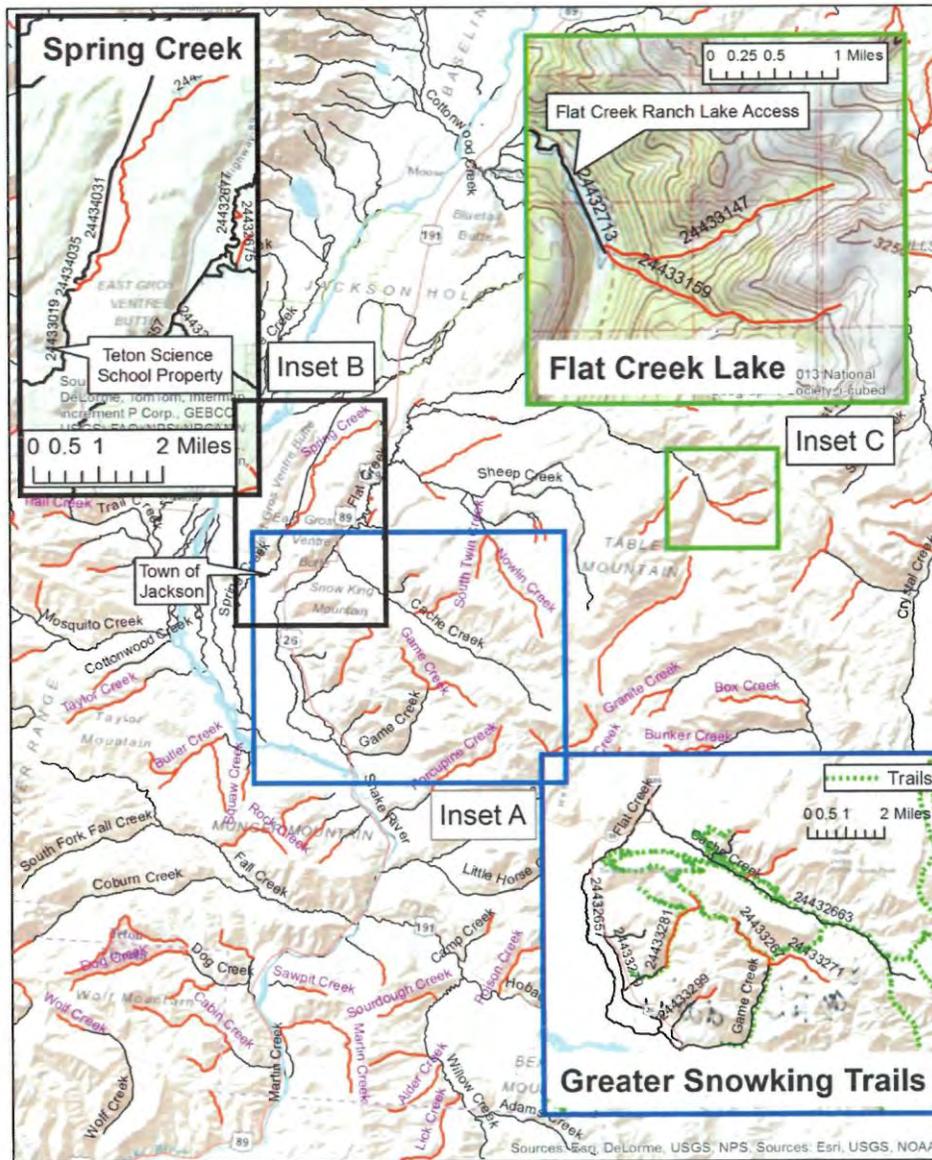
At the statewide scale, it does appear that the Categorical UAA may have resulted in an increase of recreational use classification. It does not however consider that some areas have an unprecedented level of backcountry human use, which results in high levels of human contact with waters. Also, the existing analysis does not consider that in these areas of high human use, humans and pets can be a primary source of E. coli, and I do not think that anyone believes that human and pet waste should be allowed at levels, where human contact presents a health risk. As a result, we strongly encourage WDEQ to please consider that the statewide approach does not serve all regions or stakeholders equally, and therefore should be adjusted to protect water quality in backcountry settings with high use, and protect the users of these area from themselves.

Thank you very much for allowing written comments to be submitted on this topic. We understand that a considerable amount of time and energy has been allotted to this work, but hope that additional time be spent to assure that Northwestern Wyoming's water resources remain under a high level of protection, to ensure our user's health and welfare.

Please direct any additional comments or suggestions to the contact information below. I am happy to provide any additional information that is required.

Supplemental materials include a map of specific waterbodies that should not be considered for 'secondary contact,' using the 'COMID' field from the WDEQ recreation contact standards shapefile.


Carlin Girard
Water Resource Specialist
Teton Conservation District
420 W. Pearl Ave., PO Box 1070, Jackson, WY, 83001
(Office) 307-733-2110; (Cell) 307-774-5264; (Fax) 307-733-8179



Streams with Primary Contact, designated Secondary Contact

Map Created: 8/21/15, by Carlin Girard
 Shapefiles were downloaded from
<http://deq.wyoming.gov/wqd/surface-water-quality-standards/resources/uas/>

Teton Conservation District
 Est. 1946

0 2.5 5 10 Miles

Legend

- Primary Use
- Secondary Use



Conserving our natural resources – air,
land, water, vegetation, and wildlife



Date: 8/20/15

To: David Waterstreet
Wyoming Department of Environmental Quality
Watershed Section Manager
122 W. 25th Street, Herschler Building 4-W
Cheyenne, WY, 82002

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Re: WDEQ Categorical UAA Hearing Request

AUG 21 2015

Dear Mr. Waterstreet,

WATER QUALITY DIVISION
WYOMING

The Teton Conservation District appreciates Wyoming Department of Environmental Quality's (WDEQ's) willingness to accept input through the Sept. 16th Public Hearing (Casper, WY) on the Categorical Use Attainability Analysis recently adopted by your Department. Furthermore, we want to applaud the acceptance of public comment through written comments.

In the interest of our constituents in Northwest Wyoming, we would like to request that an additional public hearing be provided on the Western side of the state. Our District feels that one additional hearing in either Jackson or Lander would greatly improve the ability for our constituents to attend and participate. There are three specific reasons why we feel this request is justified.

[1] The distance to Casper from Jackson is 280 miles each way, and takes roughly 5 hours to complete one-way. The time and costs associated with this travel, which would likely require a hotel fee are not trivial. Having a meeting in Jackson or Lander would benefit those interested in participating, by reducing time and costs needed to be an active player in a public hearing.

[2] There is a unique set of uses within the Teton Conservation District, which are primarily recreational (front county and backcountry), with only a small amount of public lands grazing. Due to this unique set of uses, it is widely felt that this statewide approach affects our District differently than most of the state. As a result, we feel that it is particularly important that the concerns of our constituents are heard by the WDEQ and the Environmental Protection Agency. The local economy here is utterly dependant on recreation, but recreation also constitutes a primary source of aquatic degradation. The ability to express our District's unique set of uses and issues would be greatly enhanced through a more local public hearing on this topic.

[3] The news media has been a primary source of information about the Categorical Use Attainability Analysis in our District. We feel that having a local meeting will provide a much needed opportunity for the WDEQ to explain and represent the actual intentions and expected outcomes of this action.

Thank you for providing our District with the opportunity to provide input on WDEQ stream use classification. Our District is often an outlier when it comes to Wyoming's general consensus; however, we do feel that recreation in Northwest Wyoming is widely recognized for its contribution to Wyoming's lifestyle and revenue stream, and needs to be protected. Please

consider providing a better opportunity for citizens in this part of the state to share their opinions on this ruling, but also provide them with much needed information about this process and the resulting implications. If the Teton Conservation District can offer support to WDEQ for the establishment of a public hearing within our District, please let us know.

Thank you very much for the opportunity to offer this request,


Carlin Girard
Water Resource Specialist
Teton Conservation District
420 W. Pearl Ave., PO Box 1070, Jackson, WY, 83001
(Office) 307-733-2110; (Cell) 307-774-5264; (Fax) 307-733-8179

September 15, 2015

David Waterstreet and September 16th WDEQ Casper Hearing Officer
Wyoming Department of Environmental Quality
Watershed Section Manager
122 W. 25th St. Herschler Bldg. 40-W
Cheyenne, WY 82002

Re: WDEQ Categorical UAA Comments

Dear Mr. Waterstreet and WDEQ Hearing Officer;

Thank you for this opportunity to enter into the record, my comments regarding the above.

These comments are in addition to those previously sent by the Teton Conservation District Water Resources Specialist, Carlin Girard, and are an affirmation of his two submittals dated 8/20/15.

Although our district cooperated in collecting water samples for the UAA, neither the staff nor board adequately understood the intended use of the data or were aware of the possible consequences. Our mission is ***to promote conservation and management of natural resources-air, land, water, vegetation and wildlife-through watershed-based research, education, conservation practices, cooperative projects, and on-the-ground actions to ensure the health, safety and general welfare of the people and resources of this area.*** I am very concerned that WDEQ's proposed action may be detrimental to that goal.

At this time, the Teton Conservation District is engaged with multiple stakeholders who represent the State of Wyoming, the private sector, local governments and the Federal Government to conduct watershed-based studies. These include the Wyoming Water Development Commission, Wyoming Game and Fish, the US Geological Survey and many others. Stakeholders, including our district, have invested significant funds, time and attention to studying the Upper Snake River Watershed, Flat Creek and Fish Creek.

Any action that may have an effect on the above named watersheds is putting the cart before the horse, not to mention wasting tremendous resources. While I understand that many of the streams in question are small tributaries to those mentioned above, I also know that water flows downstream. Twelve seasons spent volunteering for the BLM on the San Juan River cause me to be acutely aware of upstream events due to the recent toxic accident on the Animas.

Our district has primary interest in recreational uses, lacks widespread cattle grazing or industrial uses, and DNA source tracking studies have shown wildlife, human and pets as

1

significant contributors to E. coli pollution. This situation makes us somewhat different from many, but not all, other conservation districts. For this reason, I believe it appropriate and reasonable to request our exclusion from the model that is proposed. While I understand the agency's desire to 'simplify' their oversight, I do not consider it reasonable to shift the burden of managing water quality to currently unidentified local entities or individuals by requiring them to provide proof for reclassification back to a primary standard should it be appropriate.

In other words, the burden of proof and necessary process to adjust the model shifts to currently unknown 'others' to prove increased pollution, with likely limited resources to do so, vs. state protection of water quality. This is particularly true in light of recent Wyoming legislation that strictly limits the ability to access any property that is not one's own for data collection. It seems better to acknowledge varied conditions upfront, in the interest of the highest water quality we are able to achieve in our state, as well as limiting bureaucratic confusion later on.

In looking through the WDEQ Water Quality Rules and Regulations, particularly Chapter 1, page 2, section 3 (b) and (d), which list the objectives of the WDEQ water quality program, I see that "where attainable, the highest possible water quality commensurate with fisheries and drinking water" should be sought. This seems out of sync with the current proposal.

Please do not include the Teton Conservation District in the proposed model for establishing water quality standards. Should our studies prove otherwise, we shall revisit this request with you. Meanwhile, our district would be pleased to offer collaborative collection of water samples for DNA sourcing of pollutants, along with sharing our already extensive DNA library, for your information base as well as our own. TCD Supervisors suggest that conservation districts might assume the lead in requesting and 'proving' potential reclassifications, should you choose to utilize the model currently proposed.

Once again, I appreciate your attention to these interests and regret any opportunities missed, previously. This letter has some, but not unanimous, support of TCD Supervisors regarding the desirability of the proposed UAA model. Whether starting from highest water quality or having to prove unacceptable pollution, with statutory restrictions on data collection, in order to classify a stream as a primary watercourse (the apparent choices), we all seem to agree that the UAA process is difficult.

Sincerely,



Sandy Shuptrine, Chair
Teton Conservation District

Figure B-37. Teton County Commissioners (2 pages)



www.tetonwyo.org

Commissioners

Barbara Allen, Chair
Mark Newcomb, Vice Chair
Natalia D. Macker
Smokey Rhea
Paul Vogelheim

September 15, 2015

David Waterstreet
Wyoming Department of Environmental Quality
Watershed Section Manager
122 W. Herschler Building 4-W
Cheyenne, WY, 82002

Re: WDEQ Categorical UAA Hearing Request

Dear Mr. Waterstreet:

The Board of County Commissioners submits the following as comment regarding the Categorical Use Attainability Analysis recently adopted by your Department.

We appreciate the ability for the public to provide comment during the hearing you are holding in Casper on September 16th. However, in the interest of residents in Northwest Wyoming, we respectfully request that an additional public hearing be provided on the Western side of the state. We feel that one additional hearing in either Jackson or a nearby community would greatly improve the ability for our residents to attend and participate. There are three specific reasons why we feel this request is justified.

There is a unique set of uses within Teton County, which are primarily recreational (front county and backcountry), with only a small amount of public lands grazing. Due to this unique set of uses, it is widely felt that this statewide approach affects our community differently than other areas of the state. As a result, we feel that it is particularly important that the concerns of our residents are heard by the WDEQ and the Environmental Protection Agency. The local economy here is utterly dependant on recreation, but recreation also constitutes a primary source of aquatic degradation. The ability to express our area's unique set of uses and issues would be greatly enhanced through a more local public hearing on this topic.

The news media has been a primary source of information about the Categorical Use Attainability Analysis in our community. As a result, our residents have not had a particularly well rounded description of the methods used, and corresponding implications of this ruling. We feel that having a local meeting will provide a much needed opportunity for the WDEQ to explain and represent the actual intentions and expected outcomes of this action.

Thank you for providing us and the public the opportunity to provide input on WDEQ stream use classification. Our District is often an outlier when it comes to

Post Office Box 3594
Jackson, Wyoming 83001

Tel: (307) 733-8094
Fax: (307) 733-4451

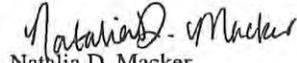
Email:
commissioners@tetonwyo.org

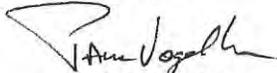
BOARD OF COMMISSIONERS

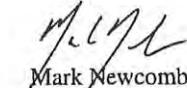
Wyoming's general consensus; however, we do feel that recreation in Northwest Wyoming is widely recognized for its contribution to Wyoming's lifestyle and revenue stream, and needs to be protected. Please consider providing a better opportunity for citizens in this part of the state to share their opinions on this ruling, but also provide them with much needed information about this process and the resulting implications. Please let us know if we can support WDEQ in establishing a public hearing on the Northwestern area of the state.

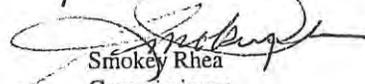
Sincerely,


Barbara Allen
Chair


Natalia D. Macker
Commissioner


Paul Vogelheim
Commissioner


Mark Newcomb
Vice Chair


Smokey Rhea
Commissioner



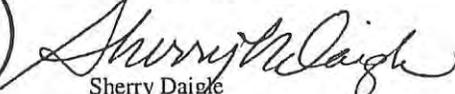

Sherry Daigle
Clerk

Figure B-38. The Wilderness Society (2 pages)



September 10, 2015

David Waterstreet
122 W. 25th St. Herschler Bldg. 4W
Cheyenne, WY 82002

Dear Mr. Waterstreet

Please accept these comments on behalf of The Wilderness Society which register our concerns with the DEQ's current proposal to raise the permissible levels of E. coli in more than 76 percent of the state's surface waters, including thousands of miles of streams on national forests and other public lands. We are particularly concerned that this sweeping reclassification is illegally downgrading Class 1 waters in designated wilderness and wilderness study areas.

The Wilderness Society ("TWS") is a national non-profit organization established in 1935 to "protect wilderness and inspire Americans to care for our wild places." With over 500,000 members and supporters today, TWS prides itself as being the nation's preeminent organization focused on the protection of wildlands and stewardship of the national wilderness system. Our Northern Rockies regional efforts include a Greater Yellowstone Ecosystem program and we staff an office in Jackson.

The proposed action by DEQ would lower the standard and raise the permissible levels of E. coli to 500 percent above levels deemed safe for swimming in thousands of miles of Class 1 wilderness streams. This despite the fact that the DEQ's own standards for Class 1 surface waters is no degradation, and no lowering of water quality.

The DEQ's own policies prohibit it from downgrading Class 1 waters based on a finding that primary contact recreation is not an existing or attainable use. "Class 1 waters are specially designated waters on which the existing water quality is protected regardless of the uses supported by the water." Wyoming Surface Water Quality Standards, Implementation Policies for Antidegradation, Mixing Zones and Dilution Allowances, Turbidity UAA, (September 24, 2013.) Class 1 waters include all surface waters located in congressionally designated wilderness areas. See Appendix A, Wyoming Surface Water Classifications. Under DEQ's Antidegradation and UAA policies, the DEQ's Categorical UAA for Recreation cannot be used to downgrade recreation-based water quality standards in wilderness areas.

Essentially, that DEQ has determined (based on its UAA) that swimming and other primary contact uses may not be an existing or attainable use on low flow streams in congressionally designated wilderness areas has no standing. That is because the DEQ's UAA policy for Class 1 waters prevents the lowering of water quality standards regardless of whether a use is existing or attainable. Under DEQ policies, existing water quality in Class 1 waters must be protected.

Wyoming is home to millions of acres of wilderness containing significant miles of streams and watersheds. These areas provide thousands of hours of public recreation annually including primary contact. The fact that DEQ is arbitrarily downgrading a significant portion of these waters to secondary contact and then expects the general public to provide evidence for reinstatement as primary contact is onerous. This approach essentially reverses the requirement of the Act, which provides a presumption that stream uses are attainable unless

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proven otherwise. Even an organization of our size with national resources would find it difficult to provide the level of detail DEQ expects from the general public.

In summary, TWS is asking that the DEQ withdraw its August 2014 decision reclassifying roughly 88,000 miles of streams in Wyoming. At the very minimum, the DEQ must reinstate primary contact recreation standards to all Class I waters in wilderness areas.

Sincerely,



Dan Smitherman
The Wilderness Society
POB 4555
330 N. Glenwood St.
Jackson, WY 83001
307.690.1737

Figure B-39. U.S. Forest Service (2 pages)

09/15/2015 16:34 FAX 303 275 5075

USDA FS R2R0 RR

0002/0003



United States
Department of
Agriculture

Forest
Service

Rocky Mountain Region

Intermountain Region

740 Simms Street
Golden, CO 80401
303-275-5350
FAX: 303-275-5366
Federal Building
324 25th Street
Ogden, UT 84401

File Code: 2530

Date: SEP 15 2015

Mr. David Waterstreet
Watershed Section Manager
WDEQ/WQD
Herschler Building 4-W
122 West 25th Street
Cheyenne, WY 82002

Dear Mr. Waterstreet:

The U.S. Forest Service continues to support the effort of Wyoming Department of Environmental Quality (WDEQ) to appropriately classify waterbodies on National Forest System (NFS) lands in Wyoming for recreation uses. We consider the shift from a single recreation use designation in the Wyoming Water Quality Rules and Regulations (Chapter 1) where all waters are managed for primary contact recreation to a system where certain waters are managed for primary contact recreation and the remaining waters are managed for secondary contact recreation as reflected in this "Categorical Use Attainability Analysis for Recreation" to be a positive change for water quality protection of the state's waterbodies. With the approval of the "Categorical Use Attainability Analysis for Recreation" (Rec Use UAA), the designated recreation use for the majority of the state's waterbodies will be more consistent with the actual or potential use of each waterbody for primary contact recreation. This will help us to better manage water quality in general forest areas for protection of recreational use by focusing available resources to those locations where primary contact recreation use is actually occurring or can potentially occur.

We appreciate WDEQ's openness to consider our ideas and concerns throughout the long process that went into the development of the Rec Use UAA. We recognize that the finish line is in sight and would like to respectfully request changes to the Rec Use UAA. We ask that all waters managed to achieve the objectives of the Wilderness Act of 1964 (P.L. 88-577) or the Wild and Scenic Rivers Act of 1968 (P.L. 90-542) remain designated as primary contact recreation use in order to maintain existing water quality in these areas. A change in recreation use designation of these waters from primary to secondary would conflict with congressional mandates under the Wilderness Act of 1964 (P.L. 88-577) and the Wild and Scenic Rivers Act of 1968 (P.L. 90-542) and related policy and resource management planning documents. This management direction applies to congressionally designated wilderness waters and their tributaries, designated Wilderness Study Areas (WSA) waters, and Forest Plan recommended wilderness waters. Additionally this would also apply to congressionally-designated wild and scenic rivers and their tributaries, as well as Forest Plan eligible and suitable rivers. In all of these above named areas, the Forest Service is directed by Congress or by Land Management Plan direction to protect water quality.



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Mr. David Waterstreet

2

We can provide more specific information on the locations and names of the waters in these areas (list and/or map/GIS data). Please inform us if this information would be helpful. Thank you for considering our comments. We would be happy to meet with you to further discuss our request.

If you have any questions, please contact Joan Carlson, Hydrologist, at (303) 275-5097 or jcarlson@fs.fed.us, or Ronna Simon, Hydrologist, at (307) 739-5598 or rsimon@fs.fed.us.

Sincerely,


for
DANIEL J. JIRÓN
Regional Forester


for
NORA B. RASURE
Regional Forester

cc: Joan Carlson, Mark Muir, Sharon Seim, Ralph Swain, Forest Supervisor – Bridger-Teton NF, Sandy Henning, Chris Hartman, Cherie Hamilton, Jim Bedwell

Figure B-40. Washakie County Conservation District (2 pages)



September 13, 2015

David Waterstreet
Watershed Section Manager
Wyoming Department of Environmental Quality
122 West 25th Street, Herschler Building 4-W
Cheyenne, Wyoming 82002

RE: Wyoming's Categorical Use Attainability Analysis for Contact Recreation use designations, Public Notice July 23, 2015

Dear Mr. Waterstreet,

The Washakie County Conservation District (WCCD) appreciates this opportunity to provide additional comment and input in support of the Wyoming Department of Environmental Quality's (WDEQ's) Categorical Use Attainability Analysis (UAA) for recreational use designations on Wyoming's waters.

WCCD strongly supports the Categorical Recreational Use Attainability Analysis proposed and adopted by the DEQ, which you submitted to the Environmental Protection Agency (EPA) on December 1, 2014.

WCCD, as with all Wyoming Conservation Districts, are authorized by Wyo. Stat. §§ 11-16-101 *et. seq.*, with the statutory responsibility to implement soil and water conservation projects and programs, including but not limited to, flood prevention, the conservation, development, utilization and disposal of water within the district. WCCD has taken a leadership role in water quality assessment, planning and implementation for waters within WCCD's jurisdiction, to help address those waters on the state's section 303(d) list of impaired and threatened waters. WCCD has intricate knowledge and expertise of our local watershed conditions and work closely with landowners, homeowners and our local community in implementing best management practices aimed towards enhancing and improving water quality, to protect human health.

WCCD was specifically involved in assisting the WDEQ in ensuring that the Categorical UAA for Contact Recreation uses was scientifically defensible, and to help ensure an accurate designation of primary and secondary contact recreation uses on Wyoming's waters. This involvement included field verification of sixteen (16) of the eighteen (18) sites in Washakie County, which were selected randomly by WDEQ using their UAA Geographic Information System (GIS) model. Two of the sites were inaccessible as one was in the middle of a BLM

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Phone: (307) 347-2456 ext. 101 - www.washakiecd.com

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Wilderness Study Area and the other in an area with steep canyon walls and the point was where the stream ran underground. The WCCD staff, assisted by our local landowners and a local BLM employee, spent countless hours meeting with landowners to discuss access and locations and collecting field data information to validate the sites, which was accomplished between July 28, 2010 and August 20, 2010. All data and ground verification documentation was submitted to the Wyoming Association of Conservation Districts (WACD) on August 20, 2010 for their compilation with all of the Wyoming Conservation District UAA field verification data to then be submittal to WDEQ on our behalf.

WDEQ's Recreational Use UAA Survey Worksheet was utilized to record all of the necessary data (GPS coordinates, photos, landowner/manager knowledge of the site, and watershed information). The information gathered by WCCD was then compared to the predictions of WDEQ's GIS model. The WDEQ's GIS model was in 100% agreement with WCCD's field verification in that, the secondary use designations are substantiated where there was low to zero flow of water, and were not near a municipality, designated recreational use area therefore a low chance of ingestion.

WCCD believes in ensuring that those waters capable of supporting primary and secondary contact recreation uses are accurately designated so that human health is protected. As we move forward with meeting the goal of clean water, it is important that the standard that applies, reflects the uses that are attainable. As a local government primarily charged with natural resource conservation, WCCD believes the WDEQ's Categorical Use Attainment Analysis is scientifically based and defensible.

We would appreciate EPA's approval of Wyoming's Categorical Use Attainability Analysis for designation of recreation uses to help Wyoming in focusing our water quality work on those priority recreational use waters.

Respectfully,



Dan Rice
WCCD Chairman

CC: Shaun Sims, President, Wyoming Association of Conservation Districts
Doug Miyamoto, Director, Wyoming Department of Agriculture

Figure B-41. Western Watersheds Project (3 pages)



Wyoming Office
PO Box 1160
Pinedale, WY 82941
Tel: (877) 746-3628
Fax: (208) 475-4702
Email: Wyoming@WesternWatersheds.org
Web site: www.WesternWatersheds.org

Working to protect and restore Western Watersheds

**Western
Watersheds
Project**

Kevin Frederick, Administrator
DEQ
122 West 25th St, Herschler Building
Cheyenne, WY 82002

September 16, 2015

Dear Mr. Frederick,

In addition to our previous comments from March 14th, 2014, which the DEQ completely ignored because they did not comport with Bobbie Frank's anti-Clean Water Act agenda which the DEQ is devotedly implementing, we offer the comments below. Further, we incorporate Wyoming Outdoor Council's January 5th, 2015 letter to the EPA on this matter. We also incorporate by reference Wyoming Outdoor Council's comments for this current hearing process dated September 16th, 2015.

Firstly, DEQ's begrudging hearing was limited to testimony on what essentially amounts to reverse UAA's. The notice failed to provide information that the entire categorical UAA is open for comment. So the public hearing, as noticed, does not comply with the regulatory requirements.

The notice limited comment to only reverse UAA information. The notice stated:

The public is invited to provide oral and written comments and/or documentation regarding the existing and potential recreation activities on streams designated for secondary contact recreation as described in the Categorical UAA.

Documentation provided should be sufficient for WDEQ/WQD to confirm whether primary contact recreation is an existing or attainable use, or not, on a particular stream. Such information may include photographs, flow data, and other information at the level of detail described in the worksheets contained in Appendix C of the Categorical UAA. Modification of a surface water designation established in the Categorical UAA will require the presentation of information sufficient to identify: (1) the location of the stream (e.g., latitude and longitude, object ID provided in the web map, etc.) and (2) the existing and potential recreational activities associated with the stream, given the physical condition of the stream.

The categorical downgrade is considered by DEQ as a given.

In the EPA's June 3rd, 2015 letter they state: "the EPA expects that the burden of proof to rebut the presumption for uses specified in CWA § 101 (a)(2) remains with the state."

Yet both the final decision to implement the CUA as well as the notice of the hearing both overturn that burden and clearly place it on the shoulders of the public.

The question to be answered is whether primary contact is an existing or if it is an attainable use. The modeling effort by the DEQ does not answer that question.

According to the U.S. EPA, primary contact recreation includes uses such as:

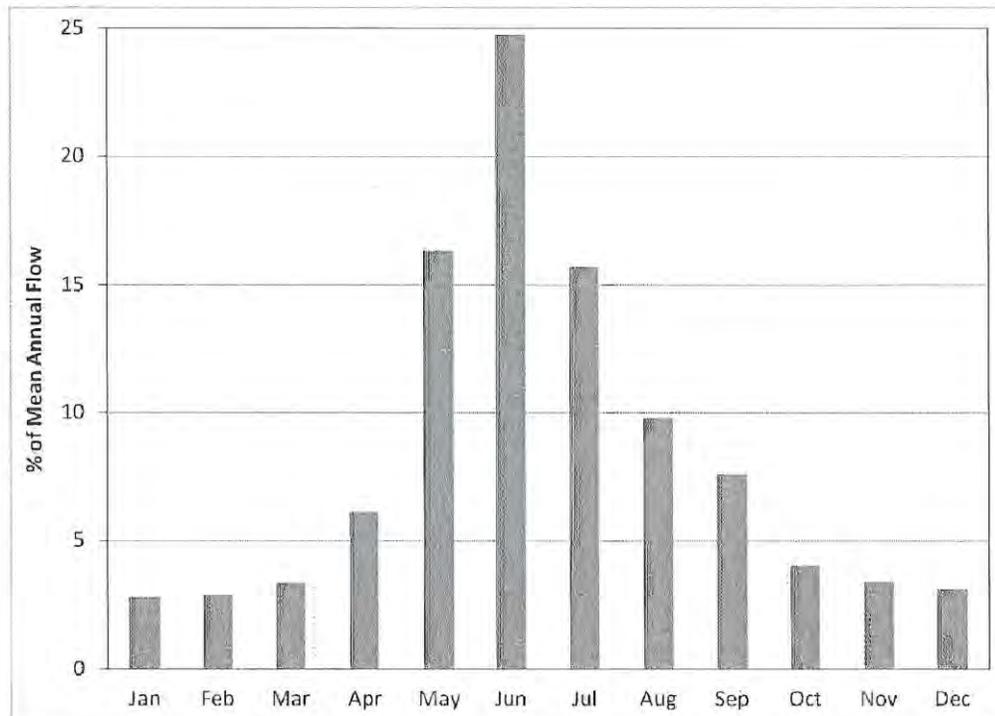
"The primary contact recreation classification protects people from illness due to activities involving the potential for ingestion of, or immersion in, water."

"swimming, bathing, surfing, water skiing, tubing, water play by children, and similar water contact activities where a high degree of bodily contact with the water, immersion and ingestion are likely."

It appears that the DEQ has limited its considerations to actual swimming (which even that the model fails to correctly classify as demonstrated by Wyoming Outdoor Council's previous comments) and failed to address the other aspects of primary contact such as ingestion.

Even the DEQ's definition supports this conclusion. The Wyoming DEQ defines primary contact recreation as "any recreational or other surface water use that could be expected to result in ingestion of the water or immersion (full body contact)."

As discussed in WOC's previous comments is the fact that during the recreation season flows are often up to twice the mean annual flow. The chart provided in the CUA displays this problem quite nicely as it clearly shows most of the flow is during the recreation season.



The absurdity of DEQ's assumptions is on clear display on page 32 of the CUA where the DEQ states:

"Streams with similar mean recreation season and mean annual flows have flow regimes that are typical of streams with insufficient flow to support primary contact recreation (i.e., ephemeral streams, small intermittent streams and small perennial streams). Therefore, streams with mean annual flows less than 6 cfs do not have sufficient flow to support primary contact recreation unless they occur in areas that are easily accessible to children and/or the public."

So, summarily, the DEQ has determined that primary contact in streams under a mean annual flow of 6 cfs is unattainable, except that those same streams, where primary contact is unattainable, if they are located in areas that are "easily accessible to children and/or the public" and then primary contact is attainable. The logical inconsistency with DEQ's position is unupportable.

The CUA at page 7 states:

The remaining low flow streams that are not proximate to areas frequented by children and/or the public can be grouped together categorically since the conditions that most influence the recreational use of the streams are sufficiently similar. These streams will be designated for secondary contact recreation.

This statement is completely false and unupportable. This CUA groups together significant streams in high elevation Wilderness areas with ephemeral washes in the Bighorn Basin. If what the DEQ was attempting to do was do a CUA on ephemeral washes that would be something we would be fine with as everyone can agree primary contact is unattainable in these systems. They are also easily defined and are sufficiently similar to be categorized together, that is a far cry from what the DEQ has done here.

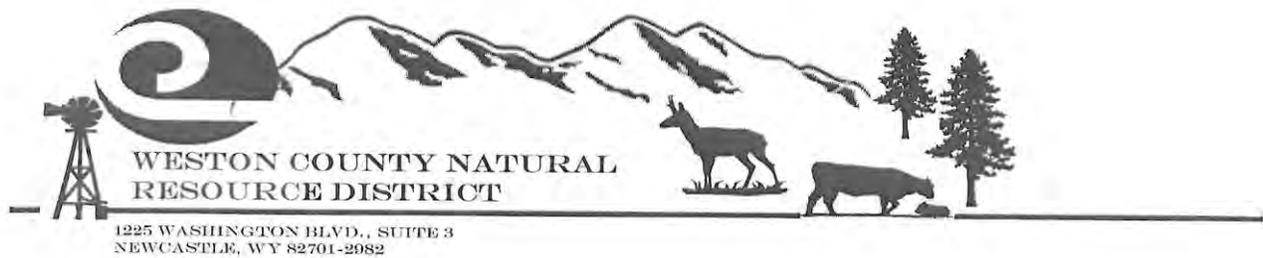
One other issue which was not raised directly in previous comments was the downgrading of Class I streams. DEQ's own policy states "Class I waters are specially designated waters on which the existing water quality is protected regardless of the uses supported by the water." Yet this was entirely ignored by the DEQ in its rush to service the livestock industry's needs.

DEQ's approach is insufficient to comply with the letter or intent of the CWA and as such should be rejected. We request the DEQ to rescind its CUA.



Jonathan B Ratner
Director – Wyoming Office

Figure B-42. Weston County Natural Resource District (1 page)



September 16, 2015

David Waterstreet, Watershed Section Manager
Wyoming Department of Environmental Quality
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

On behalf of the Weston County Natural Resource District (WCNRD) Board of Supervisors in Newcastle, WY, we appreciate the chance to further comment in support of the Wyoming DEQ's Categorical Use and Attainability Analysis for recreational use designations on Wyoming waters in the Weston County Natural Resource District.

The WCNRD's mission statement is as follows: To provide leadership in conserving the natural resources in the Weston County Natural Resource District by providing information, education and technical assistance to meet the needs of the users.

WCNRD believes the criteria used by WDEQ to determining primary versus secondary contact recreation uses is appropriate and meets EPA's expectations. While flow is important, location of waters and its recreational potential should figure in to the designation as well. WDEQ's criteria included the likelihood of possible exposure by determining if the site was near a recreational area (i.e. park, school, or trail) or area in which exposure was possible determined the primary recommendations. WCNRD feels that WDEQ did a thorough job in meeting the intent of the standards set by EPA.

The Weston County Natural Resource District conducted field verifications at 13 randomly selected sites that were provided by DEQ for analysis. WCNRD filled out survey forms provided by DEQ to answer questions and verify the classifications of these streams. Locations throughout Weston County are in large very rural and privately owned locations that are utilized for agricultural purposes and thus are to be considered secondary waterways. The bulk of the counties secondary waters are ephemeral streams. The ones that were modeled by DEQ as primary are correct in their classification.

In summary, it is the mission of WCNRD to be a leader in conserving our district's natural resources. WCNRD strongly supports the Categorical Recreational Use Attainability Analysis proposed and adopted by the WDEQ and submitted to EPA on December 1, 2014.

Sincerely,



Lacey Gurien, District Manager

Board of Supervisors:

Jerry Varner

Emily Hartinger

Alicia Vigil-Redding

Gene Norman

Figure B-43. Wilderness Watch (1 page)



P.O. Box 9175, Missoula, MT 59807 • (P) 406.542.2048 • wild@wildernesswatch.org • www.wildernesswatch.org

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Minneapolis, MN 55406
(P) 612.201.9266

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P.O. Box 9623
Moscow, ID 83843
(P) 208.310.7003

August 19, 2015

Kevin Frederick, Administrator
Water Quality Division, Department of Environmental Quality
Herschler Building, 122 West 25th St.
Cheyenne, WY 82002

Re: Request for Public Hearing on the DEQ's Categorical Use Attainability Analysis for Recreation

Dear Mr. Frederick,

On behalf of Wilderness Watch, I would like to request that a public hearing be held in Jackson, Wyoming, to accept public comment on the DEQ's Categorical Use Attainability Analysis for Recreation. Wilderness Watch is a national nonprofit wilderness conservation organization, with our headquarters in Missoula. We work to protect the National Wilderness Preservation System and all of the designated Wildernesses that comprise it, including those in Wyoming.

Based on recent news coverage, we understand that the DEQ has scheduled a public hearing in Casper on September 16th to accept public comment on the decision. I live and work in Minneapolis, Minnesota, and it is not feasible for me to attend the meeting in Casper. But one of our national board members lives in Jackson, and he could represent our interests at a public hearing there.

In addition to holding a public hearing in Jackson, we request a 60-day extension of time for the public to submit written comments on the proposal. The proposal, and the issues it addresses, are difficult and complex and deserve a thorough review.

Thank you in advance for your consideration.

Sincerely,

Kevin Proescholdt
Conservation Director
Wilderness watch
kevinp@wildernesswatch.org

Figure B-44. Wyoming Association of Conservation Districts (4 pages)



September 16, 2015

David Waterstreet, Watershed Section Manager
Wyoming Department of Environmental Quality
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

RE: *Categorical Use Attainability Analysis for Recreation, Public Notice July 23, 2015*

On behalf of the Wyoming Association of Conservation Districts, representing Wyoming's 34 local Conservation Districts, we appreciate this opportunity to provide additional comment and input in support of the Wyoming Department of Environmental Quality's Categorical Use Attainability Analysis for recreational use designations on Wyoming's waters.

This input supplements comments submitted by the Association to DEQ, in response to public notices and solicitation for input and comment issued by the Department, on September 26, 2013; March 14, 2014 and February 23, 2015. In addition to these specific opportunities provided by the Department to provide input and comment on the Categorical Use Attainability Analysis, the Association also commented on the process during Chapter 1 revision comment periods and the revision of the Methodologies for Determining Use Attainability policy revisions, due to the interrelationship of these processes.

As a local unit of government, Districts are authorized by Wyo. Stat. §§ 11-16-101 *et. seq.*, to implement soil and water conservation projects and programs, including but not limited to, flood prevention, the conservation, development, utilization and disposal of water within the district. The districts have taken the leadership role in water quality assessment, planning and implementation in the state to address those waters on the state's section 303(d) list of impaired and threatened waters. As such, they have intricate knowledge and expertise of local watershed conditions and work extensively with landowners, homeowners and their local communities in implementing best management practices aimed toward enhancing and improving water quality.

The Association strongly supports the Categorical Recreational Use Attainability Analysis proposed and adopted by the Department of Environmental Quality and submitted to EPA on December 1, 2014.

Purpose and nature of E. Coli standard

The recreation use designations determine the appropriate *E. Coli* standard that will be applied to waters to maintain protection of its attainable uses. The Association recognizes that this criteria is a risk management based standard. The higher the likelihood of full body immersion type activities there is increase the potential for an individual to ingest water and subsequently increases the *potential* risk of illness. Conversely if water exists in such low or nonexistent quantities that the risk of ingesting water is minimal then the potential for illness is decreased substantially. Current science indicates waters that have been contaminated by human feces or sewage effluent,

have the greatest potential for transmitting diseases to humans and those that are impacted by nonpoint source, including various animal feces, represents variable and generally lower risks to bathers.¹

Many of the waters being changed to secondary contact recreation, in addition to being remote, they have low to zero flow waters which, outside of potential human recreational waste impacts, will have little human waste contributions. The criteria utilized by DEQ resulted in those waters that are near public schools, parks, etc. assumedly near municipal, more densely populated areas and subject to more human waste impacts, as primary. Hence, human waste substantially increase the potential risk to human health where contact recreation waters exist and the Association believes that those waters are largely designated primary due to their vicinity to municipal areas.

Most strains of *E. coli* are harmless and live in the intestines of healthy humans and animals. The strain of *E. Coli* that is a concern is 0157:H7. In fact, there are an estimated 20,000 cases of *E. Coli* infection in the US annually, with 250 resulting in death. There are many foods and sources that are carriers of this strain of *E. coli*, including raw milk, untreated water, unpasteurized apple juice, deer jerky, infected persons who do not wash their hands, among many others.² For comparison sake, there are 56,979 deaths in the US from the flu and the CDC ranks it as the 9th leading cause of death.³ The probability of getting sick from waters in Wyoming is extremely low.

The *E. Coli* standard is also utilized as an indicator of other pathogens that may exist and cause illness. It is important to point out that there are many sources of these pathogens, including wildlife. Cryptosporidium has been found in over 150 animal species, including squirrels, chipmunks, coyotes, deer, elk, rabbits, raccoons, rodents, otters, skunks, opossums, and birds. Pathogenic strains of *E. coli* are common in the gut of ruminant wildlife like deer and elk and have also been found in birds and pigs.⁴

This is important to note, in light of the recent press indicating this proposed Categorical Use Attainability Analysis, is a widespread “downgrading” of water quality. The UAA determines, based on a set of criterion, if a particular use can be supported. The water quality will not be impacted by this change.

The Association believes these are important facts to point out to place this Categorical Use Attainability Analysis discussion in focus and on point.

Background

After the EPA disapproved Wyoming DEQ’s 2007 Chapter 1, Water Quality Rules & Regulations proposal for designating recreational waters as primary versus secondary utilizing a default approach whereby larger systems and waters would automatically be primary (Table A, Chapter 1) and smaller waters and unnamed tributaries would be designated secondary (Table B or unlisted waters, Chapter 1), the local conservation district’s initiated discussions with DEQ on how to approach the task of accurately designating recreation uses on Wyoming’s surface waters. Several districts began prioritizing waters within their districts for the completion of site specific recreational use UAA’s given that all waters in the state defaulted back to primary, absent the UAA. As a result, discussions occurred with DEQ on the immense workload and expenditure of resources this would take. DEQ in turn took the initiative to utilize technology, combined with a set of criteria aimed at identifying areas and conditions conducive to primary recreation activities, supported with field verification process, while concurrently consulting with the US EPA, to create the proposed Categorical Use Attainability Analysis.

The Categorical UAA is a robust, defensible and appropriate method for designating recreational uses on Wyoming’s surface waters. Under the current default of all waters being protected as “primary”, absent the

¹ U.S. Recreational Water Quality Criteria: A Vision for the Future; Roger S. Fujioka , Helena M. Solo-Gabriele , Muruleedhara N. Byappanahalli and Marek Kirs <http://www.mdpi.com/1660-4601/12/7/7752/htm>

² USDA, NRCS Watershed Science Institute; Waterborne Pathogen Information Sheet; Principal Pathogens of Concern, June 2000

³ <http://www.cdc.gov/nchs/fastats/deaths.htm>

⁴ California Rangeland Watershed Laboratory Department of Plant Sciences University of California, Davis; <http://rangelandwatersheds.ucdavis.edu/MWQIC/>

adoption and approval of the Categorical UAA, site specific UAA's would be required on 77,514 stream miles. This is an unnecessary burden on the state and local governments when a statistically defensible number of field verifications have validated the attainable recreational uses identified by the Categorical UAA. As well, DEQ offered numerous opportunities for input on the Categorical UAA and invited the submission of additional site specific information from the public and user groups.

In 2010, the districts in Wyoming worked collaboratively with DEQ to conduct field verifications on over 720 randomly selected sites in order to provide sufficient level of data points to verify the accuracy of the model. Districts invested hundreds of hours and thousands of dollars in conducting these verifications. Attached are photographs of a few examples of these field verification results throughout the state (*Attachment A*).

We believe the criteria utilized by the Department in determining primary versus secondary contact recreation uses is appropriate and reflects the intent of the standard and meets EPA's expectations. In addition, we believe they have conservatively approached designation of recreational waters where despite flow conditions, waters are located in areas where a higher likelihood of exposure to the water exists such as those in or near schools, public parks or near recreational campgrounds, etc.

It is imperative that Wyoming's waters are accurately protected for the attainable recreational uses.

Protecting Wyoming's water quality

The Association and its member districts are specifically involved in the implementation of several programs, projects and processes as it relates specific to federal Clean Water Act requirements and/or State Environmental Quality Act. These include, but are not limited to Section 305(b) State Water Quality assessments, Section 303 Water Quality Standards, Section 303(d) Water Quality impairment determinations/Total Maximum Daily Load programs; Section 404 permitting, Section 402, National Pollutant Discharge Elimination System, among others.

The extensive level of implementation activity related to water quality enhancement and improvement undertaken by conservation districts, specifically related to section 303(d), are detailed in the "Watersheds Progress Report" published periodically by the Association.⁵ These reports also detail the significant financial investment that the districts, local communities, landowners/homeowners, and the state of Wyoming have put forth into water quality improvement efforts. Please note, that from 2011 to 2014 the combined investment into watersheds over a span encompassing two years, exceeded \$34 million. A significant portion of this \$34 million is nonfederal, private, local and state government investments. All of these investments apply to those waters identified as impaired and threatened on the states section 303(d) list.

Of the \$34 million, \$22 million was spent specifically in watersheds with waters listed as impaired or threatened due to elevated levels of *E. coli* and subsequently the use impaired is primary recreation.

As stated earlier, there are significant resources being invested in implementing best management practices to improve water quality. There are 65 waters listed as impaired in Wyoming for exceedences of *E. Coli*, of which only four would change from primary to secondary. Based on preliminary data three of these waters would meet the secondary standard.

Attached are some examples that demonstrate the appropriateness of these changes. (*Attachment B*). One is Middle Prong Wild Horse Creek in Campbell County CD. This water has minimal flow, significantly below 5 cfs, it is predominantly on private land with little to no access and does not serve as a recreational water.

Conversely, there are obvious waters such as the North Fork Shoshone and Goose Creek as shown in Attachment B that will remain primary. In addition, there are other smaller waters such Circle Park creek, as depicted in

⁵ Watersheds Progress Report, 2005; 2007; 2009; 2011, 2015

Attachment A in Johnson County that will remain primary, despite 1.19 cfs of flow, due to its vicinity near a campground.

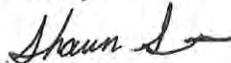
As we move forward with meeting the goal of clean water, it is important that the standard that is applied reflect the uses that are attainable, or in the case of primary and secondary contact recreation activities, the inherent risks that exist. Resources, both financial and human, should be focused on waters where the risk to human health is elevated due to the increased potential for ingestion. We have an obligation to ensure we are focusing our resources where contact recreation activities occur and a greater risk of ingesting quantities of water exists. It is irresponsible to do otherwise, however the current approach places both the local districts and DEQ in that position.

Other states have adopted the same type of approach in recognition that the standard was developed based on data from high recreation use beach areas and did not account for smaller, intermittent and ephemeral systems. Colorado has the same secondary standard in place as being proposed by Wyoming.

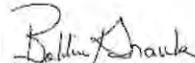
Lastly, the ability to submit a site specific recreational Use Attainability Analysis for submission to DEQ to change a designation is still available under this proposal. This allows for those instances where some may have failed to participate in the numerous public input processes and feel the categorical UAA failed to identify recreational uses, to submit site specific information to address those waters. However, the percentage of waters this will occur on is greatly reduced under the categorical designation changes from a statewide perspective. This approach has allowed interested public to weigh in on proposed designations in one public process, spanning three to four years, versus individual public notice processes occurring over extended periods of time on hundreds of individual UAAs.

In closing, the Association and member districts encourage the EPA to approve Wyoming's Categorical Use Attainability Analysis for designation of recreation uses. There has been a tremendous amount of work put into this Categorical UAA by many across the state, and in consultation with EPA.

Sincerely,



Shaun Sims
President



Bobbie Frank
Executive Director

Cc: The Honorable Matt Mead, Governor State of Wyoming
Todd Parfitt, Director, Wyoming DEQ
Doug Miyamoto, Director, Wyoming Department of Agriculture
Wyoming's Conservation Districts

Figure B-45. Wyoming Department of Agriculture (2 pages)



Wyoming
DEPARTMENT OF Agriculture

Matthew H. Mead, *Governor*
Doug Miyamoto, *Director*
2219 Carey Ave. • Cheyenne, WY 82002
Phone: (307) 777-7321 • Fax: (307) 777-6593
Web: agriculture.wy.gov • Email: wda1@wyo.gov

The Wyoming Department of Agriculture is dedicated to the promotion and enhancement of Wyoming's agriculture, natural resources and quality of life.

September 14, 2015

David Waterstreet
Watershed Section Manager
Wyoming Department of Environmental Quality
122 West 25th Street, Herschler Building 4-W
Cheyenne, WY 82002

RE: Categorical Use Attainability Analysis for Recreation

Following are the Wyoming Department of Agriculture's (WDA) comments pertaining to the Wyoming Department of Environmental Quality's (DEQ) Categorical Use Attainability Analysis for Recreation (UAA) document dated August, 2014 and for the public meeting dated September 16, 2015.

Our comments are specific to our mission: dedication to the promotion and enhancement of Wyoming's agriculture, natural resources, and quality of life. As this UAA has the potential to affect our agriculture industry, our natural resources, and the welfare of our citizens, it's important that you continue to inform us of proposed actions and decisions and continue to provide us the opportunity to express pertinent issues and concerns.

The WDA strongly supports DEQ's final UAA for Recreation. The UAA takes a logical and comprehensive approach in the fine scale identification of streams in the state having the potential of supporting primary contact recreational activities. Primary contact recreation or primary waters are those waters where recreational activities would be expected to result in full immersion and/or ingestion of the water, any other waters will be considered secondary contact recreation waters. In addition, waters that lack sufficient flows to support primary contact recreation (i.e. ephemeral, small intermittent and small perennial streams), and/or with a mean annual flows less than 6cfs are designated as secondary contact recreation waters. These designations provide users a more accurate depiction of where primary and secondary contact waters exist in the state.

The rationale and methods used by DEQ are defensible and field verified by both DEQ staff and Wyoming Conservation Districts (CD). Together 871 field surveys validated the findings and supports DEQ's identification of primary and secondary contact recreation waters. WDA supports these findings based on the numerous field verifications and believes these to be comprehensive and defensible to those who may question the UAA's determination.

In addition, we appreciate the DEQ collaborating with Wyoming CD's in verifying the determination of the category of waters in the UAA. Wyoming CD's are leaders in the state in water quality assessments and for their diligent work on impaired and threatened waters with the state. CD's have local knowledge

Equal Opportunity in Employment and Services

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DEQ UAA for Recreation
9/14/2015
Page 2 of 2

and expertise of Wyoming's waters and watershed conditions. We appreciate your continued support and acknowledgement of their expertise.

We strongly support DEQ in the development and implementation of this UAA for Recreation. We believe the approval of this strategy will benefit the general public and the state by providing a more accurate depiction of areas meeting the definition of primary contact recreation waters and through the decreased need of future UAAs on streams having very little to no likelihood of being primary contact water. We appreciate the opportunity to comment and look forward to the approval of Wyoming's UAA for Recreation.

Sincerely,



Doug Miyamoto
Director

DM/cw

CC: Governor's Policy Office
Wyoming Board of Agriculture
Wyoming Stock Growers Association
Wyoming Wool Growers Association
Wyoming Farm Bureau Federation
Wyoming State Grazing Board
Wyoming Association of Conservation Districts
Wyoming Game and Fish Department

Figure B-46. Wyoming Mining Association (2 pages)

SEP-16-2015 WED 03:23 PM WYOMING MINING

FAX NO. 3077786240

P. 01

Physical Address
2601 Central Avenue
Cheyenne, WY 82001

Phone: 307.635.0331



Mailing Address
PO Box 866
Cheyenne, WY 82003

Fax: 307.778.6240

September 15, 2015

David Waterstreet
Watershed Section Manager
Water Quality Division
Wyoming Department of Environmental Quality
Herschler Building 4-W
122 West 25th Street
Cheyenne, WY 82002

RE: Categorical Use Attainability Analysis for Recreation

Dear Mr. Waterstreet:

On behalf of the Wyoming Mining Association (WMA), we appreciate the opportunity to provide additional comments on the proposed Categorical Use Attainability Analysis for Recreation (UAA). The WMA is a state-wide trade organization that promotes the bentonite, coal, trona, and uranium mining industries in Wyoming by communicating with regulators and the public to maintain working relationships based on information and cooperation. WMA continues to support the State's efforts to develop a method to identify streams that do not support primary contact recreational use and the reclassification of these streams. This reclassification will allow the State to focus their attention on impaired streams, which truly support primary contact recreation and potentially require corrective actions.

The Wyoming Department of Environmental Quality/Water Quality Division (WDEQ/WQD) has already provided adequate opportunity for the public to comment on this project. Public notice was posted on WDEQ/WQD's web page and public notice e-mails were also provided. All of this is information that was available to the general public. Previously WMA provided comment regarding this project as did the U.S. Forest Service, a number of conservation districts, and the Environmental Protection Agency. This additional hearing is not required but will allow ample opportunities for all to express their opinions.

The reclassification of small streams with the appropriate secondary recreation status will allow regulators to focus their attention on impaired primary contact recreation waters. These are the waters that will actually be used for immersion and recreation and should be the streams that the general public and WDEQ/WQD are focused on to ensure that the water quality standards are maintained. The data that has been gathered during this project will also be beneficial in the State's efforts to prioritize impaired water bodies for improvement as a large amount of data has been gathered on stream flow, water quality, and stream conditions.

The delay or failure of the UAA may actually draw focus away from impaired streams where recreation is common and towards streams unlikely to ever be used recreationally. This will delay timely improvements to stream conditions with the limited funds and staff that

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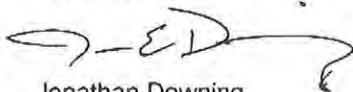
WDEQ/WQD has. The public's recent focus on small mountain streams and statements that the UAA will cause the water quality of these streams to be degraded is incorrect. It is also incorrect to state that these streams will no longer have applicable water quality standards as the secondary recreation standard will still apply. Many streams and minor water bodies across Wyoming for which no individual UAA has been conducted will not meet the primary recreation e-coli standard due to wildlife impacts and possible grazing.

If the reclassification is disallowed for appropriate streams, dischargers including municipalities, agricultural interests, and mining companies may have difficulty meeting the primary recreation standards, especially when the discharge waters include a component derived from wildlife activity, and livestock grazing. In some cases, compliance with the standard could significantly reduce the amount of water allowed to be discharged even though the additional water would be beneficial for downstream users and in-stream aquatic life. If the categorical UAA is disallowed, the potential cost of treatment for discharging to a stream that often is near or above the revised e. coli standard due to activities unrelated to the discharge will increase unnecessarily.

WMA also encourages WDEQ/WQD to periodically review and update the web map as more information is gathered through the state and individual UAA's are developed.

WMA appreciates the opportunity to again comment on the UAA. We support the approval of the UAA and believe it will more effectively focus the attention of WDEQ/WQD on bacteria impaired streams with primary recreation potential where improvements can be efficiently made and are warranted.

Sincerely,



Jonathan Downing
Executive Director

www.wyomingmining.org

Figure B-47. Wyoming Outdoor Council (91 pages)



HAND DELIVERED, WDEQ PUBLIC HEARING, CASPER WY

September 16, 2015

Kevin Frederick, Administrator
Water Quality Division
Department of Environmental Quality
122 West 25th Street,
Herschler Building 4-W
Cheyenne, WY 82002

Re: DEQ/WQD's Categorical Use Attainability Analysis for Recreation and Final Determination Regarding the Categorical Redesignation of Streams in The State from Primary Contact Recreation to Secondary Contact Recreation (August 20, 2014).

Dear Mr. Frederick:

On behalf of the Wyoming Outdoor Council, and the undersigned conservation, outdoor recreation, and other interested organizations and individuals, we are writing to voice our concerns about your August 20, 2014 decision to downgrade recreation-based water quality standards on 87,775 stream miles—approximately 76 percent of the state's surface waters—based on a Categorical Use Attainability Analysis for Recreation.¹

As we explained in our January 5, 2015 letter to EPA,² we believe your August 20, 2014 decision to reclassify recreation use designations on 76 percent of Wyoming's surface waters is based on: 1) a scientifically flawed categorical use attainability analysis; 2) erroneous and incomplete information regarding existing and attainable primary contact recreation uses on so-called "low flow" surface waters; and 3) an inadequate public outreach effort that failed to illicit a single comment from any recreational user group during the multi-year development of the UAA.

In addition to a flawed UAA, your decision fails to satisfy fundamental requirements of the Clean Water Act, the Wyoming Environmental Quality Act, and the Wyoming Administrative Procedures Act. For these and other reasons explained below, we

¹ See Wyoming DEQ's Categorical Use Attainability Analysis for Recreation, August 2014 at 1.

² A copy of our letter to the EPA was provided to DEQ Director Todd Parfitt.

respectfully request that you withdraw your August 20, 2014 decision and begin the process anew, with active engagement of the outdoor recreation and conservation communities as well as other interested stakeholders. In making this request, which we do not take lightly, we are not asking you to disregard the analyses undertaken to date. All of the information gathered by the DEQ and local conservation districts in connection with this process, including photographs, recorded observations and other information collected during site visits, may still be relevant and useful for any future UAA processes. But the public, particularly recreation user groups, should have been involved in the critical, initial development phases of the UAA, phases which led to major determinations regarding the type of UAA (categorical vs. site-specific), the geographic scope of the analysis area (statewide, basin, watershed, or individual segment), the types of streams considered (ephemeral, intermittent, and/or perennial), the level of flow required to be considered “low flow”, exceptions to the downgrade based on access, and many other basic elements which were previously decided by the DEQ without the involvement of key stakeholders.

Background

The DEQ engaged in a three-step process to develop its UAA and the resulting recreation use downgrades. The first step relied on GIS databases “to identify streams that do not support primary contact recreation” due to low flow conditions. Without any input from the outdoor recreation community, the DEQ decided that streams with mean annual flows under 6 cubic feet per second (cfs) do not have sufficient flow to support primary contact recreation.

In step two, the DEQ used “additional GIS databases to identify any ‘low flow’ streams that may be used for primary contact recreation or where primary contact recreation may be an existing use because the stream is located in an area where children and/or the public have easy access to the stream.” UAA at 6. The DEQ reasoned that “[a]lthough these streams will generally not support full body immersion since they are ‘low flow’, the water in these streams might be ingested by children and/or other members of the public and therefore should be protected for primary contact recreation.” Id.

In the third and final step, “the UAA incorporated public feedback received during an August 6 to September 30, 2013 public comment period.” Id. The DEQ concluded that: “Based on the feedback received during the August 6 to September 30, 2013 public comment period, there are not any pools or deep water areas located on ‘low flow’ streams that are used for primary contact recreation that are not designated for primary contact recreation in the UAA.” Id.

Based on this three-step analysis, the DEQ concluded:

For streams where the UAA indicates that there is not sufficient water availability (low flow conditions) to support primary contact recreation, not sufficient access or recreational opportunity to support primary contact recreation, and public feedback has not indicated that the stream is used

for primary contact recreation, primary contact recreation is presumed not to be an existing or attainable use and can be removed. The remaining low flow streams that are not proximate to areas frequented by children and/or the public can be grouped together categorically since the conditions that most influence the recreational use of the streams are sufficiently similar. These streams will be designated for secondary contact recreation.

See UAA at 7.

The on-the-ground result is that of the 115,373 stream miles shown on the 1:100,000 NHD, an astonishing number of surface waters—comprising 87,775 stream miles—were downgraded to secondary contact recreation under the DEQ’s decision. Only 27,598 stream miles would retain their primary contact recreation use designation.³

It is the inadequacy of this UAA and decision embodied in the three-step process that has brought about the need for this additional public hearing in order to ensure there is sufficient information from the recreational public to support the UAA decisions. We believe there are several threshold issues that should be considered as the DEQ reviews public comments and evaluates its options going forward, particularly with respect to the specific elements set forth in 40 CFR § 131.6.

Threshold Issue # 1: Holding a hearing on a “final” decision does not comply with Clean Water Act regulations governing public input into the development or revision of water quality standards.

In order for the public to have a “meaningful” opportunity to comment on and otherwise participate in the development of the UAA, the DEQ/WQD Administrator must withdraw his August 20, 2014 decision and provide the public with an opportunity to comment on a *proposed* decision and a *proposed* UAA. Aside from applicable legal requirements, common sense and principles of fairness demand nothing less.

In a letter dated June 3, 2015, which precipitated the need for this hearing, EPA Region 8 informed the DEQ that, “in order for the EPA to approve any of the recreation designated uses that are consistent with CWA requirements, the state must first hold a public hearing consistent with CWA 303(c)(1) and the implementing regulations at 40 CFR Parts 25 and 131.” (emphasis added). See EPA letter attached as Document Exhibit 1.

³ The Categorical UAA states that of the “115,373 stream miles depicted in the 1:100,000 National Hydrography Dataset (NHD) that were addressed in this UAA, primary contact recreation is not an attainable or existing use on 87,775 miles, or 76.1% of the stream miles.” See UAA at 1. Presumably, the remaining 27,598 stream miles in the 100k dataset retain the primary contact recreation use designation. However, the UAA also indicates (at 32) that the more detailed 1:24,000 NHD contains 281,000 stream miles in Wyoming, which presumably include the 116,000 miles in the 100k NHD plus an additional 165,000 stream miles comprised of intermittent and ephemeral streams. The preliminary UAA concludes that, “streams not present in the 100k NHD do not have sufficient flow to support primary contact recreation and will be designated for secondary contact, unless they are located in areas that are easily accessible to children and/or the public.” *Id.* at 32.

EPA reiterated the applicable Clean Water Act requirements in the last paragraph of its letter:

In summary, in order for the EPA to approve any of the recreation designated uses that are consistent with CWA requirements, the state must first hold a public hearing, satisfy the requirements of 40 CFR Part 25, and submit the transcript from the public hearing, information and written comments submitted during the hearing and the state's responses to written and oral comments to enable the EPA's meaningful review of the state's submission.

Id. The EPA also made it clear that feedback from people living near or recreating on these streams "is critical in *designating* the appropriate recreation use." (emphasis added).

Although the Wyoming Outdoor Council appreciates the DEQ's decision to conduct a public hearing as requested by EPA in its June 3, 2015 letter, the hearing scheduled on September 16th in Casper to accept public comment on a *final decision* issued over a year ago does not satisfy the Clean Water Act's public hearing requirements.⁴ Under both 40 CFR 131.20 and 40 CFR 25.5, the public must be given an opportunity to comment at the hearing on a *proposed action*—not a *final decision* as is the case here.

The EPA's public participation regulations implementing the Clean Water Act require states to provide "meaningful" opportunities for public participation in revisions to water quality standards. An essential element of meaningful public participation is a public hearing on the agency's *proposed* action, which of course is intended to solicit public views *before* the agency's decision becomes final. Inviting the public to participate in a public hearing in a single location on a final decision that was made more than a year ago, as the DEQ is doing here, fails to satisfy the Clean Water Act's public participation requirements. It is also an affront to concerned citizens, some of whom must drive 10 hours or more (round trip) in order to attend. Many of our members are asking, "What's the point of sending in a letter or attending the hearing if the DEQ's decision has already been made?" Frankly, we wonder the same thing.

40 CFR 131.10(e) requires that: "*Prior to* adding or removing any use, or establishing sub-categories of a use, the State shall provide notice and an opportunity for a public hearing under § 131.20(b) of this regulation." (emphasis added). In addition, 40 CFR 131.20(b) provides that: "the State shall hold a public hearing for the purpose of reviewing water quality standards. ...The *proposed* water quality standards revision and supporting analysis shall be made available to the public prior to the hearing." (emphasis added).

EPA's revised Water Quality Standards regulation, issued August 21, 2015, clarifies that the Clean Water Act's public hearing requirement applies "whenever revising WQS [water quality standards] regardless of whether the revision is a result of triennial review

⁴ Additional public participation requirements are discussed below.

per § 131.20(a).” See EPA Water Quality Standards Regulatory Revisions, 80 Fed. Reg. 51020, 51042 (August 21, 2015).

In addition to the Section 131 requirements, EPA’s Part 25 requirement governing public hearings provides, in part, that: “Any non-adjudicatory public hearing, whether mandatory or discretionary, under the three Acts shall meet the following minimum requirements.”

A notice of each hearing shall be well publicized, and shall be *mailed* to the appropriate portions of the list of interested and affected parties required by § 25.4(b)(5)... The notice shall identify the matters to be discussed at the hearing and shall include or be accompanied by a discussion of the agency’s *tentative determination* on major issues.... 40 CFR 25.5(b)(emphasis added).

The agency holding the hearing shall inform the audience of the issues involved in the decision *to be made*, the considerations the agency will take into account, the agency’s *tentative determinations* (if any), and the information which is particularly solicited from the public. 40 CFR 25.5(e) (emphasis added).

Taken together, these requirements make clear that a public hearing must be held on a *proposed* revision to water quality standards, and the hearing must provide a meaningful opportunity for the public to express views on tentative determinations on major issues. Yet in this instance, the DEQ’s notice of public hearing provides that the DEQ will accept comments “regarding its *designation* of Wyoming streams for secondary contact recreation as describe in its *final* Categorical Use Attainability Analysis for Recreation.” (emphasis added). Obviously, the goal of meaningful public participation cannot be achieved in circumstances where the DEQ has invited comment on a final decision.

As these requirements make clear, in order to achieve the public participation objectives outlined in the Clean Water Act and its implementing regulations, the public hearing scheduled for September 16, 2015 in Casper must be held on a “proposed” water quality standard revision and the “agency’s *tentative determination on major issues...*” must be made available in the notice of hearing. Here, neither requirement is met.

The DEQ’s August 20, 2014 decision is final, and all of the determinations on major issues have been made. These major determinations include: 1) in an action without precedent anywhere in the nation, developing a categorical UAA covering the entire state instead of a watershed by watershed approach, or based on stream type; 2) using a novel GIS-based approach instead of a process based on specific stream information; 3) choosing to use 6 cfs as the threshold for reclassification; and 4) major assumptions about recreation use and walking distances, etc. So despite the fact that the CWA regulations require that a hearing must be held to consider *tentative determinations on major issues*, and on *proposed* water quality standards revisions, the DEQ specifically is not inviting comment on those fundamental issues.

Instead, the public has been “invited to provide oral and written comments and/or documentation regarding the existing and potential recreation activities on streams designated for secondary contact recreation as described in the Categorical UAA.” See DEQ Notice of Hearing, attached as Document Exhibit 2. To be clear, the DEQ has invited the public to comment on “streams designated for secondary contact recreation...” Not *proposed* for designation as secondary contact, but rather, *designated* for secondary contact.

Because DEQ insists and apparently believes its decision is final (minus a perfunctory public hearing being held under protest⁵), it is now requesting the public to come forward with detailed information and evidence demonstrating existing or attainable primary recreation use on specific stream segments. In essence the DEQ is requiring the public to produce UAAs showing that primary contact recreation is attainable despite the fact that the CWA places the burden on the agency to demonstrate that those uses are not attainable. We categorically reject this approach.

As discussed by the EPA in its June 3, 2015 letter to the Wyoming DEQ calling for this hearing, the purpose of the hearing is to reach out to recreational user groups and get their feedback, which is “critical in designating the appropriate recreation use.” Moreover, the EPA made it clear the burden of proof to sustain any decision to downgrade recreational use designations lies with the state, and that burden has not been met to date as shown by the need for this additional hearing. Thus, the DEQ must fully consider the information received at this hearing before reaching any final decision on recreation use categories, and on all other tentative major determinations regarding this UAA. It can only do so adequately and objectively if it withdraws its August 2014 decision.

Threshold Issue # 2: The revision of water quality standards by the Administrator does not satisfy the requirements of the Wyoming Environmental Quality Act.

Wyoming Statute § 35-11-302 provides, in part,

- (a) The Administrator, after receiving public comment and after consultation with the advisory board, shall recommend to the director rules, regulations, standards and permit systems to promote the purposes of this act. Such rules, regulations, standards and permit systems shall prescribe:
 - (i) Water quality standards specifying the maximum short-term and long-term concentrations of pollution, the minimum permissible concentrations of dissolved oxygen and other matter, and the permissible temperatures of the waters of the state. *Id.*

⁵ DEQ indicated in its June 17, 2015 letter to EPA that it is holding a hearing not because it feels more public input is needed or would be helpful, but rather in order to “avoid costly and lengthy litigation.” The DEQ’s letter is attached as Document Exhibit 6.

Contrary to the plain language of § 35-11-302(a), which requires that “standards” be recommended to the Director after receiving public comment and consultation with the advisory board, Section 34 of Chapter 1, Water Quality Rules and Regulations authorizes the Administrator to submit changed water classifications or use designations directly to EPA for review, bypassing both the advisory council and the director, and avoiding a non-adjudicatory rulemaking hearing in front of the Environmental Quality Council. That is precisely what the Administrator did here. But the attenuated process outlined in Chapter 1, Section 34, and utilized by the Administrator, directly conflicts with W.S. § 35-11-302(a) which requires the involvement of the Advisory Board and the Director and a non-adjudicatory hearing before the EQC as part of the development (or revision) of a water quality standard.⁶

Even if, for purposes of discussion, Section 34 comports with § 35-11-302(a) (we believe it does not), the manner in which it was utilized here violates the terms and conditions the EPA placed on its use during the WQS approval process. In a letter dated January 25, 2002, the EPA outlined its concerns about the new process proposed by DEQ:

Section 34, Use Attainability Analysis.

Section 34 establishes a new process for making determinations regarding use classification changes or site-specific water quality criteria adjustments based on the use attainability provision in Section 33. For use classification changes, Section 34(a) allows the Department to administratively amend use classifications in Wyoming’s Water Quality Standards and do so outside the Council’s formal rulemaking process. In comments made during the standards development process, the Region expressed concern with Section 34(a) as initially proposed. Specifically, in a May 31, 2001 letter to the Water Quality Division, the Region explained its concern and noted that the new process could be acceptable to EPA if it were *demonstrated to be functionally equivalent to the current process* and results in enforceable provisions identified as State Water Quality Standards.

In the Region’s May 31, 2001 letter to the Division, we set out our understanding of how the revised Section 34(a) would be implemented. It was then, and continues to be, our understanding that implementation of Section 34(a) would include the following elements [nine bulleted items]:

⁶ In addition, the Administrator may not avail himself of the fast track provision contained in section 34(a) because under section 34(b), “proposed changes in water quality criteria that result from the Administrator’s findings shall be recommended to the council for adoption as revised rules.” See Chapter 1, Section 34(b). In this instance, the Administrator’s findings, set forth in the Categorical UAA and his August 20, 2014 decision, have resulted in a change of a water quality criterion in the affected streams, specifically a 500 percent increase in permissible *E.coli* levels in 76.1 percent of the state’s surface waters.

- Implementation of the process will involve the public, with *participation requirements equivalent to those applied in rulemaking.*

In a letter dated June 8, 2001 from Gary Beach, Administrator for the Water Quality Division, the Division confirmed that the Region's understanding of Section 34(a) ... and its intended implementation was correct.

Based on this understanding, EPA has determined that the revision to Chapter 1, Section 34, are consistent with EPA's water quality standards regulation at 40 CFR Part 131. Accordingly, EPA approves Section 34, Use Attainability Analysis subject to ESA consultation."

See EPA letter to Wendy Hutchinson, Chairperson, Wyoming Environmental Quality Council, dated January 25, 2002, Rationale for EPA's Action on the Revision to Wyoming's Water Quality Standards, Enclosure at 7,8, attached as Document Exhibit 4.

It is clear that DEQ did not involve the public in the development of its UAA "with participation requirements equivalent to those applied in rulemaking." Among other things, there was absolutely no discussion or debate within the advisory board (a body composed of citizens) and no discussion or debate with the Environmental Quality Council (also a citizen board) or within any other representative body or forum that can be considered to be the functional equivalent. The opportunity to appeal the Administrator's decision to the EQC in a trial-type proceeding conducted under the Rules of Civil Procedure with sworn witnesses and the State's AG defending the Administrator's decision is not the functional equivalent of a non-adversarial hearing held on rulemaking. And as discussed in further detail below, the level of opportunities for public participation in the context of Wyoming APA notice and comment rulemaking far surpasses the limited opportunities provided by the DEQ in this instance. Those additional comments include mailed notices of public hearings, and the opportunity for public citizens to request—and be granted—public hearings when 25 or more citizens, or an association with at least 25 members, make such a request. Wyoming APA rulemaking requirements are addressed in the following section.

It is apparent the DEQ has not complied with these statutory requirements due to its use of the attenuated process allowed by Chapter 1, Section 34 of the Wyoming Water Quality Rules and Regulations (WQRR), and in addition, has not provided public participation opportunities that are the functional equivalent to those provided in rulemaking.

Threshold Issue # 3: The Wyoming Administrative Procedure Act requires the DEQ to hold a hearing on a proposed UAA and on a proposed reclassification decision.

The development or revision of a water quality standard, including the removal of a designated use (i.e., primary contact recreation), constitutes a rule under the Wyoming

Administrative Procedure Act (APA). “Rule” is defined in W.S. § 16-3-101(b)(ix) and “means each agency statement of general applicability that implements, interprets and prescribes law, policy or ordinances of cities and towns, or describes the organization, procedures, or practice requirements of any agency. The term includes the amendment or repeal of a prior rule....”

The “streamlined” approach used by the Administrator pursuant to Chapter 1, Section 34, of the DEQ’s WQRR to develop the UAA and issue his final determination improperly bypasses the required Wyoming APA notice and comment rulemaking process, including the public notice requirement at W.S. § 16-3-103(a)(i) (notice of proposed rule must be mailed with at least 45 days notice). A proposed rule must also state whether the proposed rule “meets minimum substantive state statutory requirements.” *Id.* § 16-3-103(a)(i)(G). All interested persons must be given an opportunity to submit data, views, and arguments orally or in writing on the proposed rule. *Id.* § 16-3-103(a)(ii). And the agency “shall consider fully all written and oral submissions respecting the *proposed* rule.” *Id.* § 16-3-103(ii)(B) (emphasis added).

And “[i]n the case of substantive rules, opportunity for oral hearing shall be granted if requested by twenty-five (25) persons, or by a governmental subdivision, or by an association having not less than twenty-five (25) members.” W.S. § 16-3-103(a)(ii)A). We understand that the DEQ has received requests for hearings in Laramie, Lander, Cody and Jackson which were submitted by governmental subdivisions, by associations with more than 25 members, and by individual citizens in numbers far greater than the minimum and that all of those requests for additional hearings have been denied.

As explained above, the DEQ has not provided the public with an opportunity that meets the requirements of the Wyoming APA to participate in the development of a *proposed* rule, and the hearing scheduled for September 16th in Casper to receive public comment on the DEQ/WQD’s *final* Categorical UAA for Recreation does not meet the basic requirements.

By law, the DEQ must ensure full compliance with the Wyoming APA requirements for rulemaking as part of this UAA reclassification process. As discussed in the prior section, the DEQ has not done this because it used the attenuated process set forth in Section 34 of the DEQ’s Water Quality Rules and Regulations. This shortcoming must be corrected before the UAA is finalized.

In light of the EPA’s view that a purpose of this hearing is to make decisions about “designating” recreational uses, the DEQ must withdraw its UAA decision. This decision was reached before full notice and comment opportunities were afforded to the public, as demonstrated by the requirement to hold this additional hearing in order to get full public input and participation.

Clearly the DEQ’s designated use decisions cannot stand and there is no doubt that the initial findings will have to be modified based on the results of this hearing. We ask the DEQ to acknowledge this reality and withdraw the August 20, 2014 decision. Its

rulemaking is not complete and it should not be treated as such. Further rulemaking activity is required and this requirement should be recognized by DEQ.

On a related note, the DEQ suggests in its June 17, 2015 letter to EPA that “modifications to the UAA” could be submitted to EPA as a result of public comments made at the hearing. But the DEQ letter does not indicate the process it will follow in the event modifications are made. In consideration of the issues discussed above, we believe that any modification to the UAA would also require the issuance of a new decision. However, because of the vague wording of the existing decision—it lacks any information about the specific elements of the UAA and it adopts an *undated* Categorical UAA—it is conceivable that the DEQ—in a misguided effort to expedite the process, could modify the UAA and choose not to issue a new decision. If the DEQ were to proceed in this manner, entities seeking administrative review before the Environmental Quality Council would potentially be deprived of their legally mandated appeal rights because the 60 day period for filing appeals the EQC has long since passed. In sum, any modifications to the UAA would ultimately necessitate the issuance of a new decision with full rights to administrative review available to potentially affected parties.

Threshold Issue # 4: The Wyoming Environmental Quality Act Requirement for the use of Credible Data has not been met.

The Wyoming Environmental Quality Act (WEQA) and its implementing regulations require the use of “credible data” to support designating uses of surface waters and determining whether designated uses have been attained. W.S. §§ 35-11-103(c)(xix), 35-11-302(b)(i) and (ii). The DEQ’s categorical UAA failed to comply with Wyoming’s credible data law and should be corrected as a result of information received at the September 16th hearing and information submitted during the related public comment period.

The WEQA requires the use of credible data in both designating uses of surface water and in determining a water body's attainment of designated uses. See W.S. § 35-11-302(b). According to the statute, “Credible data’ means scientifically valid chemical, physical and biological monitoring data collected under an accepted sampling and analysis plan, including quality control, quality assurance procedures and available historical data.” W.S. § 35-11-103(c)(xix).

Specific regulatory requirements concerning the collection of credible data and requirements for its use are set forth in the DEQ’s Water Quality Rules and Regulations at Chapter 1, Section 35. Section 35(b) requires that: “Credible data shall be collected on each water body... [and] shall be used ... to designate uses and determine whether those uses are being attained.”

Section 35(c) provides that, “All changes to use designations after the effective date of this rule shall include the consideration of credible data relevant to the decision. Changes which involve the removal of a use designation or the replacement of a designation shall be supported by a use attainability analysis (UAA).”

And Section 35(d) states that: “After the effective date of this rule, credible data shall be utilized in determining a water body’s attainment of designated uses.”

These requirements could not be stated any more clearly, yet it appears to us that no data meeting the credible data standard were utilized in the development of the DEQ’s UAA. Indeed, the DEQ’s approach was just the opposite: the agency justified the downgrades based on the *absence* of site-specific data demonstrating existing or attainable primary contact recreation uses. Not only does this approach violate the credible data law, it unlawfully shifts the Clean Water Act’s presumption of “fishable/swimmable” to the public. As noted above, the EPA made it clear in its June 3, 2015, letter that this burden lies with the state. And the state’s credible data law increases this responsibility.

If we consider the first two steps in the DEQ’s UAA, step one being the identification of streams with low flow, and step two being the identification of streams that may not support primary contact recreation because of remoteness, it is apparent the credible data, as defined in the statute, was not used by DEQ “in determining water body’s attainment of designated uses[]” as required by W.S. § 35-11-302(b)(ii).

When we consider step one, as discussed in the Wyoming Outdoor Council January 5, 2015, letter to EPA, several deficiencies are apparent relative to the credible data requirement. A total of approximately 850 stream surveys were done, or one survey per 135 stream miles (or per 331 miles depending on the dataset that is used.) As stated in our letter to EPA on page 7, “no site-specific information was available to validate assumptions made regarding flows on thousands of miles of stream segments.” Furthermore, DEQ’s efforts to analyze stream depths in low-flow streams suffered from severe shortcomings, representing little more than guesses about stream depths.

Of the 850 field surveys, local conservation districts visited more than 700 sites but apparently not all of these visits occurred during the summer recreation season which, given the seasonal variability of flows, undermines the relevance of the data for assessing contact recreation activities during the summer recreation season. Moreover, based on the DEQ’s designated uses web map, it appears that the majority of site visits occurred in areas accessible via motor vehicles, with a much smaller sampling of stream accessible only by foot or horseback. As we explained in our January 5, 2015 letter to EPA, streams located in prairie grasslands or sage steppe are morphologically very different from mountain streams, such differences include flow regime, channel width, channel depth, stream gradient, presence of pools, water quality, etc. Step one also did not consider summer weather patterns (i.e., afternoon showers) or mountain snowpack levels and melt-off rates, all of which can influence flows and therefore availability of water for contact recreation.

The DEQ and local conservation districts used worksheets to collect data during field surveys. See UAA Appendix C. Stream location data and responses to questions asking for opinions about opportunities for recreation use listed on the worksheets cannot even remotely be considered credible data as defined by statute. As noted on the survey form,

“the information gathered during the statewide survey will ultimately be compared to the **predictions** of a Geographic Information System (GIS) based Recreational Use Model that is currently being developed by WDEQ.” (emphasis added). Assuming an average of one survey per 135 stream miles, and one mile segment surveyed, that leaves 134 stream miles un-surveyed and therefore subject only to predictions about whether a use is existing or attainable. Not only does this approach not satisfy the requirements of the credible data law, it fails to satisfy the most permissive reading of the EPA’s and DEQ’s UAA requirements, which require a “demonstration” made through a structured scientific assessment that primary contact recreation is neither existing nor attainable to support a downgrade.

The DEQ’s efforts fail to meet the credible data requirement. They provide no indication that “soils, geology, hydrology, geomorphology, climate, stream succession, and human influence on the environment” have been considered. W.S. § 35-11-302(b)(i). It is not apparent that an “accepted referenced laboratory or field method[]” has been employed or that the people conducting the surveys had “specialized training and [] field experience in developing a monitoring plan.” DEQ Water Quality Rules and Regulations Chapter 1 Section 35(a)(i). Moreover, under the DEQ’s Water Quality Rules and Regulations, these data must be collected on *each* water body, which is certainly not apparent. See Water Quality Rules and Regulations Chapter 1 Section 35(b) (stating, “Credible data shall be collected on *each* water body.”) (emphasis added). And were the DEQ to be seeking the “not practical or feasible” exception to the credible data rule, it would need to provide evidence that collecting these data was in fact not practical or feasible, which has not even been attempted.

Even if true, claims by DEQ that “all readily available data” have been considered⁷ do not meet the credible data requirements.⁸ Neither the Wyoming Environmental Quality Act nor the DEQ Water Quality Rules and Regulations ever mention ready availability of data as a substitute for “credible data.” Credible data is defined to mean “scientifically valid chemical, physical, and biological monitoring data collected under an accepted sampling and analysis plan, including quality control, quality assurance procedures and available historical data.” W.S. § 35-11-103(c)(xix). This is the standard that must be met, not ready availability, and there is no indication the DEQ has developed the UAA pursuant to these requirements or made its designated use analyses based on the best available science (credible data), as required by law.

There are also significant flaws with respect to step two of the UAA analysis. Here DEQ subjectively decided that streams more than a mile from populated places and schools, or more than half a mile from established campgrounds and trailheads, were too remote to enjoy primary contact recreation. It reasoned that because large areas of the state are uninhabited, low flow streams in these areas would not attract children or the general public for recreational purposes. But in reality, as discussed in the January 5, 2015, WOC letter to EPA, school children roam widely in pursuit of recreation, as does the adult

⁷ See DEQ’s Response to Comments for Comment Period ending March 14, 2014 (August 2014) at 22.

⁸ Data from NOLS and other recreational user groups, including information about recreation use of low flow streams, was readily available but not utilized by DEQ.

population. And in fact, for many, remoteness is a major attraction rather than a hindrance to recreation. Wyoming's vast areas of public lands, including the huge areas DEQ downgraded to secondary contact recreation, are almost uniformly open to public recreation and are widely used for recreation by vast numbers of people.

There is no indication the analysis in step two was based on accepted laboratory or field methods or was based on specialized training or field experience for developing a monitoring plan, as is required by the Wyoming Water Quality Rules and Regulations. It was not based on the consideration of "human influence on the environment" as required by the Wyoming Environmental Quality Act (only human *reaction* to the environment was possibly considered). There is no indication it would not be "practical or feasible" to gather this information in a more scientifically valid manner.

Importantly, the credible data requirement is to be based on a "weight-of-evidence approach." Wyoming Water Quality Rules and Regulations Chapter 1 Section 35(b). As shown in the WOC Letter to EPA, it is clear the weight of the evidence does not support a recreation use downgrade under either step one or step two of the existing UAA analysis. And again, we note the burden is on the state to support any downgrades of recreation uses, and that burden, under Wyoming law, cannot be met when credible data is not used.

Quite clearly, the requirement for the use of credible data to support changes to use designations and to determine a water body's attainment of designated uses is not, as asserted by DEQ in its response to comments, limited to data that is "readily available." The record shows that the DEQ did not consider anything resembling "credible data" in making its decision to downgrade waters statewide from primary to secondary contact recreation. As a result, the Administrator's August 20, 2014, decision reclassifying surface waters must be withdrawn.

Threshold Issue # 5: The Water Quality Division's Implementation Policies forbid it from downgrading recreation-based water quality standards on Class 1 surface waters.

Implementation policies for antidegradation *and* for use attainability analyses adopted by the WQD and approved by EPA prohibit the Administrator from downgrading Class 1 waters. According to the WQD's Implementation Policy (September 24, 2013), "[a]ntidegradation protection is one of the essential elements of state surface water quality standards programs and is required under Section 303(d)(4)(B) of the Clean Water Act." See Section 1, page 2. Wyoming's antidegradation policy reflects the three-tiered approach adopted by EPA, with Tier 3 providing the highest level of protection under the Clean Water Act. As described in Wyoming's policy, "Tier 3 protections apply to waters that constitute "outstanding national resource waters" (ONRWs). Tier 3 requires maintenance of existing quality with no consideration of assimilative capacity or economic or social development." See Antidegradation Policy at 3. "Though not designated as ONRWs, Class 1 waters are afforded a level of antidegradation protection which is the functional equivalent of EPA's tier 3 concept." *Id.*

In addition to disregarding its antidegradation policies, the WQD's August 20, 2014 reclassification also conflicts with the WQD's policy for use attainability analyses, which provides: "*Class 1 waters are specially designated waters on which the existing water quality is protected regardless of the uses supported by the water.*" See UAA Implementation Policy at 25 (emphasis added). As stated above, the WQD's UAA Implementation Policy is unambiguously clear that water quality of Class 1 waters must be maintained regardless of whether primary contact recreation (or any other use) is an existing or attainable use. The fact that DEQ believes that swimming and other primary contact uses may not be an existing or attainable use on low flow streams in congressionally designated wilderness areas is irrelevant. The DEQ's UAA policy for Class 1 waters expressly prohibits the lowering of water quality standards regardless of whether a use is existing or attainable. Under DEQ policies, existing water quality in Class 1 waters must be protected. Permitting more *E.coli* pollution by virtue of a use downgrade is not permitted.

The Administrator's attempt to downgrade pristine low flow streams within congressionally-designated wilderness areas to secondary contact recreation is an unprecedented assault on Class 1 water quality in Wyoming. This reclassification raises the permissible levels of *E. coli* 500 percent above levels deemed safe for swimming in thousands of miles of Class 1 wilderness streams. While the standard for Class 1 surface waters is no degradation, and no lowering of water quality—this rule authorizes levels of *E. coli* pollution 5 times higher than previously existing limits. Moreover, Class 1 waters are designated by the Environmental Quality Council in accordance with formal rulemaking procedures. See WQRR Chapter 1, Section 4(a). The Administrator's decision to downgrade Class 1 waters to allow for more pollution undermines the authority of the EQC, and defeats the intent of its Class 1 designations. The Administrator's August 20, 2014 reclassification of water quality standards runs afoul of his own policies and therefore must be withdrawn and amended to exclude Class 1 waters.

DISCUSSION

Section 101(a)(2) of the Clean Water Act states the national goal of achieving "water quality which provides for the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water" whenever attainable. CWA section 303(c)(2)(A) requires water quality standards to "protect the public health and welfare, enhance the quality of water, and serve the purposes" of the CWA. The EPA's regulations at 40 CFR Part 131 interpret and implement these provisions through a requirement that water quality standards protect the uses specified in section 101(a)(2) (i.e., aquatic life and recreation) unless those uses have been shown to be unattainable. EPA's longstanding interpretation is that the water quality standards regulation establishes a rebuttable presumption that the uses specified in section 101(a)(2) are attainable unless demonstrated otherwise. See 63 Fed. Reg. 36742, 36750 (July 7, 1998).

The mechanism for making such a demonstration is a Use Attainability Analysis, defined at 40 CFR § 131.3(g) as “a structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors as described in § 131.10(g).”

The EPA’s water quality standards regulation states in 40 CFR § 131.10(g) that: “States may remove a designated use which is *not* an existing use, as defined in section 131.3, or establish sub-categories of a use if the State can demonstrate that attaining the demonstrated use is not feasible” based on one of the six factors in 40 CFR § 131.10(g), which are also included in Wyoming’s Water Quality Rules and Regulations Section 33(b) (emphasis in original).⁹

These rules embody a “rebuttable presumption” that certain uses cannot be removed except under narrowly circumscribed conditions. 63 Fed. Reg. 36,742, 36,749 (July 7, 1998). Fishable and swimmable uses are considered attainable and should apply to a water body unless it is affirmatively demonstrated that such uses are not attainable.

Although UAAs are typically completed on a site-specific basis, Section 2.9 of the EPA’s Water Quality Standards Handbook authorizes what are known as “categorical UAAs” for groups of waters: “States may also conduct generic use attainability analyses for groups of water body segments provided that the circumstances relating to the segments in question are sufficiently similar to make the results of the generic analyses reasonably applicable to each segment.”

The DEQ’s Categorical Use Attainability Analysis

The DEQ relied principally on factor 2 (low flows) to support the state-wide downgrade of Wyoming’s surface waters.¹⁰ See UAA at 7; 40 CFR § 131.10(g)(2). EPA Region 8’s policy is that physical factors *may* be considered in combination with “other factors, such as existing uses, waterbody access, bacterial water quality, waterbody location, treatment costs, and the existence of facilities that encourage, or create a potential for, full body contact recreation.” See EPA Region 8 Guidance: Recreation Standards and the CWA Section 101(a)(2) “Swimmable” Goal, May 1992 at 7. This is the so-called “suite of factors” EPA advised DEQ to consider during the development of the UAA. See Letter from EPA Region 8 to Lindsay Patterson DEQ/WQD dated January 22, 2013.¹¹

⁹ The six factors include naturally occurring pollution; low flows or water levels; human-induced pollution; dams, diversions or other hydrologic modifications; physical features related to the natural features of the waterbody; and pollution controls more stringent than those required by the CWA would result in substantial and widespread economic and social impacts.

¹⁰ In addition to flow, the DEQ considered access to surface waters and public comment as part of its obligation to consider a suite of factors.

¹¹ The “suite of factors” approach is discussed in the EPA’s Advanced Notice of Proposed Rulemaking: “EPA’s suggested approach to the recreational use question has been for States and Tribes to look at a suite of factors such as, the actual use, existing water quality, water quality potential, access, recreational facilities, location, safety considerations, and physical conditions of the water body in making any use attainability decision.” See 63 Fed. Reg. 36742, 36756 (July 7, 1998).

As will be described in more detail below, the Administrator's August 20, 2014 decision, and the process used to support it, are directly contrary to the fundamental goals and requirements of the Clean Water Act, and represent an astonishing reversal of the longstanding rebuttable presumption embedded in the Clean Water Act that primary contact recreation is an attainable use that must be protected unless the regulatory authority affirmatively demonstrates otherwise.

1. A flawed process to identify low flow streams, coupled with a misplaced reliance on low flows to justify a downgrade, led to a legally and scientifically flawed decision.

In suggesting that the DEQ consider the option of developing a "categorical UAA" the EPA wrote:

The Region cautions that the defensibility of a categorical approach would likely depend on identifying a category or categories of waters that are sufficiently similar such that it is reasonable to use site-specific information for a representative sample of locations to characterize the existing and potential uses for the entire category (e.g., ephemeral waters). However, for the reasons identified above, the Region's perspective is that the most appropriate and defensible method for determining the most appropriate recreation use is to compile and consider site-specific information for each segment of concern.

Letter from EPA Region 8 to Mr. Dennis M. Boal, Chair, Wyoming EQC, dated September 29, 2008, at 20.

The DEQ has failed to provide site specific information that is representative of all the various types of surface waters present in the 115,373 stream miles that flow over 97,914 square miles of Wyoming's landscape.

The DEQ, in conjunction with some conservation districts, conducted approximately 850 surveys, which amounts to one survey per 135 stream miles (100k NHD) and one survey per 331 stream miles (24k NHD). Certainly, any assertion that information collected from these field surveys is representative of the complex surface water system encompassing the entire State of Wyoming and over 115,000 stream miles cannot be accepted. Moreover, although Wyoming conservation districts "visited over 700 sites to help validate the UAA," not all of those site visits took place during the summer recreation season. UAA at 20. The DEQ claims that, "the photographs are shown only to depict channel and flow characteristics" without acknowledging that flows and flow characteristics may vary widely based on any number of factors, and a snapshot taken on a single occasion may not be representative of flows that one might encounter on those streams at other times within the summer outdoor recreation season.

Based on information displayed in the DEQ's *Recreation Designated Uses Web Map*, it appears that most site visits occurred in areas that are accessible by motor vehicle, and a

much smaller number were conducted inside higher elevation forested areas or in other remote mountainous parts of the state where summer flows can vary widely due to snow melt, precipitation and diurnal temperature variation. The model used in this UAA does not predict how much snow will fall (or accumulate on the ground) in any given year (or month or week), nor does it predict temperatures or rainfall during summer months, all of which influence flows. A deep mountain snowpack lingering into early summer will eventually melt off, but the rate of the melt-off, and thus the stream flows, will be influenced by temperatures and rainfall events. The smaller number of field surveys of remote mountainous areas means that in some cases site-specific information was not available to validate assumptions made regarding flows on hundreds, and perhaps thousands, of miles of stream segments. See Recreation Designated Uses Web Map, <https://gis.deq.wyoming.gov/maps/recreation/>

The attached photograph, marked as Photo Exhibit 1, shows a downgraded stream in the Wind River Range. Although the DEQ identified the stream in the photo as a “low flow” stream, one can plainly see that the flows are considerably greater than 6 cfs, perhaps as high as 30 or 40 cfs, or even higher. This photo provides evidence that the model, for whatever reason, is unreliable at estimating stream flows and therefore should not be relied upon to support DEQ’s decisions to downgrade streams.

Stream flow was not the only variable considered in the UAA. Using information from 17 USGS gage sites, DEQ attempted to make estimates regarding the depths of low flow streams. See UAA at 19. In its interpretation of the data, the DEQ employs qualifying terms such as “rarely” and “unlikely” in estimating depths. Clearly, agency guesses about stream depths are not representative of the kind of information that should be included in the “structured scientific assessment” required by 40 CFR § 131.10(g). In addition, the DEQ fails to convincingly demonstrate how data from 17 gage stations are representative of more than 115,000 stream miles flowing over sixty-two million acres of Wyoming’s landscape.

In correspondence with the DEQ during the development of the categorical UAA, EPA Region 8 discussed the limitations of the model with regard to depth estimates:

The EPA acknowledges that stream depth varies along a segment and it would be difficult for any model to accurately capture this variability. The EPA cautions states interested in using depth as the justification for removing primary contact that we are not aware of GIS stream depth data that would be scientifically defensible to make such a demonstration.

Letter from EPA Region 8 to Lindsay Patterson, DEQ/WQD dated January 22, 2013, Note 4.

In an effort to overcome this shortcoming in the model, DEQ solicited information from a limited segment of the public concerning the existence of pools or other deep-water areas on low flow streams. As discussed in section 3, below, this “public outreach” effort fell far short of what is required to reverse the presumption of swimmable uses on these

streams. Attached as Photo Exhibit 2 is a photograph of a woman floating on an air mattress on a warm summer day in a pool located on a downgraded “low flow” stream in the Bridger-Teton National Forest. There is no doubt that this photo, and many others like it, would have been provided to DEQ during the comment period if DEQ had adequately encouraged public participation in the UAA process. Even so, the fact that DEQ required the public to disprove its unsubstantiated assumptions on “low flow” and lack of deep pools is a problem even if public participation had been robust.

EPA Region 8’s guidance on recreation and swimming states that:

With regard to the swimmable component of this national goal, EPA recognizes the physical characteristics (e.g., depth, flow) of some western waterbodies do not lend themselves to swimming and other forms of primary contact recreation. However, the general Agency policy on this issue is to place emphasis on the potential uses of a waterbody and to do as much as possible to protect the health of the public (see 48 FR 51401 and the Water Quality Standards Handbook at p. 1-6) (emphasis in original). In certain instances, the public will use whatever waterbodies are available for recreation, regardless of the flow or other physical conditions. Accordingly, EPA encourages States to designate primary contact designation uses, or at least to require a level of water quality necessary to support primary contact recreation, for all waterbodies with the potential to support primary contact recreation.

EPA Region 8 Guidance: Recreation Standards and the CWA Section 101(a)(2) “Swimmable” Goal, May 1992 (emphasis in the original).

EPA’s statement about the public using “whatever waterbodies are available” is of course true, particularly in arid regions of Wyoming such as the Red Desert, where useable water is both rare and precious, and in most other areas of the state during the late summer season when stream flows have been diminished. For example, see attached Photo Exhibit 3 showing children playing in ephemeral ponds in the Killpecker Dunes area of the Red Desert. This observation is even more correct with respect to children who, as EPA has recognized, “can be very creative about achieving full body contact in even the smallest waterbodies.” See Letter from EPA Region 8 to Dennis Boal, Wyoming EQC, dated September 29, 2008 at 19.

This of course is all the more reason to protect low flow streams for primary contact recreation. Streams flowing at well below 6 cfs will be used for primary contact recreation if that is all that is available, especially in the case of children. See attached photograph marked as Photo Exhibit 4, showing two young boys, ages 11 and 13, playing in a downgraded low flow stream in the Wind River Range. It should be noted that pools occur frequently, even in the smallest of streams, where boulders are present in the stream channel, a common feature of mountain streams not considered by DEQ.

2. The DEQ improperly limited Clean Water Act protections to “easily accessible” surface waters.

Relying on Wyoming Department of Education school bus policy and questionable assumptions about recreational use of Wyoming’s surface waters, the DEQ has taken the position that “low flow” streams more than a mile from populated places and schools and more than a half-mile from established campgrounds and trailheads do not need to be protected for primary contact recreation because they are not “easily accessible.” UAA at 34. The DEQ acknowledges that those “[d]istances were based on a general understanding of how far children and/or members of the public walk from their homes, schools and recreation sites.” UAA at 33.

There are a number of problems with this approach. First, what is, or is not, easily accessible depends on a variety of factors and varies widely. Second, DEQ’s “general understanding” of recreational use behaviors of both children and adults is demonstrably incorrect, and decisions based on that understanding are completely arbitrary. Third, the Clean Water Act’s recreation use protections are not limited to surface waters deemed to be easily accessible.

Areas of the State that are “easily accessible” to some may for any number of reasons be inaccessible to others. A number of factors such as age, health and fitness of the individual, road and trail access, weather, mode of transportation, land ownership, and many other variables play a role in determining accessibility. We do not dispute that low flow streams near schools and population centers are likely to be frequented by children and adults and therefore deserve to be protected for primary contact recreation. But we fundamentally disagree with the notion that surface waters in rural and “uninhabited” areas of the state, and on the millions of acres of Wyoming’s landscape located more than a mile from schools, towns and recreation sites, categorically do not deserve the same level of protection.¹² The Clean Water Act’s recreation use protections are not limited to urbanized or more developed areas of a state deemed to be “easily accessible” based on school bus policy. Under the DEQ’s approach, a ditch, canal or low flow stream flowing through a rural neighborhood (or a child’s back yard) located more than a mile from a school or town would not be protected for primary contact recreation. This makes no sense.

Regarding school bus policy, it should be noted that elementary school travel takes place when school is in session (i.e., during the fall, winter and spring), when temperatures are much cooler and conditions are often less than ideal for children traveling by foot. Thus, we question how school bus data is relevant in any way to distances school children may travel during summer months, when school is out and temperatures are more conducive to outdoor play. In addition, children walking to school, or to the school bus stop, do so at specific times of day (morning and afternoon) in narrow windows which limit the time children may have to walk and to play. This type of structured activity does not at all

¹² Low flow streams that flow through or are within one mile of populated places with 55 or fewer persons per square mile have been downgraded to secondary contact recreation.

reflect the play behavior of children on summer vacation, which again is the season the UAA is addressing.

Children will play in streams, canals and ditches miles from the nearest town or school, often near their own or their friends' homes and ranches. Many will walk, but during summer months, even more will ride their bicycles, greatly expanding the distances they may travel. Far ranging expeditions are a normal part of children's development and recreation, especially in a rural and wild state like Wyoming. In Wyoming's rural areas, travel by horseback, or on four-wheelers is also an option for many children. And of course children will play in whatever water source they find, regardless of flow or quality. See attached photograph, Photo Exhibit 5, showing child's play on downgraded stream in the Bridger-Teton National Forest.

With respect to adult recreation behavior, the DEQ's conclusion that "since elementary school children are expected to walk up to a mile to school, WDEQ/WQD anticipates that children and/or members of the public may travel up to 1.0 mile from populated places and potentially use streams within that distance for primary contact recreation[]" is incorrect. UAA at 34. How is the distance traveled by elementary school children to and from school relevant in any way to distances adults may travel for summertime recreation activities? The answer, of course, is that it is not. It is common knowledge that adults travel not only a mile from populated places but 5 miles, 10 miles and even 20 miles in some of Wyoming's wilder and more remote country such as its wilderness areas. See Recreation Exhibit 1 (Meeks Lake trailhead sign).¹³ Trips of these distances are normal in Wyoming and contribute to our cultural identity. See, e.g., Washakie Ranger District, Shoshone National Forest visitor information, attached as Recreation Exhibit 2. (unmarked pages 5-6 show hiking distances to popular backcountry destinations, ranging from 1.5 to 16.0 miles). See also Wyoming Atlas & Gazetteer, page 10, Hiking (describing popular hikes of up to 21 miles (each way)), attached as Recreation Exhibit 3, and The Wyoming Range: Wyoming's Namesake Mountains, attached as Recreation Exhibit 4 (noting 75-mile Wyoming Range National Recreation Trail).¹⁴

The DEQ concluded that because "large areas of the state are uninhabited ... the majority of ephemeral, small intermittent and small perennial streams with insufficient flow to support primary contact recreation do not attract children and/or the general public for recreation because they are not located near population centers, schools or recreation sites." UAA at 33. Yet, what DEQ does not address is that, "in EPA's view, remoteness is not a valid basis for an attainability decision on recreation." 63 Fed. Reg. 36742, 36753 (July 7, 1998) (emphasis added).

The truth is that remoteness and inaccessibility are some of the very features that draw people from across the state and around the world to Wyoming's backcountry areas. See, e.g., Wyoming Recreation Guide, attached at Recreation Exhibit 5 ("The National Landscape Conservation System units in Wyoming offer exceptional opportunities for solitude, exploration, research, recreation, and education."). The state's vast public lands

¹³ See also, <http://www.pinedaleonline.com/TrailInfo.HTM>

¹⁴ See <http://www.summitpost.org/wyoming-range/878644>

offer world-class recreation opportunities that attract people from all over the world. Recreation Exhibit 6 (Greater Yellowstone Visitors Guide). We are familiar with numerous examples of children as young as five and six accompanying their parents on extended backcountry expeditions into remote areas of the Wind River Range and the Absaroka Mountains. The Red Desert also has extremely remote areas that people regularly venture into, such as the Jack Morrow Hills and Adobe Town.¹⁵ See Recreation Exhibit 7, Wyoming's Red Desert Wild Heart of the West.

Sometimes the travel is by foot, other times it may be on the back of a horse, or with goats or llamas. Children in the company of adults travel much greater distances than the DEQ's "general understanding" would suggest, to enjoy outdoor recreation opportunities the state's public land areas provide. See Photo Exhibit 6. Backcountry locations in the Bridger and Fitzpatrick Wilderness in the Wind River Range or the Cloud Peak Wilderness in the Bighorn Mountains are just a few examples of locations that families with children often visit. In addition, children attending summer camps such as Elk Creek Camp¹⁶ and Teton Valley Ranch Camp¹⁷ often backpack several miles from the trailhead to enjoy an overnight camping trip on public lands.

With regard to access, EPA Region 8's guidance explains that:

[I]f people are physically restricted from getting to the waterbody, this would help support a conclusion that establishing a swimmable goal standard is not required at present. On the other hand, if access is provided (e.g., trail is located adjacent to the waterbody), this increases the likelihood that the waterbody will be used for primary contact recreation. Because a critical function of water quality standards is to protect potential uses, access can be an important consideration in reaching a decision about recreational uses.

EPA Region 8 Guidance: Recreation Standards and the CWA Section 101(a)(2) "Swimmable" Goal, May 1992 at 5.

Virtually all of Wyoming's thirty million public land acres are open to public access and myriad recreational activities, and the UAA does not identify any areas of the state closed to recreation. Public lands managed by the USDA Forest Service and the Bureau of Land Management literally contain thousands of miles of trails, paths and "two-tracks" which provide access to millions of acres of lands enjoyed by the public. The laws governing the management of these lands specifically provide for recreation, and numerous policies and programs encourage recreational use on these lands, for both commercial and non-commercial use. See Public Lands Recreation Opportunities, attached as Recreation Exhibit 8. In addition, nearly 3.6 million acres of State Lands are open to recreation.¹⁸

¹⁵ See <http://www.blm.gov/wy/st/en/programs/nlcs/wsa/hdd/adobetown.html> and <http://www.backpacker.com/trips/wyoming/the-red-zone-wyoming-s-red-desert/#bp=0/img1>

¹⁶ See <http://www.elkcreekranch.com/index.php/camp-program/backpacking>

¹⁷ See <http://www.tvrcamp.org/page.aspx?pid=580>

¹⁸ See <http://slf-web.state.wy.us/Surface/brochure.pdf>.

The National Outdoor Leadership School (NOLS), based in Lander, WY, reported over twenty-one thousand user days during the summer season on the Shoshone and Bridger-Teton National Forests in 2013. NOLS also reported hundreds of user days on Wyoming's public lands managed by the Bureau of Land Management.¹⁹ Wilderness expeditions led by NOLS are typically 30 days in length; during that period, NOLS students and their instructors may travel one hundred miles or more on foot, both on and off-trail.²⁰ During the entire time in the backcountry, they rely on naturally occurring surface waters for all their water needs, which include typical recreational activities such as swimming, floating and wading, but also uses such as dunking and splashing to cool off, bathing, cooking, and personal hygiene, etc. All of these activities, to one extent or another, present a risk of ingestion of water, and all are encompassed by the Wyoming DEQ's definition of primary contact recreation. See Chapter 1, Section 2(b)(xlii) (“primary contact recreation’ means any recreational or other surface water use that could be expected to result in ingestion of the water or immersion (full body contact).” (emphasis added).

Of course, NOLS is not the only commercial user that travels by foot into the backcountry. Professional guides and outfitters; college outdoor programs; schools and research institutions such as Teton Science School; summer camps and outdoor programs such as Elk Creek Ranch Camp, Teton Valley Ranch Camp, and Wilderness Ventures; guest ranches, scouting organizations and others are authorized by federal land managers and use vast areas of Wyoming's backcountry.²¹ Similarly, non-commercial recreational users, which include hikers and backpackers, trail runners, climbers and mountaineers, hunters and anglers, horseback riders, mountain bikers, and many others, travel much farther than one mile to enjoy their pursuits.²²

In conclusion, there is no basis whatsoever for the DEQ's “general understanding” about distances adults and children may travel for recreational purposes and any conclusion based on that understanding about what is and isn't “easily accessible” is incorrect.

3. The DEQ may not remove existing and attainable recreational uses of the State's surface waters based on the absence of public comment when no effort was made to encourage comments from recreational users.

One of the basic requirements of the Clean Water Act is that states may not remove designated uses if they are existing uses. See 40 CFR § 131.10(h). Moreover, states may remove a designated use which is *not* an existing use “only if the State can demonstrate that attaining the demonstrated use is not feasible...” 40 CFR § 131.10(g). Despite these core requirements, the DEQ concluded that since “public feedback has not indicated that

¹⁹ Per. Comm. with Andy Blair, Assistant Director, NOLS Rocky Mountains, 10/23/2014.

²⁰ See <https://www.nols.edu/courses/wind-river-wilderness/>

²¹ See, e.g., http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5371120.pdf

²² A search for “hiking guide to Wyoming” on Amazon.com reveals dozens of hiking and backpacking guide books covering virtually all areas of Wyoming.

the stream is used for primary contact recreation, primary contact recreation is presumed not to be an existing or attainable use and can be removed.” UAA at 7.

As we will describe in detail below, given the nature of the DEQ’s flawed public participation process, this result was a foregone conclusion. Although the water quality standard downgraded by DEQ is a recreation-based standard, no recreation user groups were consulted at any time during the multi-year process. Based on information available on the DEQ’s website, it appears the state’s public outreach and consultation efforts were focused almost exclusively on individuals and organizations who either actively advocated for or supported the downgrade of the state’s water quality standards.²³

Section 101(e) of the Clean Water Act provides, in part, that “public participation in the development, revision, and enforcement of any regulation, standard, effluent limitation, plan, or program established by the Administrator or any State under this chapter shall be provided for, encouraged, and assisted by the Administrator and the States.” 33 U.S.C. § 1251(e) (emphasis added). There is no evidence anywhere in the documents available on DEQ’s website that DEQ “encouraged” the participation of any potentially interested stakeholder except some conservation districts and their constituents, which is to say, the proponents of the state-wide downgrade.

EPA’s public participation requirements applicable to the DEQ’s Categorical UAA are set forth in 40 CFR § 131.10(e); 40 CFR § 131.20(b); and 40 CFR Part 25. Under these rules, the State must provide notice and opportunity for a public hearing “under § 131.20(b)” before removing any use. 40 CFR § 131.10(e). In addition, 40 CFR § 131.20(b) requires that the state’s public outreach efforts satisfy the public participation requirements of Part 25. In turn, Part 25 “sets forth minimum requirements and suggested program elements for public participation in activities under the Clean Water Act...” 40 CFR § 25.1 (emphasis added).

Some of the key public participation requirements contained in Part 25 that the DEQ failed to implement are listed below:

Agencies “shall provide for, encourage, and assist the participation of the public.” 40 CFR § 25.3(a).

“Public participation is that part of the decision-making process through which responsible officials become aware of public attitudes by providing ample opportunities for interested and affected parties to communicate their views.” 40 CFR § 25.3(b).

²³ Only one organization, Western Watersheds Project, submitted comments critical of the state’s proposal, and those comments were categorically rejected, including comments indicating the existence of primary contact recreation uses on specific water bodies. See Response to Comments for Comment Period Ending March 14, 2014 at 19. And WWP is only nominally a recreation group, it is fundamentally an environmental advocacy group and outdoor recreation is certainly not its purpose, mission or focus.

Agencies shall “use all feasible means to create opportunities for public participation, and to stimulate and support participation.” 40 CFR § 25.3(c)(7).

“Providing information to the public is a necessary prerequisite to meaningful, active public involvement. Agencies shall design informational activities to encourage and facilitate the public’s participation in all significant decisions covered by § 25.2(a), particularly where alternative courses of action are proposed.” 40 CFR § 25.4(b)(1).

“Each agency shall identify segments of the public likely to be affected by agency decisions and should consider targeting informational materials toward them (in addition to the materials directed toward the general public).” 40 CFR § 25.4(b)(2).

“Each agency shall develop and maintain a list of persons and organizations who have expressed an interest in or may, by the nature of their purposes, activities or members, be affected by or have an interest in any covered activity. * * * Those on the list ... shall receive timely and periodic notification of the availability of materials under § 25.4(b)(5).”

Agencies “shall provide for early and continuing public consultation in any significant action covered by this part.” 40 CFR § 25.4(d).

“A notice of each hearing shall be well publicized, and shall also be mailed to the appropriate portions of the list of interested and affected parties required by § 25.4(b)(5).” 40 CFR § 25.5(b) (emphasis added).

Procedures for the conduct of hearings “shall not unduly inhibit free expression of views (for example, by onerous written statement requirements or qualification of witnesses beyond minimum identification).” 40 CFR § 25.5(e).

“The requirements of § 25.5 (b) and (c) are applicable to public meetings...” 40 CFR § 25.6.

As described in the UAA’s Response to Comments (dated January 28, 2013 and August 2014), and reiterated in the DEQ’s December 1, 2014 letter to the Wyoming Outdoor Council, efforts taken by DEQ to notify the general public during the nearly two-year process leading up to the decision consisted entirely of the following:

- Email notice to the DEQ’s unreliable list-serve announcing the August 2013 and January 2014 comment opportunities.
- Legal notice in the Casper Star Tribune published once in 2013 and once in 2014.
- Numerous meetings with Wyoming conservation districts.
- News article in the Pinedale Roundup.
- Two news articles in the Livestock Roundup.
- Notice on Water Quality Division webpage.
- Public meeting in Cheyenne, WY.

- Wyoming Public Radio interview with Lindsay Patterson, DEQ/WQD spokesperson on February 5, 2014.

These limited actions to engage the general public, described in greater detail below, fail to meet the minimum public participation requirements set forth in Part 25.

Notice to list-serve. Notice of the two comment opportunities and the public meeting in Cheyenne was not provided to any party via U.S. Mail, but rather by electronic “email” notice transmitted by a DEQ/WQD list-serve to entities that requested notice.²⁴ Based on our experiences, the DEQ’s list-serve is unreliable and ineffective at meeting the requirements of Part 25. Despite attempts to sign on to the list-serve, and despite our longstanding interest in water quality standards, electronic notice was not transmitted to the Wyoming Outdoor Council, nor to any of the organizations which endorsed the October 10, 2014 letter to DEQ, nor to any other identifiable recreational user group. A DEQ official stated that technical difficulties with the Water Quality Division’s list-serve may have been responsible for the Wyoming Outdoor Council’s inability to sign on, and for certain entities listed on the list-serve, such as Environmental Defense Fund, not receiving notice.²⁵

Legal notice. Notice was published in the Casper Star-Tribune’s classified pages a single time in 2013 and a single time in 2014.

Meetings with conservation districts. The DEQ participated in an ongoing and extensive collaborative process with some of Wyoming’s conservation districts, but neglected to extend the same opportunities to conservation organizations and recreational users of Wyoming’s surface waters.

News story in the Pinedale Roundup. With a population of approximately 2,000, Pinedale is one of Wyoming’s smallest towns, and Sublette County ranks 16th in population of Wyoming’s twenty-three counties.

Two news stories in the Livestock Roundup. The Livestock Roundup is a trade publication for the livestock industry. A story in this publication would be unlikely to reach college outdoor programs, summer camps, mountaineering clubs, outdoor leadership schools, mountain bikers, anglers, backpackers, trail runners or other outdoor enthusiasts or the general public.

Website notice. Notice on the DEQ website was embedded several clicks within the Water Quality Division section and was not highlighted in any way on the DEQ’s or WQD’s main webpages, where other important agency information is displayed. See Document Exhibit 5 (main DEQ webpage) and Document Exhibit 6 (main Water Quality

²⁴ Email communication between Lindsay Patterson, WDEQ Water Quality Division, and Amber Wilson, Wyoming Outdoor Council, October 1, 2014.

²⁵ Problems with the list-serve were discussed during a meeting of the Department of Environmental Quality and the Wyoming Outdoor Council in Cheyenne, Wyoming on October 23, 2014.

Division webpage). The Wyoming Outdoor Council routinely receives notice by U.S. Mail from other divisions of the DEQ for actions and proposals that are much more limited in scope, and has come to rely on such notices. See Document Exhibits 7 & 8 (landfill notices). In addition, in what appears to be contrary to the requirements of Part 25, the Water Quality Division has informed the public that it will no longer provide notice by mail. See Document Exhibit 5 (notice on DEQ/WQD website).

Public meeting. Notice of the public meeting in Cheyenne held on August 26, 2013 was not distributed by U.S. Mail, but rather was published a single time in the Casper Star-Tribune, in the same notice that announced the comment opportunity.

Wyoming Public Radio. The radio interview with DEQ spokesperson Lindsay Patterson was less than a minute long and aired on a single day in February. According to the transcript of the interview obtained from Wyoming Public Media website, Ms. Patterson is quoted as saying: “What we’re really talking about is dry draws in the state. We’re talking about ephemeral water bodies, intermittent water bodies that have no water.” See Document Exhibit 9. She went on to state that, “imposing the highest environmental standards on water that people don’t touch is unnecessary regulation.” Id. Arguably, this kind of “notice” is far worse than no notice at all, because its effect is to reassure the public that the action proposed by DEQ is limited to ephemeral and intermittent streams with no water and no recreation use. When a public official confidently reassures the listeners of a state-wide radio broadcast that there is nothing to worry about, it is reasonable to assume that most listeners will take that statement at face value and quickly turn their attention elsewhere.

Hearing. A non-adjudicatory hearing was not held, nor was one offered. The notice announcing the decision to downgrade the state’s surface waters indicated the decision was a *final action* “which may be appealed to the Wyoming Environmental Quality Council [internal citations omitted].” The only hearing offered by the DEQ was a post-decision adjudicatory hearing conducted in accordance with the Wyoming Rules of Civil Procedure. Such a trial-like adversarial hearing that pits ordinary citizens against a state agency defending its decision is hardly a setting that encourages public participation and a free and open exchange of viewpoints. Notice of the August 20, 2014 decision was not provided to the Wyoming Outdoor Council nor to any of the organizations that endorsed the Council’s October 10th letter to DEQ.

The result of this flawed and fundamentally unfair public participation process was predictable: “WDEQ/WQD did not receive any comments indicating that there are pools or other deep water areas on ‘low flow’ streams that are used for primary contact recreation.” UAA at 3. Had the DEQ *encouraged* the participation of recreational users and environmental interests, as required by Section 101(e) of the Clean Water Act and by EPA’s public participation regulations, the results of the UAA would have undoubtedly been very different. For example, DEQ would have learned that primary contact recreation uses routinely occur on low flow streams throughout the state, particularly on public lands managed by the Forest Service and Bureau of Land Management. DEQ would also have learned that many streams identified as “low flow” actually contain

flows well in excess of 6cfs during the summer months, as illustrated by Photo Exhibit 2. And DEQ would have learned that streams with flows of less than 6 cfs located more than a mile from schools and towns are frequently used for primary contact recreation, quite often by young children.

The lack of attention to the public participation process is even more troubling given the EPA's continuous emphasis on the importance of engaging knowledgeable citizens and recreational users:

Public review of the revised UAA and the proposed use designations for individual water bodies will be critical. We urge WDEQ to reach out to recreational user groups as part of the public process to identify any areas where the model may be underestimating flows or missing isolated pools that may support primary contact recreation.

Letter from EPA Region 8 to Lindsay Patterson, DEQ/WQD, dated January 22, 2013.

And again:

EPA is particularly interested in seeing the public feedback on pools within the low flow streams addressed by the UAA that are used for or would support primary contact recreation. Our understanding is that WDEQ proposed primary and secondary use designations based on the best information available to the state, but feedback from people that live near the streams at issue is critical in making the right environmental decisions.

Letter from EPA Region 8 to Lindsay Patterson, DEQ/WQD, dated September 25, 2013.

Even earlier, the EPA wrote:

The approach utilized by Wyoming did not consider site-specific information that can be vital in determining the potential for recreation uses to occur, such as water flows and depths, location of the waterbody and its proximity to residences, presence of features which facilitate and encourage recreation uses (e.g., trails and parks), substrate composition, and water quality conditions. Even more importantly, the Wyoming approach did not consider site-specific information regarding existing recreation uses, including information that can be readily obtained from knowledgeable individuals living in the area.

Letter from EPA Region 8 to Mr. Dennis M. Boal, Chair, Wyoming EQC, dated September 29, 2008, disapproving revisions to Wyoming's surface water standards pertaining to recreational use.

By failing to encourage participation from myriad recreational users, diverse environmental and sportsmen's organizations, and other knowledgeable individuals in the UAA process, the DEQ failed to utilize the best information available about recreation uses of the State's surface waters. Organizations such as NOLS possess a vast wealth of information about recreational uses of the state's public lands and surface waters. Other groups that could have provided useful information include hunting organizations such as Backcountry Hunters and Anglers; commercial users such as professional guides and outfitters; college outdoor programs offered at Central Wyoming College and Wyoming Catholic College; schools and research institutions such as Teton Science School; summer camps and outdoor programs such as Elk Creek Ranch Camp, Teton Valley Ranch Camp, and Wilderness Ventures; guest ranches, and various scouting organizations. Non-commercial recreational users such as hikers and backpackers, trail runners, mountain bikers and climbers and mountaineers could have provided DEQ with additional information about existing and attainable uses of so-called "low flow" streams throughout Wyoming. Unfortunately this outreach did not take place, and the result is thousands of stream miles where primary contact recreation is an existing or attainable use have been improperly downgraded to secondary contact.

OTHER CONCERNS AND QUESTIONS

Tribal waters. The DEQ's "designated uses web map" shows numerous surface waters within the exterior boundaries of the Wind River Reservation that appear to have been downgraded to secondary contact recreation. It is our understanding that the Tribes have designated their own water quality standards. We would appreciate clarification of this point.

Wild and Scenic Rivers. The downgrade of designated and eligible wild and scenic river segments and their tributaries may interfere with the Federal Land Managers' responsibility to protect the water quality and related "outstandingly remarkable values" of these streams. We recommend that the DEQ consult with the Bureau of Land Management and Forest Service to consider the potential impacts to designated and eligible surface waters, and include the analysis and findings in a revised UAA.

Impact to downstream users. The UAA should include a discussion of potential impacts to recreation and other water uses downstream of downgraded segments. Higher permissible *E.coli* levels in tributary streams may cause increased levels of *E.coli* level in segments that retain their primary contact recreation classification. The introduction of additional *E.coli* allowed by the downgrade into primary contact streams has the potential to raise the risk of *E.coli* illness, even if maximum permissible levels are not exceeded.

Drinking water. The UAA did not discuss the potential impact of the downgrade on municipal watersheds, sole source aquifers, wellhead protection areas and domestic water supplies. It appears likely that higher levels of *E.coli* allowed in downgraded surface waters could present a greater risk to public health and safety.

Other streams and ditches. The UAA (at p. 32) notes that the DEQ “is also aware of other streams and ditches not depicted in either the 100k or 24k NHD.” The UAA should have provided information about those surface waters, including location, physical, biological and chemical properties, whether primary contact recreation is existing or attainable, and whether they are being downgraded. What is the status of those “other streams and ditches”?

Public Notice of unsafe waters. As a headwaters state, the public understandably assumes Wyoming’s surface waters are safe to swim and play in. However, as a result of the downgrade, many surface waters currently used for primary contact recreation will no longer be protected for that use. Children and other members of the public will of course continue to engage in primary contact recreation activities in streams located more than one mile from schools and towns, and more than one-half mile from established recreation areas. The DEQ has not indicated what, if any, steps it will take to ensure that members of the public, particularly children, are made aware that more than 75 percent of the state’s surface waters are no longer protected for primary contact recreation. For example, who will inform the seven-year old girl that the ditch flowing through the back of her parent’s rural property is no longer safe to play in? Will signs be posted on all downgraded surface waters?

Recreation datasets.

- No trailheads or dispersed camping sites are noted in the data set for Sweetwater County. Similarly, only two trailheads in Natrona County and no dispersed camping sites are identified.
- It appears that county and state park trails and trailheads are not identified or included in the data sets.
- Forest Service system trails, user created trails, and off-trail areas and destinations used by hikers and backpackers, and information easily obtained from recreation user groups is apparently not included in the data sets, and if this information was included, there is no indication it was considered.
- Bureau of Land Management trails, primitive roads, two-tracks, historic trails, Special Recreation Management Areas, Wilderness Areas, Lands with Wilderness Characteristics, backcountry byways, etc. apparently were not included in the data sets, and if this information was included, there is no indication it was considered.
- Wyoming Game and Fish Department public easements, Access Yes properties and Hunter Management Areas apparently were not included in the data sets.
- Dispersed Campsites. This data layer does not have a definition and is apparently not populated into the DEQ’s GIS from any external resource. Hundreds, perhaps thousands of dispersed campsites exist across Wyoming’s public lands.

Effect on *E. coli* impaired streams. The UAA should identify *E. coli* impaired streams, and discuss the potential impacts of the downgrade on ongoing and future efforts to restore water quality in those impaired streams. It seems reasonable to conclude that allowing higher levels of *E. coli* in tributaries to streams that are currently not meeting *E. coli* standards will undermine or complicate efforts to bring impaired streams back into compliance with water quality standards.

Effect of downgrade on public health and safety. The UAA should clearly explain that the practical effect of the reclassification is that it allows a 500 percent increase in the levels of *E. coli* permissible in streams designated for secondary contact recreation. This significant omission in the UAA should be corrected.

Magnitude and scale of surface water downgrade. The Categorical UAA states (at 1) that of the “115,373 stream miles depicted in the 1:100,000 National Hydrography Dataset (NHD) that were addressed in this UAA, primary contact recreation is not an attainable or existing use on 87,775 miles, or 76.1% of the stream miles.” Presumably, the remaining 27,598 stream miles in the 100k dataset retain the primary contact recreation use designation. This should be stated clearly in the UAA.

The UAA also indicates (at 32) that the more detailed 1:24,000 NHD contains 281,000 stream miles in Wyoming, which presumably include the 116,000 miles in the 100k NHD plus an additional 165,000 stream miles comprised of intermittent and ephemeral streams. The UAA concludes that, “streams not present in the 100k NHD do not have sufficient flow to support primary contact recreation and will be designated for secondary contact, unless they are located in areas that are easily accessible to children and/or the public.” *Id.* at 32. Based on these figures, it appears that a total of 253,402 stream miles have been reclassified to secondary contact recreation. Is that correct?

Survey sites. Figure 39 on page 39 reveals the absence of survey sites in Sweetwater County. Were any surveys conducted in Sweetwater County? If not, the failure to validate model results for this very large county should disqualify it from further consideration in the UAA.

In conclusion, for the reasons stated above, we request that the DEQ/WQD withdraw its Categorical UAA for Recreation and August 20, 2014 decision. The geographic scope of the analysis is much too broad, the number of stream miles affected much too extensive and the characteristics of stream segments much too varied to be susceptible to a generic use attainability analysis. Wyoming DEQ’s consideration of the “suite of factors,” which included inaccurate and incomplete information about stream flows and the presence of pools and other deep water areas; incorrect assumptions about recreation uses and access; and a woefully deficient public participation process, fail to satisfy minimum legal and scientific standards required by the Clean Water Act. We therefore ask DEQ to withdraw its Categorical UAA and reclassification decision.

We would appreciate a timely response to this letter and an opportunity to be involved in any further meetings, discussions or deliberation regarding this or any processes related to the development or revision of Wyoming Water Quality Standards.

Sincerely,



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Document Exhibits: Wyoming Outdoor Council's September 16, 2015 Letter to WDEQ/WQD regarding the Wyoming Department of Environmental Quality's Categorical UAA for Recreation.

DOCUMENT EXHIBITS

Ex. 1. Letter from Martin Hestmark, Assistant Regional Administrator, U.S. EPA Region 8 to Todd Parfitt, Director, Wyoming Department of Environmental Quality, dated June 3, 2015.

Ex. 2. DEQ's Notice of Public Hearing for Categorical Use Attainability Analysis for Recreation.

Ex. 3. Letter from Todd Parfitt, Director, Wyoming Department of Environmental Quality, to Martin Hestmark, Assistant Regional Administrator, U.S. EPA Region 8, dated June 17, 2015.

Ex. 4. Letter from Jack W. McGraw, Acting Regional Administrator, U.S. EPA Region 8 to Wendy Hutchinson, Chairperson, Wyoming Environmental Quality Council, dated January 25, 2002.

Ex. 5. Department of Environmental Quality website-main page, 10/1/2014.

Ex. 6. DEQ Water Quality Division website-main page, 10/1/2014.

Ex. 7. Public Notice from WDEQ Solid and Hazardous Waste Division, date stamped December 8, 2014.

Ex. 8. Public Notice from WDEQ Solid and Hazardous Waste Division, date stamped December 11, 2014.

Ex. 9. Wyoming Public Radio, transcript of broadcast: "DEQ Seeks to Lower Environmental Standards for Many Streams," February 5, 2014.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

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JUN - 3 2015

Ref: 8EPR-EP

Todd Parfitt, Director
Wyoming Department of Environmental Quality
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122 W. 25th Street
Cheyenne, WY 82002

Dear Mr. Parfitt:

The U.S. Environmental Protection Agency (EPA) has reviewed the Wyoming Department of Environmental Quality's (WDEQ) water quality standards submission the EPA received on December 5, 2014 regarding adopted designated uses for primary and secondary contact recreation, including the *Categorical Use Attainability Analysis for Recreation*. The EPA acknowledges the five years of work on the UAA by WDEQ and appreciates the significant effort WDEQ has made to address the EPA's comments. However, in order for the EPA to approve any of the recreation designated uses that are consistent with CWA requirements, the state must first hold a public hearing consistent with CWA § 303(c)(1) and the EPA's implementing regulations at 40 CFR Parts 25 and 131. The EPA would like to take this opportunity to clarify the EPA's position regarding the public hearing requirement so that the state has certainty about what steps need to be taken in order to address this procedural issue.

The EPA views the statute and regulations as requiring that states hold public hearings for any change to water quality standards, including any change to a designated use. The EPA recognizes that the state did hold a public meeting and offered the opportunity for additional public meetings and/or presentations. However, this public meeting did not satisfy the requirements of 40 CFR Parts 25 and 131 regarding public hearings. For example, 40 CFR § 25.5(b) requires the hearing notice be publicized at least 45 days prior to the date of the hearing, and 40 CFR § 25.5(f) requires "a transcript, recording or other complete record of public hearing proceedings." Neither of these requirements were satisfied by the state's public meeting. When a public hearing is held as required by 40 CFR Part 131, the public hearing must comply with the requirements of 40 CFR § 25.5 unless state law is more stringent. For public participation requirements addressed in 40 CFR § 25.10(a), 40 CFR § 25.10(b) defers to the state Administrative Procedure Act (APA) where there is a conflict.

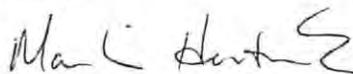
In addition to the procedural issues discussed above, the EPA reviewed the scientific basis of the UAA and continues to support WDEQ's approach for identifying streams with insufficient flow to justify the designation of a secondary contact recreation use consistent with 40 CFR § 131.10(g)(2). However, the

EPA may have additional comments based on the public comments received during a public hearing. As noted in our prior comment letters, the EPA suggests that during this hearing process WDEQ specifically reach out to recreational user groups. Feedback from people that live near or recreate in such streams regarding existing and potential uses is critical in designating the appropriate recreation use.

As a general matter, the EPA expects that the burden of proof to rebut the presumption for uses specified in CWA § 101(a)(2) remains with the state. However, the EPA does consider it reasonable for Wyoming to expect the public to assist in providing information sufficient to identify: (1) the location of the stream (e.g., latitude and longitude, object ID provided in web map, road mile marker); and (2) existing or potential recreational activities in the context of the physical condition of the stream. Public commenters may provide any number of pieces of information, and such information could come from user testimony during the hearing, user written comments, photos, flow data, or data from the UAA worksheet in Appendix C of the UAA.

In summary, in order for the EPA to approve any of the recreation designated uses that are consistent with CWA requirements, the state must first hold a public hearing, satisfy the requirements of 40 CFR Part 25, and submit the transcript from the public hearing, information and written comments submitted during the hearing and the state's responses to written and oral comments to enable the EPA's meaningful review of the state's submission. If you have any questions, please contact Tonya Fish on my staff at (303) 312-6832 or fish.tonya@epa.gov.

Sincerely,



Martin Hestmark,
Assistant Regional Administrator
Office of Ecosystems Protection
and Remediation

Wyoming Department of Environmental Quality
Public Hearing for Categorical Use Attainability Analysis for Recreation



The Wyoming Department of Environmental Quality/Water Quality Division (WDEQ/WQD) will hold a public hearing to accept verbal and written comments and supporting information regarding its designation of Wyoming streams for secondary contact recreation as described in its final [Categorical Use Attainability Analysis for Recreation](#) (Categorical UAA). A copy of the Categorical UAA is available at <http://deq.wyoming.gov/wqd/surface-water-quality-standards/resources/uas/>. The hearing will be held on September 16, 2015 from 5:30 PM to 8:30 PM in the auditorium of the Oil and Gas Conservation Commission, Basko Building, 2211 King Boulevard, Casper, Wyoming.

The designation of streams in the state for secondary contact recreation is based on WDEQ's technical analysis described in the Categorical UAA (August, 2014). The analysis evaluates whether primary contact recreation (i.e., immersion, full body contact, or frequent use of the water by children) in Wyoming streams are existing or attainable uses. The analysis identifies streams where primary contact recreation uses are non-existent or non-attainable due to: insufficient flow to support immersion or full body contact activities; distance from areas easily accessible to children; and where no supplemental information has been provided to WDEQ/WQD to demonstrate that primary contact recreation is an existing or attainable use. Streams designated for secondary contact recreation can be accessed using a [web map](#) or by downloading Geographic Information Systems files from WDEQ's website at <http://deq.wyoming.gov/wqd/surface-water-quality-standards/resources/uas/>.

The public is invited to provide oral and written comments and/or documentation regarding the existing and potential recreation activities on streams designated for secondary contact recreation as described in the Categorical UAA. Documentation provided should be sufficient for WDEQ/WQD to confirm whether primary contact recreation is an existing or attainable use, or not, on a particular stream. Such information may include photographs, flow data, and other information at the level of detail described in the worksheets contained in Appendix C of the Categorical UAA. Modification of a surface water designation established in the Categorical UAA will require the presentation of information sufficient to identify: (1) the location of the stream (e.g., latitude and longitude, object ID provided in the web map, etc.) and (2) the existing and potential recreational activities associated with the stream, given the physical condition of the stream.

Members of the public attending the hearing will be asked to sign-in at the registration desk. Those wishing to speak will be provided a speaker number at the sign-in desk. Speakers must be present at the hearing to obtain a speaker number. Speakers will be called in sequential order to provide their oral testimony and any associated documentation to the hearing officer. Speakers will be asked to keep their initial comments to 10 minutes in order to provide sufficient time for all interested parties to provide comments and/or documentation. Any remaining time will be allocated for additional comments from speakers who were unable to provide all of their comments within the initial 10-minute period allocated to them. Submission of written comments is not required. All oral testimony, written comments, and documentation provided during the public hearing to the hearing officer will become part of the official public record.

Questions regarding the Categorical UAA can be directed to David Waterstreet at 307-777-6709 or david.waterstreet@wyo.gov.

In accordance with the Americans with Disabilities Act, special assistance or alternative formats will be made available upon request for individuals with disabilities. Please provide at least three (3) weeks advance notice for such requests.



Matthew H. Mead, Governor

Department of Environmental Quality

To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.



Todd Parfitt, Director

June 17, 2015

Martin Hestmark
Assistant Regional Administrator
Office of Ecosystems Protection and Remediation
U.S. Environmental Protection Agency, Region 8
1595 Wynkoop Street
Denver, CO 80202

Dear Mr. Hestmark,

This letter responds to your June 3, 2015 letter regarding the Wyoming Department of Environmental Quality's (WDEQ) water quality standards submission designating many streams in the State for secondary contact recreation based on the *Categorical Use Attainability Analysis for Recreation* (Categorical UAA). As noted in your letter, WDEQ's submission was the culmination of more than five years of work by WDEQ, the U.S. Environmental Protection Agency (EPA), and other interested stakeholders. WDEQ appreciates EPA's recognition of the significant effort WDEQ has made to address EPA's comments on the Categorical UAA, as well as EPA's support of WDEQ's approach for identifying streams with insufficient flow to justify the designation of secondary contact recreation for these waters. These comments are consistent with those articulated by Regional Administrator McGrath at our recent mid-year review. WDEQ, however, is disappointed that EPA is delaying approval of the UAA until additional opportunity for public participation is provided.

As you know, during development and revision of the Categorical UAA, WDEQ went beyond the public participation requirements outlined in state rule and policies. WDEQ's water quality standards identify that "public notice and opportunity for comment shall be provided prior to making" a determination, while DEQ's UAA Implementation Policy identifies that "the public notice shall provide a 45-day public review period." With the Categorical UAA, WDEQ held two written comment periods that extended for more than 45-days, held a public meeting, provided opportunity for additional public meetings, hosted a webinar, and provided other opportunities for stakeholders and the public to engage during the UAA process. Moreover, WDEQ identified that the *Categorical UAA for Recreation* was in development in public outreach documents released in September 2011 as part of the state's triennial review process, long before the formal public process for the UAA began.

The authority to modify designated uses, with public notice and opportunity for comment, was given to Wyoming's Water Quality Administrator when Wyoming revised (2001) and EPA approved (2002) revisions to our surface water quality standards. Any determinations made by the Administrator can be reviewed during a public hearing by the Wyoming Environmental Quality Council, and "any person at any time may petition the department or the council to change the classification, add or remove a designated use" on any surface water (Chapter 1, Section 33). Wyoming's process therefore provides an opportunity for the public to request a hearing, consistent with 40 C.F.R §131.10(e). Since 2001, WDEQ

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ADMIN/OUTREACH (307) 777-7758 FAX 777-7682	ABANDONED MINES (307) 777-6145 FAX 777-6462	AIR QUALITY (307) 777-7391 FAX 777-5616	INDUSTRIAL SITING (307) 777-7369 FAX 777-5973	LAND QUALITY (307) 777-7756 FAX 777-5864	SOLID & HAZ. WASTE (307) 777-7752 FAX 777-5973	WATER QUALITY (307) 777-7781 FAX 777-5973
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has utilized this process to modify the designated uses of dozens of surface waters. EPA has acted on at least 31 of these UAAs in approximately seven separate actions; none of EPA's actions have requested that the State conduct a hearing or that the State modify its UAA process. Moreover, none of EPA's comment letters on the Categorical UAA articulated that a hearing was required.

We therefore disagree with EPA's position that WDEQ must hold a public hearing in order for EPA to approve our December 2014 submission. EPA is misreading both the Clean Water Act and its own regulations. The Clean Water Act requires states to hold mandatory public hearings in support of the triennial review process, and "as appropriate" for modifying and adopting water quality standards. 33 U.S.C. § 1313(c)(1). The same language is mirrored in EPA's regulations at 40 C.F.R. § 131.20(a). The "as appropriate" language is discretionary – states may hold public hearings when modifying standards, but such hearings are not required. EPA does not have the authority to ignore the "as appropriate" language in the statute, which is precisely what EPA has done by mandating a public hearing in this instance. Nor does EPA have the authority to change its regulations without complying with the notice and comment provisions of the Administrative Procedure Act.

EPA refers to 40 C.F.R. Part 25 to support its position that Wyoming failed to hold a public hearing within the technical meaning of that term, but reference to that regulation is inapplicable. The Part 25 requirements apply to the mandatory public hearings associated with the triennial review process pursuant to 40 C.F.R. § 131.20(b). Nothing in that provision extends the Part 25 requirements to the discretionary hearings associated with modifying water quality standards. In fact, EPA acknowledges that very limitation in its current proposal to modify 40 C.F.R. § 131.20(b). *See* 78 Fed. Reg. 54518, 54545 (Sept. 4, 2013). EPA is attempting to extend the mandatory hearing requirement to water quality standard *revisions* by inserting the phrase "or revising" into the existing regulation. Setting aside the fact EPA does not have the authority to limit the discretionary nature of the public hearing requirement as crafted by Congress, EPA's current rulemaking effort underscores the fact that EPA's existing regulation does not support the Region's current interpretation.

EPA's interpretation also ignores 40 C.F.R. § 131.10(e). This provision specifically governs the process for modifying designated uses, including WDEQ's Categorical UAA. Part 131.10(e) requires agencies like DEQ to notify the public of proposed changes to designated uses and offer "an opportunity" for a public hearing. This provision does not mandate that a hearing be held, only that the public be afforded an opportunity to request one. This regulation furthers the legislative mandate from Congress that public hearings be held "as appropriate" when modifying water quality standards, by providing the public an opportunity to request a hearing when one is deemed necessary. EPA's current interpretation writes the phrase "an opportunity" out of the regulations, which EPA cannot do without complying with the notice and comment rulemaking requirements of the Administrative Procedure Act.

In summary, WDEQ complied with the Clean Water Act and EPA's implementing regulations when adopting the Categorical UAA and we disagree with EPA's position. We are disappointed that EPA would discount the thousands of hours of work our staff has invested in the process of developing the Categorical UAA, and the participation of other interested stakeholders who took the time to engage in that process during the appropriate time periods. WDEQ, however, has decided to engage in further stakeholder outreach, as requested, because EPA is supportive of the technical and scientific approach for the UAA and has only raised a procedural objection. This approach will also avoid costly and lengthy litigation. We will hold a formal public hearing and consider any additional relevant evidence that is put forward during that process. WDEQ will submit the comments and responses to EPA following the public hearing, along with any modifications to the UAA.

As outlined by EPA, in order for WDEQ to modify any of the surface water designated uses made by the Water Quality Division Administrator on August 20, 2014, the public will need to provide information sufficient to identify: (1) the location of the stream (e.g., latitude and longitude, object ID provided in the web map, etc.); and (2) existing and potential recreational activities given the physical condition of the stream. This information must be sufficient for WDEQ to confirm that primary contact recreation (full body contact, immersion, or frequent use of the stream for child's play) is an existing or attainable use.

Since EPA has been involved in development and revision of the Categorical UAA from the beginning stages and supports WDEQ's approach for identifying streams with insufficient flow to support primary contact recreation, WDEQ anticipates a timely review and approval of the designated use changes by EPA following the public hearing and submission by WDEQ. We also remind EPA of its obligation to review the submission expeditiously. *See* 33 U.S.C. § 1313(c)(3).

WDEQ looks forward to working collaboratively with EPA on future water quality standards submissions, and we will continue to work with interested stakeholders to ensure that surface water designated uses are protective of existing and attainable uses.

Sincerely,



Todd Parfitt, Director
Wyoming Department of Environmental Quality

cc: Shaun McGrath
Kevin Frederick
Dave Ross



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8

999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
<http://www.epa.gov/region08>



JAN 25 2002

Ref: 8EPR-EP

Ms. Wendy Hutchinson, Chairperson
Wyoming Environmental Quality Council
Herschler Building
122 West 25th Street
Cheyenne, WY 82002

Subject: EPA Action on Revisions to the
*Water Quality Rules and Regulations -
Chapter 1, Wyoming Surface Water Quality
Standards*

Dear Ms. Hutchinson:

The U.S. Environmental Protection Agency (EPA) has completed its review of the revisions to the *Water Quality Rules and Regulations - Chapter 1, Wyoming Surface Water Quality Standards*. These revisions were adopted by the Wyoming Environmental Quality Council (Council) on June 21, 2001 and submitted to EPA Region 8 for review with a letter dated August 21, 2001 from Dennis Hemmer, Director of the Department of Environmental Quality (Department). The submittal package included certification from the Governor and Secretary of State that the regulations were duly adopted pursuant to State law. Receipt of the revised standards on August 27, 2001 initiated EPA's review pursuant to Section 303(c) of the Clean Water Act (CWA or the Act) and the implementing federal water quality standards regulation (40 CFR Part 131). EPA has completed its review, and this letter is to notify you of our action.

The Region commends the Environmental Quality Council and the Department of Environmental Quality for adopting significant improvements to the State's water quality standards and for doing so in a manner that allowed for extensive public participation. Important revisions include:

- a new and more refined use classification system;
- extensive revisions to the numerical criteria, bringing those values in line with EPA's current recommendations;
- development of an antidegradation implementation procedure;
- development of a mixing zone implementation procedure;
- the upgrading of all waters currently classified Class 4 to Class 3;



- development of a narrative biological criterion;
- elimination of fecal coliform exemptions on 24 waterbodies; and
- development of an approach that would allow the Department to administratively amend use classifications in a manner consistent with federal requirements.

AGENCY REVIEW

The Clean Water Act, Section 303(c)(2), requires States and authorized Indian Tribes to submit new or revised water quality standards to EPA for review. EPA is to review and approve or disapprove the submitted standards. Pursuant to CWA Section 303(c)(3), if EPA determines that any standard is not consistent with the applicable requirements of the Act, the Agency shall not later than the ninetieth day after the date of submission of such standard notify the State or authorized Tribe and specify the changes to meet such requirements. If such changes are not adopted by the State or authorized Tribe within ninety days after the date of notification, EPA shall promulgate such standard pursuant to CWA Section 303(c)(4). The Region's goal has been, and will continue to be, to work closely with States and authorized Tribes throughout the State or Tribal standards revision process as a means to avoid the need for such disapproval and promulgation actions.

TODAY'S ACTION

I am pleased to inform you that today, with certain exceptions, the Region is approving all revisions to the *Water Quality Rules and Regulations - Chapter 1, Wyoming Surface Water Quality Standards*. The exceptions are: 1) the Region is disapproving designation of a number of canals and ditches as Class 4A, a classification that does not include protection of aquatic life; 2) the Region is not acting today on the standards for radioactive materials; and 3) the Region is not acting today on the standards applied to waters in Indian Country.

It is important to note that EPA's approval of the State's water quality standards is considered a federal action which may be subject to the Section 7 consultation requirements of the Endangered Species Act (ESA).¹ Section 7 of the ESA states that "all other federal agencies shall ... utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species..." and "each federal agency ... shall ... insure that any action authorized, funded or carried out by such agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined to be critical..." On April 12, 2000, EPA initiated informal consultation with the U.S. Fish and

¹ Where EPA concludes that its approval action will have "no effect" on listed endangered or threatened species, no ESA Section 7 consultation is required and EPA can issue an unconditional approval. In today's action, EPA is making a "no effect" finding for specific water quality standards revisions, and those elements are approved without condition.

Wildlife Service concerning EPA's review of Wyoming's water quality standards. Our evaluation will include identification of any potential effects to listed or proposed endangered or threatened species which might result from the new or revised water quality standards. EPA's approval of the water quality standards revisions, therefore, is subject to the results of consultation under Section 7(a)(2) of the ESA, and completion of the consultation process is a high priority for the Region. Nevertheless, EPA also has a Clean Water Act obligation, as a separate matter, to complete its water quality standards approval action. Therefore, in approving Wyoming's water quality standards revisions today, EPA is completing its CWA Section 303(c) responsibilities.

Today's action includes a finding that EPA's approval of certain elements of the revised water quality standards will have no effect on listed or proposed endangered or threatened species. For these revisions, no consultation with the U.S. Fish and Wildlife Service is required. As explained above, however, EPA does have ESA responsibilities for the remaining revisions. As a result, the discussion below covers three categories of revisions that EPA is acting on today: (1) revisions approved without condition, (2) revisions that are approved, subject to ESA consultation and (3) disapproved revisions. In an enclosed rationale document, we explain the basis for today's action.

APPROVED STANDARDS

EPA has concluded that approval of the new or revised water quality criteria for the protection of human health will have no effect on listed or proposed endangered or threatened species. For these adopted revisions, no consultation with the U.S. Fish and Wildlife Service is required. In addition, EPA has concluded that these revisions are consistent with the requirements of the Clean Water Act and EPA's implementing regulation. Accordingly, these revisions are approved, without condition.

APPROVED STANDARDS, SUBJECT TO ESA CONSULTATION

With the exception of the revisions approved without condition, above, disapproved standards, below, and the revisions where EPA is taking no action today, the remaining new or revised water quality standards are approved for purposes of CWA Section 303(c), subject to the results of consultation under Section 7(a)(2) of the ESA. Included in this category are the new or revised elements of: (1) the aquatic life use classifications, (2) the mixing zone provisions in the State's rule, (3) the antidegradation provisions in the State's rule, (4) the numeric criteria for the protection of aquatic life, and (5) other miscellaneous adopted revisions. Should the consultation process with the U.S. Fish and Wildlife Service identify information that supports a conclusion that one or more of the revisions in this category is likely to jeopardize the continued existence of any listed endangered or threatened species, or result in the destruction or adverse modification of designated critical habitat of such species, the Region will revisit and revise, as necessary, its approval decision for the identified water quality standards.

DISAPPROVED STANDARDS

EPA is disapproving the State's designation of a number of canals and ditches as Class 4A, a classification that does not include protection of aquatic life. Class 4A is reserved for those canals and ditches with limited flow and habitat such that there are no aquatic resource values (i.e., no possibility for more than incidental occurrence of aquatic organisms). Although 4A is an acceptable classification and may be appropriately applied to constructed conveyances with limited aquatic resources, the federal regulation requires that the State provide documentation, in the form of a use attainability analysis, supporting the State's conclusion that the ditches assigned a 4A classification are, in fact, limited resources without the potential to support aquatic life uses (see 40 CFR Part 131.10(j)(1)). Until the State provides the required use attainability analyses, the Region is unable to approve those waters designated as Class 4A in the *Wyoming Surface Water Classification List*.

CONCLUSION

EPA Region 8 commends the Council and the Department for the significant improvements to Wyoming's water quality standards that were adopted as a result of the recently-completed rulemaking action. The Region looks forward to continuing work with the Department in making future, additional improvements to the State's water quality standards.

If you have questions concerning this letter, please call me or Max Dodson, Assistant Regional Administrator, Office of Ecosystems Protection and Remediation at 303-312-6598, or have your staff contact Bill Wuerthele, Regional Water Quality Standards Coordinator, at 303-312-6943.

Sincerely,


for Jack W. McGraw
Acting Regional Administrator

Enclosure

cc: Dennis Hemmer, Director
Wyoming Department of Environmental Quality
Mike Long, Field Supervisor
Wyoming Field Office, U.S. Fish and Wildlife Service
William Morrow, OST, EPA Headquarters

Enclosure

RATIONALE FOR EPA'S ACTION ON THE REVISIONS TO WYOMING'S WATER QUALITY STANDARDS

This enclosure provides the rationale for today's EPA action. The discussion below is organized as follows: (1) standards approved without condition; (2) standards approved subject to ESA consultation; (3) disapproved standards; and (4) standards for which EPA is taking no action today.

The Wyoming water quality standards submittal package included four implementation policies describing procedures that will be used to implement various Sections of Chapter 1. The submitted implementation policies apply to: (1) antidegradation, Section 8; (2) mixing zones, Section 9, (3) turbidity, Section 23, and (4) use attainability analyses, Sections 33 and 34. These are Department policies, and as such, they were not adopted by the Environmental Quality Council and are not water quality standards. Nevertheless, because implementation policies/procedures affect the application of the standards and, as well, inform EPA as to a State's interpretation of its standards, EPA's review of State water quality standards includes review of such policies/procedures. The content of these policies, therefore, played an important role in EPA's conclusions about the acceptability of State's water quality standards.

STANDARDS APPROVED, WITHOUT CONDITION

EPA has concluded that approval of certain revisions will have no effect on listed or proposed endangered or threatened species. For these revisions, no consultation with the U.S. Fish and Wildlife Service is required. In addition, as discussed in more detail below, EPA has concluded that these revisions are consistent with the requirements of the Clean Water Act and EPA's implementing regulations. EPA approves these revisions without condition.

Revised Water Quality Criteria for the Protection of Human Health

Water quality protection provisions for human health are included in the body of Chapter 1, e.g., Section 18, and Appendix B, *Water Quality Criteria*. The revisions to Chapter 1 include extensive updates to the human health criteria listed in Appendix B. The adopted revisions are consistent with EPA's published CWA Section 304(a) criteria or the Safe Drinking Water Act maximum contaminant levels (MCLs) available at the time of the public hearing process. MCLs were adopted where there were no Section 304(a) criteria or where the MCL was more protective than the published Section 304(a) criterion. The adopted revisions are appropriate and consistent with federal requirements.

EPA approves, without condition, the new or revised water quality criteria for the protection of human health, consistent with federal requirements at 40 CFR Part 131.11. Our approval is based on a determination that the new or revised standards describe a level of water quality that is protective of the drinking water and fish consumption use classifications.

Sections 4 and 27, Revised Recreational Uses and Criteria

Sections 4 and 27 have been revised to clarify that protection of primary contact recreation will apply to all Wyoming surface waters throughout the year. In making this change, the Council specifically removed a listing of 24 stream segments that previously had received a limited, incidental contact recreation level of protection and then only for a period from May through September. The upgrading of all Wyoming waters to primary contact recreation is a significant and positive change, and the Council is commended for making these revisions.

Section 27 uses fecal coliform as the microbiological indicator for establishing the level of protection for primary contact recreation. Although EPA has long accepted fecal coliform as an appropriate indicator for protection of recreational uses, the Agency now has determined that *E. coli* is a superior indicator organism and that fecal coliform is no longer acceptable. EPA published its revised microbiological criteria recommendations as long ago as 1986 in a document entitled, *Ambient Water Quality Criteria for Bacteria - 1986* (EPA 440/5-84-002). The Agency's current position is that States are to use the recommendations in this document as the appropriate criteria for protecting recreational uses. States will have until 2003 to make the transition from fecal coliform to *E. coli*. In 2003, EPA intends to begin promulgation of the new microbiological criteria where States have failed to make the transition to those criteria.

Although the fecal coliform indicator is acceptable for this present action, Wyoming will have to make a change in its microbiological indicator for the protection of recreational uses before 2003. In today's action, EPA is approving the new or revised designated recreational uses and the water quality criteria assigned to protect those uses. Our approval is based on a determination that the new or revised uses and criteria are consistent with the federal requirements at 40 CFR Parts 131.10 and 131.11.

STANDARDS APPROVED, SUBJECT TO ESA CONSULTATION

With the exception of the revisions approved without condition, discussed above, the specific designated uses EPA is disapproving, and the revisions where EPA is taking no action today, the remaining revisions are approved for purposes of CWA Section 303(c), subject to the results of consultation under Section 7(a)(2) of the Endangered Species Act.

The Region has initiated informal consultation with the U.S. Fish and Wildlife Service, and should that process identify information supporting a conclusion that a revised standard is likely to jeopardize the continued existence of federally listed endangered or threatened species or result in destruction or adverse modification of designated critical habitat of such species, the Region will revisit and revise, as necessary, its approval decision. The following discussion identifies the principal revisions in this category and the basis for EPA's action.

Revised Water Quality Criteria for the Protection of Aquatic Life

Water quality criteria for the protection of aquatic life are included in the body of Chapter 1, e.g., Sections 21, 24, 25, 26, etc., and Appendices B - G. The revisions to Chapter 1 include extensive updates to the aquatic life criteria. Included among the key revisions are the adoption of numerical criteria values consistent with those in EPA's *National Recommended Water Quality Criteria - Correction* (EPA 822-Z-99-001, April 1999), adoption of EPA's new ammonia criteria, and clarification that the aquatic life values for metals will be implemented as the dissolved form of the metal.

EPA has concluded that the adopted revisions to Chapter 1 are consistent with the EPA's published CWA Section 304(a) criteria available at the time of the public hearing process. Our approval is based on a determination that the new or revised criteria describe a level of water quality that is protective of the aquatic life uses and are consistent with the federal requirements at 40 CFR Part 131.11. EPA approves these revisions subject to ESA consultation.

Sections 3 and 4, Revised Aquatic Life Uses

The aquatic life uses for Wyoming's surface waters, fisheries and aquatic life other than fish, are described in Section 3. The fisheries use, Class 2, includes water quality, habitat conditions, spawning and nursery areas, and food sources necessary to sustain populations of game and nongame fish. The aquatic life other than fish use, Class 3, includes water quality and habitat necessary to sustain populations of organisms other than fish in proportions which make up diverse aquatic communities common to waters of the State.

The aquatic life use classification provisions were extensively modified in this revision of Chapter 1. Key changes included: a more refined use classification system; identification of Class 3 as the default use classification, effectively upgrading all surface waters to include an aquatic life use; use of wetland characteristics as an indicator in identifying Class 3 waters; and use of the Wyoming Game and Fish Department's *Streams and Lakes Inventory* database to incorporate a vast amount of fisheries information into the classification system. Appendix A sets out the application of and linkage among the aquatic life use classifications for both listed and unlisted waters.

EPA has concluded that the revisions to Chapter 1 are consistent with the requirements of the Clean Water Act and EPA's implementing regulations. In today's action, EPA is approving the new or revised aquatic life uses and their application as set out in Sections 3 and 4, Appendix A and Tables A and B. Our approval is based on a determination that the new or revised uses are consistent with the federal requirements at 40 CFR Part 131.10. EPA approves these revisions subject to ESA consultation.

Section 4(d)(iii), Class 4C

Section 4(d)(iii) establishes Class 4C, which will apply to "all waters that have been determined to lack the potential to normally support and sustain aquatic life pursuant to the provisions of Section 33(b)(i), (iii), (iv), (v), and (vi) of these regulations." These provisions are the same as the "use removal" or "downgrading" criteria in the federal regulation. (See 40 CFR 131.10(g)) The federal regulation sets out the criteria that must be met to demonstrate, on a case-by-case basis, that the Clean Water Act Section 101(a)(2) "fishable/swimmable" uses are not attainable on a specific waterbody. By establishing such criteria, the federal regulation acknowledges that there may be a limited number of waters where the Clean Water Act's "fishable/swimmable" goal is unattainable. Therefore, it is acceptable for a State to include, in its standards, a classification, such as 4C, which does not include an aquatic life use. EPA has concluded, therefore, that Class 4C is an acceptable use classification and that this revision to Chapter 1 is consistent with the federal requirements at 40 CFR Part 131.10. EPA approves this revision subject to ESA consultation.

Section 4(d)(iii), however, also includes a provision which would allow application of Class 4C to "effluent-dominated streams where it has been determined under Section 33(b)(iii) that removing a source of pollution to achieve full attainment of aquatic life uses would cause more environmental damage than leaving the source in place." In a letter to the Council dated August 29, 2000, the Region explained its concerns with this potential application of Class 4C. As explained in that letter, it is the Region's view that this anticipated application of Class 4C to effluent-dominated streams could lead to removal of aquatic life use protection from a waterbody that clearly supports an aquatic community. This would be an unacceptable outcome.

Although we acknowledge there may be an issue regarding a suitable level of protection for effluent-dominated waters, it is the Region's view that addressing this level of protection question would more properly involve development of site-specific water quality criteria appropriate for the aquatic communities in such waters. The Region will evaluate application of Class 4C on a case-by-case basis. Where Class 4C is applied to a waterbody that supports an aquatic life use and application of Class 4C is justified solely on the basis that the waterbody is effluent-dominated, it is our intention to reject that 4C designation.

Section 8, Antidegradation Policy and Implementation Procedure

Section 8, Antidegradation, establishes the regulatory provisions applicable to Wyoming's antidegradation policy. The policy establishes the level of protection applicable to high quality waters, requires appropriate intergovernmental coordination on all reviews, and, at a minimum, ensures that existing uses will be maintained and protected in all waters of the State. Section 8 also references Wyoming's *Antidegradation Implementation Policy*, which explains, in detail, how the provisions of Section 8 will be applied on a case-by-case basis. This new procedure sets out the process that will be followed by the Department in completing antidegradation reviews of regulated activities.

EPA has determined that the revisions to Chapter 1, Section 8, supported by the new *Antidegradation Implementation Policy*, are consistent with national and regional guidelines and the federal requirements found at 40 CFR Part 131.12. Accordingly, EPA approves Wyoming's antidegradation policy at Section 8 subject to ESA consultation. Although the *Antidegradation Implementation Policy* is not a water quality standard, its application interprets the provisions of Section 8. The content of this policy, therefore, played an important role in EPA's conclusions about the acceptability of antidegradation provisions.

Section 9, Mixing Zone Policy and Implementation Procedure

Section 9 establishes the regulatory provisions for allowing a mixing zone. Section 9 sets out the principal constraints for mixing zones: e.g., no exceedence of acute aquatic life criteria outside a zone of initial dilution; no mixing zone within 500 yards of a drinking water intake; no acute lethality to aquatic life allowed within the zone; and a mandatory zone of passage around the mixing zone. Section 9, then, references Wyoming's *Mixing Zone and Dilution Allowances Policy* which explains, in detail, how the provisions of Section 9 will be applied in developing chemical-specific discharge limitations for point source discharges. Although the *Mixing Zone and Dilution Allowances Policy* is not a water quality standard, its application interprets the provisions of Section 9. The content of this policy, therefore, played an important role in EPA's conclusions about the acceptability of mixing zone provisions.

EPA has determined that the revisions to Chapter 1, Section 9, supported by the new *Mixing Zone and Dilution Allowances Policy*, are consistent with EPA's national and regional policies and guidance and EPA's implementing regulation at 40 CFR Part 131.13. Accordingly, EPA approves Section 9, Mixing Zones, subject to ESA consultation. The Region believes it is important to note, however, that today's EPA approval action does not constrain nor forgo the Agency's ability to oversee future individual discharge permits and total maximum daily loads (TMDLs) to ensure that mixing zone or dilution decisions are consistent with the revised mixing zone and dilution policy.

Section 23, Turbidity

Section 23 establishes turbidity criteria for the protection of cold and warm water fisheries. Section 23(c)(ii) allows for short-term increases in turbidity where the potential effect will be minimal and all uses will be fully protected and maintained. The procedures used to implement the provisions of this Section are set out in the Department's new *Turbidity Implementation Policy*. The Policy allows the Department's Administrator to authorize short-term increases in turbidity, limited to construction-related activities, where, among other things: the activity will be limited in time and duration; all existing uses will be fully maintained and protected throughout the duration of the activity; the magnitude of the water quality change will be limited to the extent practicable; and there will be an opportunity for public review and comment.

EPA has determined that the revisions to Chapter 1, Section 23, supported by the new *Turbidity Implementation Policy*, are consistent with EPA's policies, current guidance and EPA's implementing regulation at 40 CFR Part 131. Accordingly, EPA approves Section 23, Turbidity, subject to ESA consultation.

Section 25, Temperature

Section 25 establishes temperature criteria for Wyoming waters and prohibits discharges that would result in harmful acute or chronic effects to aquatic life or would not fully support existing or designated uses. Sections 25 (b) and (c) identify the specific incremental temperature changes allowed for both cold water and warm water fisheries. These Sections also include a 60 degree F threshold at which the incremental temperature limits take effect.

This temperature threshold provision was added to address a practical problem. Specifically, the problem that publically owned wastewater treatment plants, where their discharges make up a significant portion of the flow in receiving streams, would have in meeting the incremental temperature limits in this Section during the winter months. In comments made during the standards development process, the Region expressed concern with this temperature threshold approach. Although we acknowledged the practical problem the temperature threshold was designed to address, our comments noted other problems this approach to resolution might pose.

In the final revisions to Section 25, the Council added language to Section 25(a) providing that discharges could not alter the ambient water temperatures "... to levels which result in harmful acute or chronic effects to aquatic life, or which would not fully support existing and designated uses." Further, the revised mixing zone provisions in Section 9 and the Department's new *Mixing Zone and Dilution Allowances Policy* prohibit lethality to aquatic organisms within a mixing zone. Together, the Region believes these new provisions provide Wyoming with the needed authority to control any discharge that might cause thermal stress to aquatic organisms that is associated with rapid temperature change

Although Section 25, as now written, is acceptable, the Region believes that it would be useful for the Department to develop a procedure explaining how the provisions of Sections 25(a), (b) and (c) would be implemented on a case-by-case basis. The Region offers to work with the Department in developing such a procedure. In the near future, the Region hopes to be able to offer more specific information on the temperature criteria issue as a result of the Agency's ongoing temperature criteria work related to protection of salmonid fisheries in the Pacific Northwest.

EPA has determined that the revisions to Chapter 1, Section 25, supported by the additional mixing zone safeguard prohibiting lethality within mixing zones, are consistent with EPA's policies and guidance and EPA's implementing regulation at 40 CFR Part 131.11. Accordingly, EPA approves Section 25, Temperature, subject to ESA consultation.

Section 33, Reclassifications and Site-specific Criteria

Section 33 sets out the provisions for establishing site-specific criteria and/or amending use classifications based on the six “use removal” or “downgrading” criteria. The criteria listed in Section 33 are the same as those listed in the federal regulation for removing designated uses (40 CFR 131.10(g)). Although EPA’s approach generally separates the use and site-specific criteria issues, the Region acknowledges that it is often difficult to separate the two. Therefore, combining the two issues and applying the “use removal” or “downgrading” criteria to the analysis of both issues, as Section 33 does, is acceptable.

In comments made during the standards development process, however, the Region expressed concern that Section 33(b) would allow application of economic factors, in part (vi), to criteria development. The federal regulation allows development and adoption of criteria only where those criteria are based on sound science. (See 40 CFR 131.11(a)(1)) Economic considerations, which are allowed in the designation of uses, are not allowed in the development of criteria. The final version of Section 33 adopted by the Council included language clarifying that Section 33(b)(vi) would not apply to the derivation of site-specific criteria. That change resolves our initial concern.

EPA has determined that the revisions to Chapter 1, Section 33, are consistent with EPA’s policies and guidance and EPA’s implementing regulation at 40 CFR Parts 131.10 and 131.11. Accordingly, EPA approves Section 33, Reclassifications and Site-specific Criteria, subject to ESA consultation.

Section 34, Use Attainability Analysis

Section 34 establishes a new process for making determinations regarding use classification changes or site-specific water quality criteria adjustments based on the use attainability provisions in Section 33. For use classification changes, Section 34(a) allows the Department to administratively amend use classifications in Wyoming’s water quality standards and do so outside the Council’s formal rulemaking process. In comments made during the standards development process, the Region expressed concern with Section 34(a) as initially proposed. Specifically, in a May 31, 2001 letter to the Water Quality Division, the Region explained its concerns and noted that the new process could be acceptable to EPA if it were demonstrated to be functionally equivalent to the current rulemaking process and result in enforceable provisions identified as State water quality standards.

In the Region’s May 31, 2001 letter to the Division, we set out our understanding of how the revised Section 34(a) would be implemented. It was then, and continues to be, our understanding that implementation of Section 34(a) would include the following elements:

- the standard applicable to use classifications includes Sections 3, 4, 33, 34, 35 and Appendix A all taken together;

- this standard sets out the process by which the use classifications will be amended (this is the process now formally adopted by the Council);
- use classifications, for a specific water body, will be an output of the process as established in Chapter 1;
- implementation of the process will involve the public, with participation requirements equivalent to those applied in rulemaking;
- any use classification change made by the Department will be appealable to the Council;
- all use classification changes made by the Department will be submitted to EPA for review and approval and will not become effective for Clean Water Act purposes until approved by EPA;
- the designated uses identified in Tables A and B, although not in the regulation, are an element of Wyoming's water quality standards and are binding (an enforceable provision);
- Tables A and B will be maintained and updated once a year, at a minimum, to reflect any new use classifications; and
- Tables A and B, although not in the regulation, will continue to be appended to Chapter 1 as a publicly available list of the amended use classifications in Wyoming's water quality standards.

In a letter dated June 8, 2001 from Gary Beach, Administrator for the Water Quality Division, the Division confirmed that the Region's understanding of Section 34(a) (then identified as Option 1) and its intended implementation was correct.

Based on this understanding, EPA has determined that the revisions to Chapter 1, Section 34, are consistent with EPA's water quality standards regulation at 40 CFR Part 131. Accordingly, EPA approves Section 34, Use Attainability Analysis, subject to ESA consultation.

Section 35, Credible Data

Section 35(b) provides that credible data ". . . in combination with other available and applicable information shall be used through a weight-of-evidence approach to designate uses and determine whether those uses are being attained." Section 35(c) further provides that "(a)ll changes to use designations after the effective date of this rule shall include the consideration of credible data relevant to the decision. Changes which involve the removal of a use or the replacement of a designation shall be supported by a use attainability analysis (UAA)."

Although this provision is acceptable, the Region believes it would be useful to re-state our position on the credible data issue as it applies to water quality standards actions, particularly as it applies to upgrading waters to include aquatic life and primary contact recreational uses. Our position on credible data was presented in a letter, dated February 8, 1999, from Max Dodson to Dennis Hemmer. The letter provided EPA's comments on the then proposed credible data law as the Legislature was considering that law.

For water quality standards, Mr. Dodson's letter explained, in part:

The burden is on the State to demonstrate that attaining an "aquatic life/recreation" use is infeasible (40 CFR 131.10). Therefore, the federal regulation effectively establishes a "rebuttable presumption" that "aquatic life/recreation" uses are attainable and should apply to a water body. This presumption can be overcome only where it is affirmatively demonstrated, through a use attainability analysis, that such uses are not attainable. Because of the presumption that the "aquatic life/recreation" uses are attainable, the federal regulation establishes a high threshold for overcoming that presumption so as to ensure that the interim goals of the Clean Water Act are not abandoned without appropriate cause.

The letter then addressed what appeared to us to be a potential internal conflict in the proposed law. Our concern was that the lack of credible data might be used as the basis for not designating aquatic life and primary contact recreational uses, which would conflict with the federal attainability requirement. To address this concern, Mr. Dodson noted:

The potential internal conflict in Section 35-11-302(b)(i) is that it requires the use of "credible data" in designating uses and consistency with federal requirements. As indicated above, the federal requirements presume that the "aquatic life/recreation" uses are attainable, and therefore, no data are required to satisfy that presumption. Although data and information are certainly useful, they are not required to justify designating a water body for the "aquatic life/recreation" uses. On the contrary, data, as part of a use attainability analysis, are needed only to overcome the presumption and to justify a determination that such uses are not attainable. If Section 35-11-302(b)(i) is intended to mean that "credible data" will be required where the State fails to designate aquatic life and recreational uses or is removing or amending such designated uses, there is no conflict with federal requirements. If, however, the proposed Section is intended to mean that lack of "credible data" will be an acceptable basis either for not designating "aquatic life/recreation" uses or for deleting such designated uses, there is a conflict with the federal requirements.

The revised Chapter 1 upgrades all waters currently classified Class 4 to Class 3. This will mean that, at a minimum, all waters of the State include aquatic life and primary contact recreation uses. This effectively moots our concerns about the credible data provisions as they might apply to upgrading uses to include aquatic life and primary contact recreation. Nevertheless, we believe it is important that we clearly explain our position on the credible data issue in this approval action so there is no misunderstanding should this become an issue in the future.

Based on the above understanding, EPA has concluded that the revisions to Chapter 1, Section 35, are consistent with the requirements of the Clean Water Act and EPA's implementing regulation at 40 CFR 131. In today's action, EPA is approving Section 35 subject to ESA consultation.

Other Miscellaneous Adopted Revisions

The revisions to Chapter 1 include a number of other changes that are not discussed in detail in this rationale document. Some of the more prominent amendments in this category include: use classification revisions in Sections 3 and 4, in addition to those discussed in more detail above; a new, narrative biological criterion in Section 32; and revisions to Section 21, addressing aquatic pesticides and fish toxicants, adding language specifically ensuring protection of existing and designated uses for sites undergoing treatment. These are positive amendments to Chapter 1.

Further, the adopted revisions to Chapter 1 include a variety of editorial and other minor changes that are not specifically discussed above. These miscellaneous revisions are spread throughout the water quality standards document. EPA believes these revisions serve to clarify or otherwise improve the water quality standards and are consistent with federal requirements and guidance. Accordingly, EPA approves all such revisions today, subject to ESA consultation.

DISAPPROVED STANDARDS

EPA is disapproving designation of a number of canals and ditches as Class 4A, a classification that does not include protection of aquatic life. Class 4A is reserved for those canals and ditches with limited flow and habitat such that there are no aquatic resource values (i.e., no possibility for more than incidental occurrence of aquatic organisms). Although 4A may be an appropriate designation for constructed conveyances with limited aquatic resources, the federal regulation requires that the State provide documentation, in the form of a use attainability analysis, supporting the State's conclusion that each ditch assigned a 4A classification is, in fact, a limited resource without the potential to support aquatic life uses (see 40 CFR Part 131.10(j)(1)). Further, Wyoming's Chapter 1, Appendix A(b)(3), similarly requires that the designation of a waterbody as Class 4 is to be supported by an approved use attainability analysis. Because the State has not provided the required use attainability analysis, the Region is disapproving those waters designated as Class 4A in the *Wyoming Surface Water Classification List*.

As noted above, the assumption that the limited flow in irrigation canals and ditches will not support aquatic life uses may be correct for the majority of these waters. There is, however, a need to test that assumption with more specific information provided in the form of a use attainability analysis. The Region has provided the Department with what we think would be a reasonable approach to collecting that information. It is not our intention to make this a resource intensive effort, and the suggested approach would rely heavily on existing information, a field evaluation (i.e., a field visit to the canals and ditches) and best professional judgement. Although 4A may turn out to be the appropriate classification for all of the ditches with that designation, we cannot approve the designated 4A classification until information supporting that conclusion is provided. It is our understanding that the Department intends to complete the needed use attainability analyses, and therefore, this disapproval should be easily resolved.

STANDARDS FOR WHICH EPA IS TAKING NO ACTION

EPA is not acting today on the revised standards applicable to waters in Indian Country or the standards for radionuclides. Below, we have provided a brief discussion of these two issues.

Surface Waters in Indian Country

The water quality standards approvals in today's letter apply only to waterbodies in the State of Wyoming, and do not apply to waters that are within Indian Country, as defined in 18 U.S.C. Section 1151. Today's letter is not intended as an action to approve or disapprove water quality standards applying to waters within Indian Country. EPA, or eligible Indian Tribes, as appropriate, will retain responsibilities for water quality standards for waters within Indian Country.

Standards for Radionuclides

Section 22(a), Radioactive Material, establishes EPA's Federal Primary Drinking Water Standards as the radiological standards not to be exceeded in Wyoming waters. Section 22(a) was amended in this triennial review to identify the 1998 version of 40 CFR Parts 141.15 and 141.16 as the applicable radiological standards. Today EPA is not acting on the new or revised numeric standards for radionuclides. The drinking water standards include MCLs for radioactive materials that are (or could be) source, byproduct or special nuclear materials as defined by the Atomic Energy Act (AEA materials). Currently, the Agency has not determined whether it is appropriate to act on water quality standards for AEA materials.

It is clear that there are a number of legal factors complicating regulation of discharges containing radionuclides under the CWA, including the Supreme Court's finding in Train v. Colorado Public Interest Research Group (1976). We also acknowledge that a number of States have agreements with the Nuclear Regulatory Commission (NRC) which discontinue NRC's regulatory authority over AEA materials in some situations. Please be assured that EPA will carefully consider all pertinent information prior to making a determination. Until the Agency makes a determination, EPA will act on new or revised standards for radionuclides only if it can be determined that they are not AEA materials. Agency action on water quality standards for AEA materials will occur if and when the Agency determines it is appropriate to act on such standards.



DEQ NEWS

- 09/15/2014 - DEQ Small Business Panel to meet on Wednesday <<http://us7.campaign-archive2.com/?u=8c5f421bd01c085af13249591&id=2a1ac6b5a0>>
- 09/10/2014 - Press Release: EPA agrees with DEQ analysis and approves Linc Energy aquifer exemption for pilot project <<http://us7.campaign-archive2.com/?u=8c5f421bd01c085af13249591&id=e97434c5d>>
- 07/16/2014 - DEQ develops online tool to view emission inventories related to Oil and Gas production <<http://us7.campaign-archive2.com/?u=8c5f421bd01c085af13249591&id=8ced2abe19>>
- 06/24/2014 - AML Receives Reclamation Award <<http://us7.campaign-archive2.com/?u=8c5f421bd01c085af13249591&id=c7db66f204>>

Wyoming Department of Environmental Quality

This site is divided up into sections based on environmental media: air quality, water quality, solid and hazardous waste, active mine reclamation, abandoned mine lands, industrial siting and administration.



<wqd/kywmain.htm>



<http://deq.state.wy.us/wqd/groundwater/Pavillion/Pavillion_Investigation.asp>



<https://twitter.com/Wyoming_DEQ>



<<https://www.facebook.com/pages/Wyoming-Department-of-Environmental-Quality/146202548777104>>

GOT A SPILL?

Click Here <<https://deq.state.wy.us/spl/>>
or



Welcome to DEQ's Water Quality Division

Cheyenne Office:

DEQ/Water Quality Division
 122 West 25th Street
 Herschler Building, 4th Floor-West
 Cheyenne, Wyoming 82002

Water Quality Division's main telephone number: 307-777-7781

DEQ/WQD fax machine number: 307-777-5973

Field Offices:

<p>Casper Office: WDEQ Casper Field Office 152 North Durbin Street, Suite 100 Casper, WY 82601</p>	<p>Main Telephone Number: 307-473-3465 Fax Number: 307-473-3458</p>
<p>Lander Office: WDEQ Lander Field Office 510 Meadowview Drive Lander, WY 82520</p>	<p>Main Telephone Number: 307-332-3144 Fax Number: 307-332-7726</p>
<p>Sheridan Office: WDEQ Sheridan Field Office 2100 West 5th Sheridan, WY 82801</p>	<p>Main Telephone Number: 307-673-9337 Fax Number: 307-672-2213</p>
<p>Rock Springs Office: WDEQ Rock Springs Field Office 2451 Foothills Blvd. Suite 100 Rock Springs, WY 82901</p>	<p>Main Telephone Number: 307-352-2559 Fax Number: 307-352-2617</p>

ADVISORY BOARD:

Water and Waste Advisory Board <WQD_home/Advisory%20Board%20-%20Misc/water_and_waste_water_advisory_board.pdf> listing

ANNOUNCEMENTS:

Trade Secret Confidentiality Requests <http://deq.state.wy.us/TradeSecrets.html> Read the March 2014 Wyoming Supreme Court decision, learn what constitutes a "trade secret", and view the DEQ Checklist for submitting a Trade Secret Confidentiality Request.

Drinking Water Watch (DWW) <http://www2.epa.gov/region8-waterops> - See what data EPA Region 8 has on your public water system, including inventory, sampling requirements, sample results, violations, and system contacts. Information is constantly updated from the EPA Safe Drinking Water Information System (SDWIS). You may access all the data for your public water system by logging in to the Drinking Water Watch <https://sdwis8.epa.gov/Region8DWW/JSP/loginForm.jsp> database once you have registered <https://yosemite.epa.gov/r8/wateropsreg.nsf>. There is also a Public Access Version <https://sdwis8.epa.gov/Region8DWWPUB/> of DWW that requires no login but contains only basic information about public supply water systems.

WYPDES permit fees: Beginning July 1, 2013 payment of permit fees for individual permits and general permit authorizations are required to be submitted with the permit application or NOI form. Some types of permits have flat fees and others have variable fees that must be calculated. The "Fee Calculator" <WYPDES_Permitting/Permit_Fees/feecalculator.html> should be used to determine the proper amount to be submitted with each application or NOI. Checks should be made out to the "Dept. of Environmental Quality, Water Quality Division.

Current Events, Proposed Rule Changes, and Draft Documents <events/index.asp>
 A listing of public meetings, public notices and on-going rule revisions.

http://deq.state.wy.us/wqd/

10/1/2014

Wyoming Department of Environmental Quality

The Water Quality Division has adopted a policy of paperless email notification for announcements, notifications of rule changes or general information. To receive these email notifications, you must sign up for them at the following link:

waterqualitygeneralinfoandrulemaking@ewyoming.gov <<http://deq.state.wy.us/listserves/>>

Please remember to confirm your sign up by responding to the email that is sent from the list after you join. All other Water Quality email lists will be consolidated into this list except for the combined Nonpoint Source and TMDL programs.

NEW [Niobrara Shale Development Q&A](#) <../out/downloads/Niobrara%20Shale%20QA%20%2012-09A.pdf>

WQD RULES AND STATUTES:

[Water Quality Rules & Regulations \(Chapters 1 to 26\)](#) <[WQDrules/index.asp](#)>

Environmental Quality Act <<http://legisweb.state.wy.us/statutes/statutes.aspx?file=titles/Title35/T35CH11.htm>> - Link to the legislative website for Title 35. Section 35-11-101 is the beginning of the Wyoming Environmental Quality Act.

DEQ Rules of Practice and Procedure <[DEQPandP.pdf](#)>

WQD PROGRAMS:

Groundwater Program <[groundwater/index.asp](#)>

- Federal Facilities and Formerly Used Defense Sites <[groundwater/index.asp#Federal_Facilities_Remediation_Program](#)>
- Groundwater Pollution Control (GPC) <[groundwater/gpc.htm](#)>
- Underground Injection Control (UIC) <[groundwater/UIC/index.asp](#)>
- Groundwater Assessment and Monitoring <[groundwater/index.asp#Groundwater_Assessment_and_Monitoring_Information](#)>
- Know Your Well <[kywmain.htm](#)>
- Well Construction and Abandonment <[groundwater/index.asp#Well_Construction_and_Abandonment](#)>
- Requirements to Report Groundwater Contamination <[groundwater/index.asp#Requirements_to_Report_Groundwater_Contamination](#)>
- Water Well Protection <[groundwater/index.asp#Water_Well_Protection_Information_Problem_Identification_and_Treatment](#)>
- Guidelines for Sampling Water Wells <[groundwater/index.asp#Water_Well_Sampling_and_Analysis_Guidelines](#)>

Watershed Protection Program <[watershed/index.asp](#)>

- Water Quality Surface Water Standards <[watershed/surfacestandards/index.asp](#)>
- Nonpoint Source Planning & Grants <[watershed/nps/NPS.htm](#)>
- Water Quality Assessments <[watershed/index.asp#Assess](#)>
- TMDL Coordination <[watershed/index.asp#TMDL](#)>
- 401 Certification <[watershed/index.asp#401_Certification](#)>
- National Environmental Policy Act, and Wetlands <[watershed/index.asp#NEPA](#)>
- Quality Assurance and Turbidity Waivers <[watershed/index.asp#Assure](#)>
- Monitoring Program <[watershed/index.asp#Mon](#)>

Water and Wastewater Program <[www/index.asp](#)>

- Water and Wastewater Construction Permitting <[www/Permitting.htm](#)>
- CBM/Oil/Gas Produced Water Disposal & Treatment Permitting <[www/Producedwater.htm](#)>
- Small Wastewater (Septic System) Permitting <[www/SmWW.htm](#)>
- Operator Certification Program <[www/opcert/index.asp](#)>
- State Revolving Loan (SRF) Loan Program <[www/SRF/index.asp](#)>
- Source Water and Wellhead Protection <[www/SWP%20WHP/index.asp](#)>
- Subdivision Review <[www/Subdivisions.htm](#)>
- Concentrated Animal Feeding Operations (CAFO) <<http://deq.state.wy.us/wqd/CAFO.htm>>
- EPA Drinking Water Online <<http://www2.epa.gov/region8-waterops>>
- Drinking Water Watch database Login Version <<https://sdwizr8.epa.gov/Region8DWW/JSP/loginForm.jsp>> or Public Access Version <<https://sdwizr8.epa.gov/Region8DWW/PUB/>>

WYPDES (Point Source) <[WYPDES_Permitting/index.asp](#)> **Permitting Program** <[WYPDES_Permitting/index.asp](#)>

- Point Source Applications & NOIs (non-stormwater) <[WYPDES_Permitting/index.asp#WYPDES_Discharge_Permitting](#)>
- Coalbed methane (CBM) discharges <[WYPDES_Permitting/WYPDES_cbm/cbm.asp](#)>
- Storm Water Permitting <[WYPDES_Permitting/WYPDES_Storm_Water/stormwater.asp](#)>
- Concentrated Animal Feeding Operations (CAFO) <<http://deq.state.wy.us/wqd/CAFO.htm>>
- Pesticides <[WYPDES_Permitting/index.asp#Pesticide_General_Permits](#)>
- Sanitary Sewer Overflows (SSOs) <[SSO/SSO.asp](#)>
- Discharge Monitoring Reports (DMRs) <[DMR/index.asp](#)>
- Issued Permits <[WYPDES_Permitting/WYPDES_PNs_and_appr_permits/Pages/issued_permits.asp](#)>
- <[WYPDES_Permitting/Permit_Fees/feecalculator.html](#)> **Permit Fee Calculator** <[WYPDES_Permitting/Permit_Fees/feecalculator.html](#)>

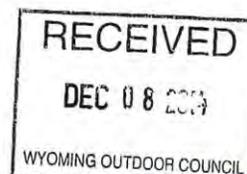
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2/2

PUBLIC NOTICE



In accordance with the provisions of the Wyoming Environmental Quality Act and Chapter 1, Section 2(c) of the Solid Waste Rules and Regulations, Church & Dwight Co., Inc. has submitted a renewal permit application for the solid waste management facility called the Industrial Waste Landfill I

The 29 +/- acre facility is located approximately 16 miles northwest of Green River, Wyoming. Specifically, this facility is located in Sections 30 and 31, Township 19 North, Range 109 West, Sixth Principal Meridian in Sweetwater County, Wyoming. The facility provides for the disposal of industrial solid waste. The total volumetric capacity of this facility is estimated to be 583,182 cubic yards. The life of the facility is estimated to be 71 years.

The Department of Environmental Quality, Solid and Hazardous Waste Division (Department) has reviewed the permit application and determined that it is complete. The Department's solid waste rules, in Chapter 1, Section 2 (b)(i) require that the applicant must provide public notice that the application has been determined to be complete and inform the public that there is an opportunity to file comments on the application. This publication provides notice of that opportunity. Additional information on the permit application and the Department's completeness review may be obtained at the address below.

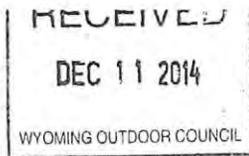
Any interested person has the right to file comments on the permit application and the Department's completeness review. The period for providing comments shall begin on Thursday December 4, 2014 and end on Monday January 5, 2015. Comments must be received by 5:00 PM on the last day of the notice period. Comments on this application must be submitted in writing to the Department of Environmental Quality, Luke Esch, Administrator, Solid and Hazardous Waste Division, 122 West 25th Street, Cheyenne, Wyoming 82002.

The Department may, at its discretion, conduct a public hearing on this permit application. If the Department elects to hold a public hearing on the permit application, the Department will provide public notice of the hearing. At the hearing, the Department may solicit additional comments on the application.

The Department is now conducting a detailed review of the application to determine if it complies with applicable technical standards for a facility of this type. If the Department finds that the application complies with technical standards for a facility of this type, the Department will issue a proposed permit and provide public notice of the proposed permit.

In accordance with the Americans With Disabilities Act, special assistance or alternative formats will be made available upon request for individuals with disabilities.

NOTE TO PUBLISHER: This legal notice is provided to you as a requirement of the Wyoming DEQ/SHWD rules and regulations and must be published once per week for two (2) consecutive weeks. This legal notice should not be published unless specifically requested by the applicant identified above. If published, the applicant is solely responsible for all costs which are incurred.



Amber
Dan



PUBLIC NOTICE

In accordance with the provisions of the Wyoming Environmental Quality Act and Chapter 1, Section 2(c) of the Solid Waste Rules and Regulations (SWRR), Western Sugar Cooperative has submitted a renewal permit application for a solid waste management facility called the Western Sugar Cooperative Industrial Solid Waste Landfill –Torrington.

This facility provides for the disposal of precipitated calcium carbonate and lime kiln slaker waste which are generated exclusively by the Western Sugar Cooperative-Torrington Plant. The facility also temporarily stores coal boiler bottom ash which are transferred to an appropriately permitted landfill. The approximate 51 acre facility is located southwest of the Town of Torrington, on South Highway 85, Torrington, Wyoming. More specifically, the facility is located in the E1/2 of Section 16, Township 24 North, Range 61 West, Sixth Principal Meridian, Goshen County, Wyoming. The total volumetric capacity of this facility is estimated to be 3,366,000 cubic yards. The life of the facility is estimated to be 40 years.

The Department of Environmental Quality, Solid and Hazardous Waste Division (Department) has reviewed the renewal permit application and determined that it is generally complete and suitable for publication. SWRR Chapter 1, Section 2 (b)(ii), requires that the applicant must provide public notice that a proposed permit has been issued and inform the public that there is an opportunity to file comments on the proposed permit before it is issued in final form. The notice is also required to indicate that the public may file formal written objections to issuance of a final permit. This publication provides notice of those opportunities.

Copies of the permit application, the Department's review of the application, and the proposed permit can be viewed at the Department's Cheyenne Office (122 West 25th Street, Herschler Building, 4th Floor- West, Cheyenne, WY 82002), at the Goshen County Library (2001 East A Street, Torrington, WY 82240), or the Goshen County Clerk's Office (2125 East A Street, Torrington, WY 82240).

Any interested person has the right to either: provide comments on the proposed permit, which the Department will consider prior to taking final action on the permit application, or file written objections to the proposed permit. The period for providing comments, or filing formal written objections to the proposed permit, shall begin on December 10, 2014 and end on January 16, 2015

Any comments or formal written objections must be received by 5:00 PM on the last day of the notice period. Comments or formal written objections must be submitted in writing to the Department of Environmental Quality, Todd Parfitt, Director, 122 West 25th Street, Cheyenne, Wyoming 82002. Formal written objections must be accompanied by a statement of the facts upon which the objection is based. If substantial written objections are filed, a contested case hearing will be held by the Environmental Quality Council.

In accordance with the Americans With Disabilities Act, special assistance or alternative formats will be made available upon request for individuals with disabilities.

NOTE TO PUBLISHER: This legal notice is provided to you as a requirement of the Wyoming DEQ/SHWD rules and regulations and must be published once per week for two (2) consecutive weeks. This legal notice should not be published unless specifically requested by the applicant identified above. If published, the applicant is solely responsible for all costs which are incurred.



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Wyoming Public Radio's Fundraising Goal For 2014-2015



Topic Of The Week
[Do you think the UN Climate Summit this week will result in consensus & action among nations?](#)

News

5:43 PM WED FEBRUARY 5, 2014

DEQ Seeks To Lower Environmental Standards For Many Streams

By [WILLOW BELDEN](#) ([PEOPLE/WILLOW-BELDEN](#))

About three-quarters of the streams in Wyoming could soon be subject to less stringent environmental standards.

The streams are currently classified as "primary contact" water bodies, meaning that people swim or otherwise recreate in them. Now, the Department of Environmental Quality is proposing to designate them as "secondary contact" streams, meaning human contact is less likely. The change would lower the standards for how much pollution can be discharged into the waterways.



http://media2.publicbroadcasting.net/p/wpr/files/201301/DEQ_Logo.jpg

The DEQ's Lindsay Patterson says the original classification didn't make sense, because many of the streams have almost no water in them.

"What we're really talking about is dry draws in the state," Patterson said. "We're talking about ephemeral water bodies, intermittent water bodies that have no water."

So she says it makes sense to relax the environmental rules for those water bodies.

"It's kind of synonymous with having different speed limits for different roads in the state," she said. "I think people recognize that a speed limit of 20 miles an hour is appropriate for urban areas, and areas near schools. But it's not necessary to impose a speed limit of 20 miles an hour on an interstate, even though we know that would be protective of people."

Similarly, Patterson says, imposing the highest environmental standards on water that people don't touch is unnecessary regulation.

The DEQ is taking public comments until March 14. After that, they'll submit their proposal to the Environmental Protection Agency for approval.

TAGS: [streams \(/term/streams\)](#) [DEQ \(/term/deq\)](#) [epa \(/term/epa\)](#)

PHOTO EXHIBITS

Ex. 1. Fisherman with two children on downgraded stream in the Wind River Range

Date: July 20, 2011

Location: Bridger-Teton National Forest, T32N R103W Section 19, approximately ½ mile west of Haystack Mountain and ½ mile downstream from outlet of Deep Lake

Age of children at time of photo: six and seven

Distance hiked from trailhead: approximately 8 miles (each way)

Ex. 2. Woman on inflatable air mattress in pool on downgraded stream in the Wind River Range

Date: September 13, 2013

Location: a short distance upstream of Photo Exhibit 1

Estimated depth of pool: 3-5 feet

Ex. 3. Children swimming in wetlands associated lake in Killpecker Sand Dunes

May 30, 2015 at 4:32 pm

Children ages 4 to 11

Distance hiked from road: .5 miles

Location: Killpecker Sand Dunes, Sweetwater County, WY. Latitude: 41.982230

Longitude: 109.162708

Ex. 4. Two boys dunking heads in small pool on downgraded stream in Wind River Range

Date: July 22, 2012

Location: Bridger-Teton National Forest, T31N, R104W, Section 11, tributary to Dutch Joe Creek

Age of children at time of photo: eleven and thirteen

Distance hiked from trailhead: approximately 2¼ mile (each way)

Ex. 5. Boy with water running off face, downgraded stream in Wind River Range

Date: July 22, 2012

Location: same as above

Age of child at time of photo: eleven

Distance hiked from trailhead: same as above

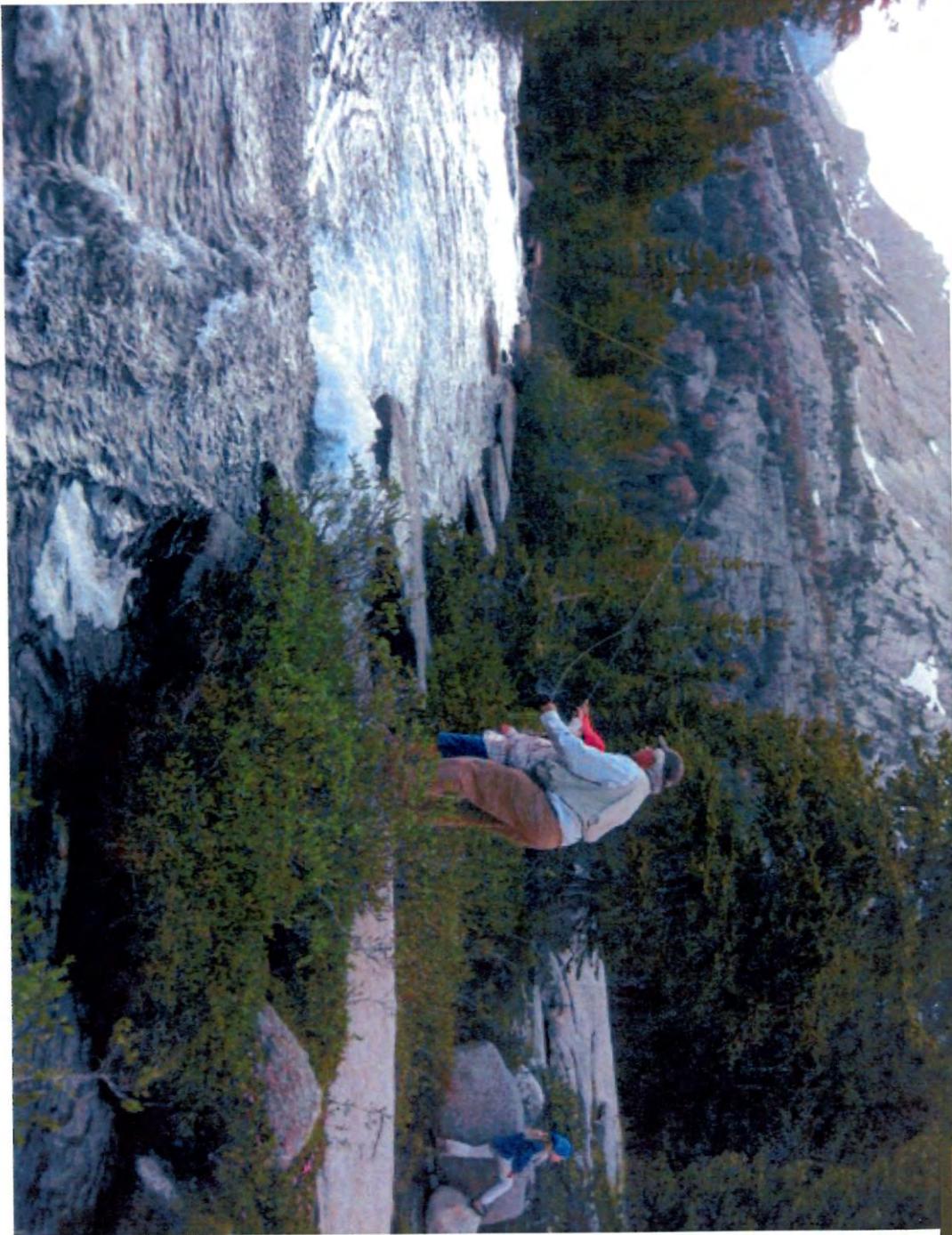
Ex. 6. Girl fishing in small lake in Wind River Range

Date: July 17, 2010

Location: Shoshone National Forest, T31N, R103W, Section 11, Mountain Sheep Lake

Age of child at time of photo: six

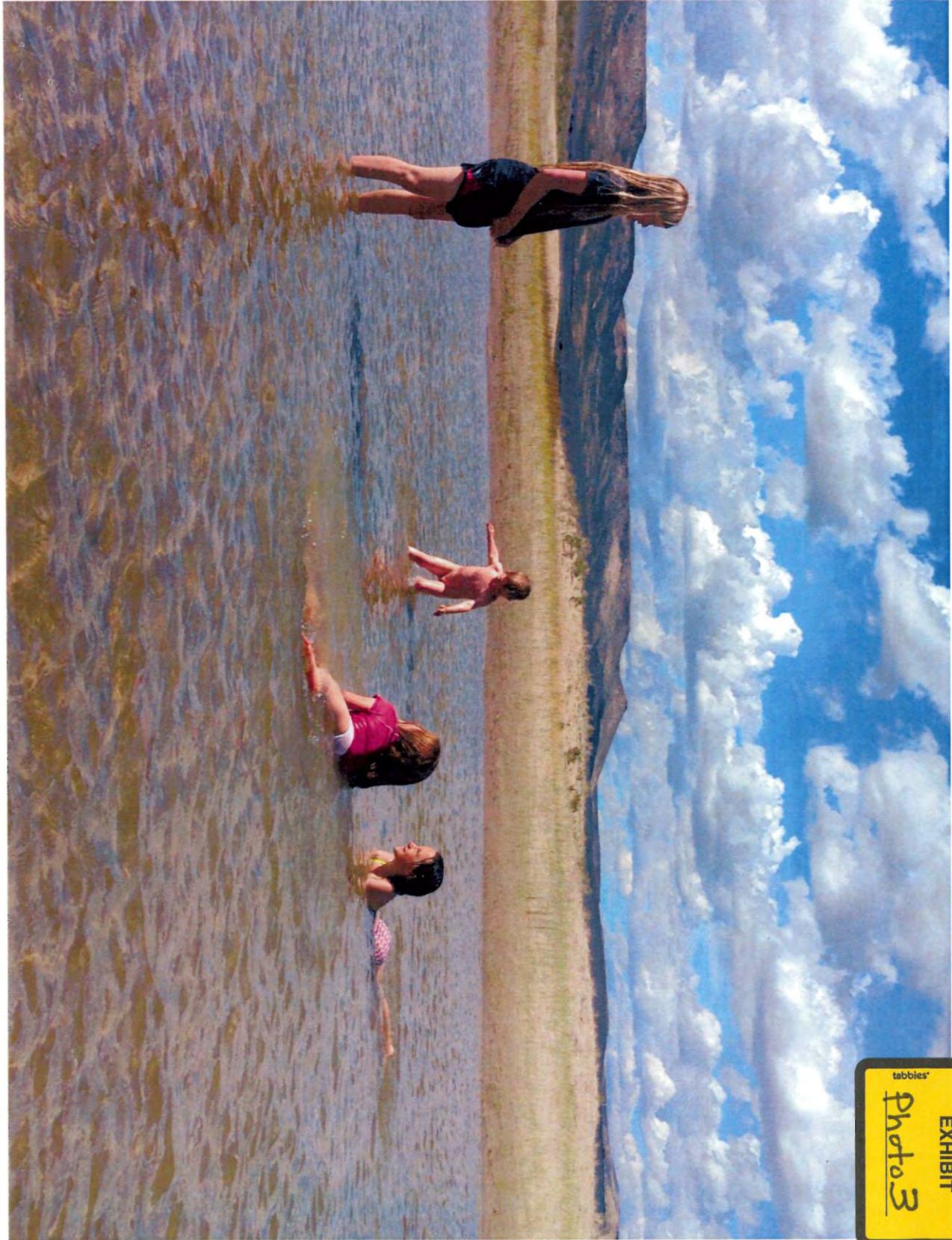
Distance hiked from trailhead: approximately 10 miles (each way)

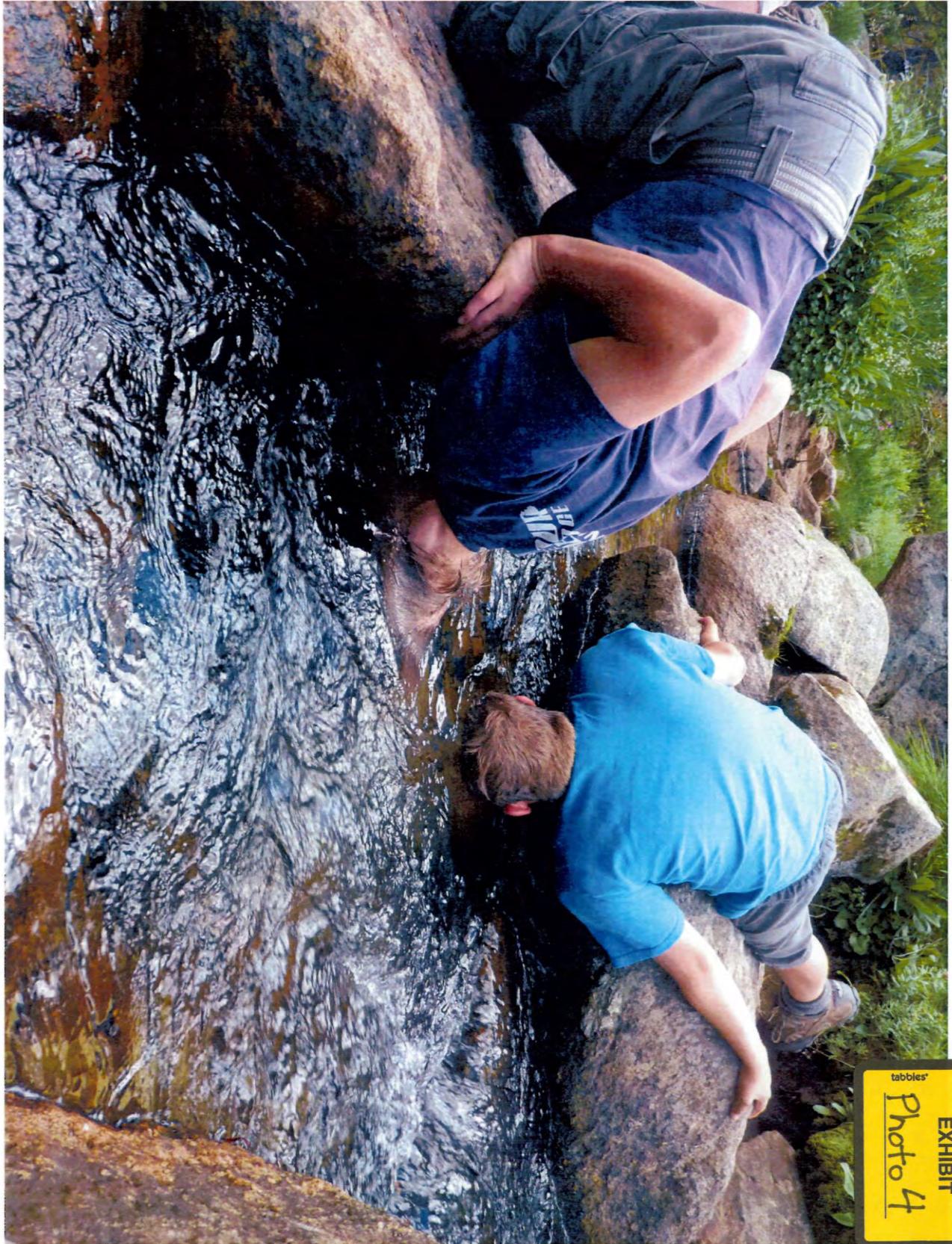


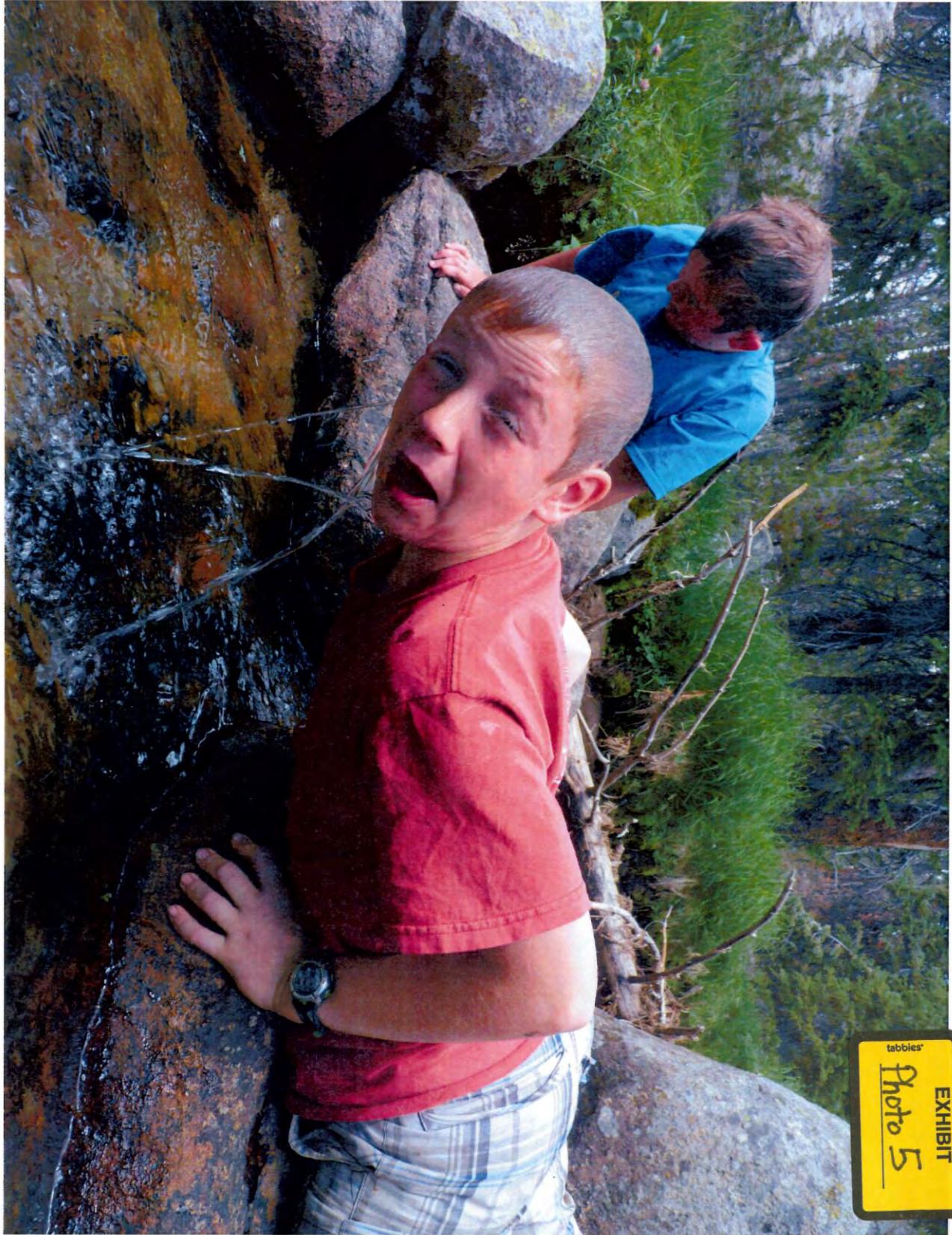
tabbles®
EXHIBIT
Photo 1



tabbles[®]
EXHIBIT
Photo 2









Recreation Exhibits: Wyoming Outdoor Council's September 16, 2015 Letter to WDEQ/WQD regarding the Wyoming Department of Environmental Quality's Categorical UAA for Recreation

RECREATION EXHIBITS

Ex. 1. Meeks Lake Trail sign, Bridger-Teton National Forest, showing one-way hiking distances of between six and twenty-four miles.

Ex. 2. Washakie Ranger District, Shoshone National Forest, Visitors Information.

Ex. 3. Wyoming Atlas and Gazetteer. Popular recreation guide to Wyoming. See page 5 for list of National Lands and page 10 for popular hikes. A "must have" guide book for the backcountry traveler, the Atlas contains 60 1:250,000 maps showing land ownership, streams and lakes, trails and dirt "two tracks" which provide access to tens of millions of acres of public lands.

Ex. 4. The Wyoming Range: Wyoming's Namesake Mountains. Located in western Wyoming, in the Bridger-Teton National Forest, the Wyoming Range contains some of the best outdoor recreation and wildlife habitat in Western Wyoming. The Wyoming Range contains hundreds of miles of hiking trails, including the 75-mile Wyoming Range National Recreation Trail.

Ex. 5. Wyoming Recreation Guide. The Bureau of Land Management (BLM) manages approximately 18 million acres of public land in Wyoming, virtually all of which are available for recreation use. Nationally-significant historic trails, wilderness study areas, and the Continental Divide National Scenic Trails represent just a few of the major attractions found on these lands.

Ex. 6. National Geographic's Greater Yellowstone Region. Comprised of Yellowstone and Grand Teton National Parks and surrounding National Forests, this region attracts visitors from around the globe to experience the area's world class wildlife and rugged natural beauty.

Ex. 7. Wyoming's Red Desert: Wild Heart of the West. For the adventurous, the Red Desert provides unparalleled opportunities for remoteness and solitude. Surface waters including springs and the occasional oasis in this arid (closed basin) landscape are rare and must be protected.

Ex. 8. Public Lands Recreation Opportunities. Color-coded map displays land ownership and describes a multitude of recreation opportunities on lands managed by federal and state agencies. Among other things, the map shows the location of nationally-significant historic trails and Wyoming's eight national forests: Ashley, Bighorn, Black Hills, Bridger-Teton, Medicine Bow, Shoshone, Targhee and Wasatch; and two National Parks: Grand Teton and Yellowstone.



Trailheads

- Wind River Range
- Bridger Wilderness
- Wyoming Range
- Gros Ventre Range

[Camping Information](#)

Hiking and Backpacking

[2009 Bridger-Teton Campground Update](#) (5/20/09)

[Bridger-Teton National Forest](#) website

[Bridger-Teton National Forest Maps](#) | [Order Maps online](#) (Grand Teton Natural History Assn)

[Bridger-Teton National Forest Recreation](#)

Sublette County has hundreds of miles of hiking and backpacking trails available. Backcountry trails offer access to the Wind River Mountain Range and Jim Bridger Wilderness, the Gros Ventre Wilderness Area, and in the Wyoming Range. Trailheads are often located near campgrounds; some are very remote. The major trailheads into the Jim Bridger Wilderness area of the Windn River Mountains have corrals and parking areas for horses and trailers

The high country typically opens up around mid-July and remains open through mid-September. Most trailheads start at about 9,000 feet and access each year depends on the weather conditions. Snow can occur at any time, so visitors should be prepared for the possibility of subfreezing temperatures even in the summer. Typical daytime summer temperatures in the high country reach the 70s-80s with nighttime lows averaging in the 30s. Afternoon thunderstorms are common in the summer bringing lightning and rain showers, so hikers should be prepared for all kinds of weather conditions on any given day.

The Bridger Wilderness of the Wind River Range receives very high use, although most visitors don't realize it. In any given summer thousands of hikers venture into the wilderness area. On main access trails, hikers can expect to share the trail with other backpackers, stock and pack trains. The Gros Ventre and Wvomina Ranae receive much



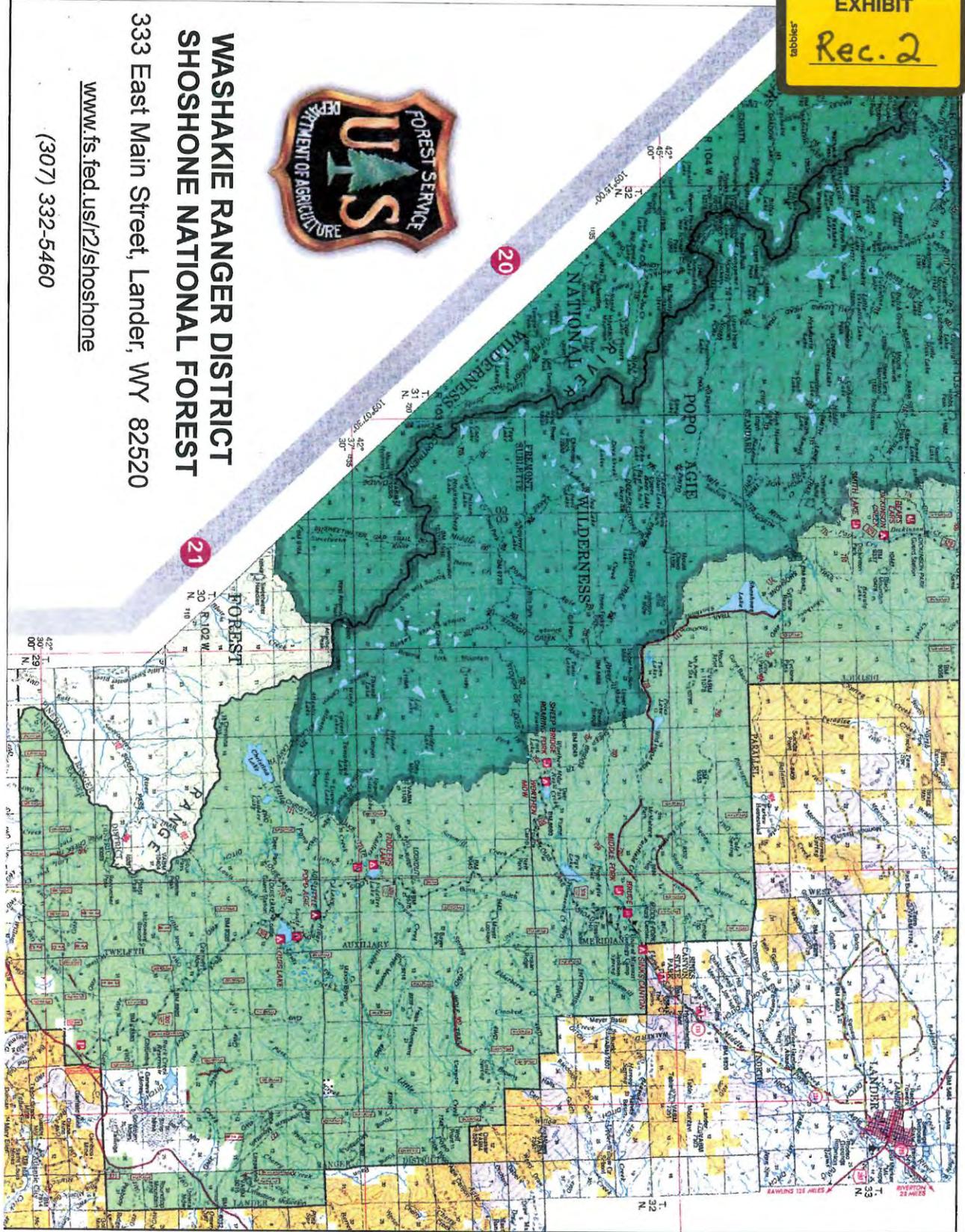
[Wyoming Range trails](#)



[Sheep Creek trail](#)



EXHIBIT
Rec. 2



**WASHAKIE RANGER DISTRICT
SHOSHONE NATIONAL FOREST**

333 East Main Street, Lander, WY 82520

www.fs.fed.us/r2/shoshone

(307) 332-5460



United States
Department of
Agriculture

Forest
Service

Washakie Ranger District
Shoshone National Forest
307-332-5460

333 East Main St
Lander, WY 82520-3499
www.fs.fed.us/r2/shoshone

**Thank you for your interest in the Shoshone National Forest, Washakie
Ranger District.**

We're located on the Eastern slope of the Continental Divide in the beautiful Wind River Mountains of Wyoming.

Maps of the Shoshone National Forest are available from our office for \$10.00.

Questions about hunting and fishing should be directed to the Wyoming Game and Fish Department, 260 Buena Vista Drive, Lander, WY 82520 - (307) 332-2688. If you would like to hunt or fish on the Wind River Indian Reservation, you should contact the Shoshone and Arapaho Fish and Game Department, P.O. Box 217, Fort Washakie, WY 82514, (307) 332-7207.

Special Use Permits are required of all organized groups, educational organizations and for-hire activities. Additionally, if you plan on entering the Popo Agie Wilderness with horses or pack livestock, you'll need to fill-out a *Survey of Usage and Information Permit* available from our office. Special use permits and livestock surveys should be obtained well in advance of your trip (a minimum of 2 weeks prior to your visit is recommended). Please call (307) 332-5460 for additional information.

Enclosed is a wide variety of information I hope you will find useful. If you have questions or comments please call us at (307) 332-5460 or visit our website at www.fs.fed.us/r2/shoshone.

Sincerely,



enclosures



WASHAKIE RANGER DISTRICT
SHOSHONE NATIONAL FOREST
333 East Main Street, Lander, WY 82520
(307) 332-5460

GENERAL INFORMATION

There are over 1,500 miles of trails, numerous peaks that rise over 10,000 feet and more than 500 mountain lakes situated within the boundaries of the Shoshone National Forest. During your visit, please observe the following guidelines to help ensure your safety and preserve the unique character of our Nation's oldest National Forest.

CAMPFIRES AND FIREWOOD:

You are encouraged to use backpacking stoves because firewood is often scarce. If you do build a campfire, please use existing fire rings, or a 'fire blanket' technique.

GARBAGE AND LITTER:

Pack-out **ALL** unburnable material. Remember that above timberline, orange peels and apple cores could take months to decompose.

INSECTS:

Mosquitoes, deer flies, and horse flies are plentiful during the summer.

WEATHER:

Snow is still likely above 10,000 feet through mid-July. Snowmelt and severe afternoon thunderstorms can make stream crossings extra hazardous during runoff.

LIGHTNING:

Lightning is a very real danger. During a lightning storm, avoid standing on mountain tops, ridges or open areas, or under lone trees. If you are in an open area and cannot get to a safer ground, you should put insulating material such as a poncho or foam pad on the ground (preferably on rock) and squat on it. Only your feet should touch the material. Clasp your hands around your knees.

DRINKING WATER:

It is not recommended that you drink from open water sources because they can be contaminated by microscopic organisms from animal and human waste. If you must use an open water source, boil water for at least 1 minute. At high altitudes, you should maintain the boil for 3 to 5 minutes. Treatment tablets and water filter systems are also treatment alternatives.

PETS:

Regulations do not forbid pets on the Forest, but since pets and wildlife do not mix it is important to maintain control of your furry friends at all times.

PERMITS:

Permits are **REQUIRED** for any large, organized group (Boy Scouts, hiking clubs, university groups, etc.). Please contact the district office at (307) 332-5460 for more information on obtaining a permit.

ALTITUDE SICKNESS:

A person should slowly acclimate themselves to high altitudes. The lack of oxygen at high elevations gives some travelers altitude sickness -- or pulmonary edema, which can kill if not handled properly. Symptoms of altitude sickness are cough, lack of appetite, nausea/vomiting, staggering gait or severe headache. A person with these symptoms should breathe deeply, rest, drink lots of fluids and eat quick-energy foods like dried fruit or candy. The best prevention is gradual adjustment to the altitude.

HYPOTHERMIA:

Hypothermia, or a subnormal temperature of the body, is the number one killer of outdoor recreationists. It's often caused by cold, wet, windy conditions and it's aggravated by exhaustion. The following are some defenses against hypothermia.

1. Stay dry. When clothes get wet, they lose about 90% of their insulating value. Wool loses less heat than down, cotton and some synthetics.
2. Choose rain clothes that cover the head, neck, body and legs and provide good protection against wind-driven rain. Material should repel outside moisture that robs the body of heat.

WILDLIFE:

Be respectful of wild animals. Minimize your impacts on habitat and teach children **NEVER** to approach wildlife -- for the safety of both you and the animals. This is especially true if they have young nearby.



Horse Camping and Trail Guidelines Shoshone National Forest Washakie Ranger District

- Most trails on the Washakie Ranger District are suitable for transportation livestock use. Campers are responsible for checking at the district office for the availability of livestock forage in the area planned for camping.
- **ALL FEED BROUGHT ONTO THE FOREST MUST BE CERTIFIED WEED FREE PURSUANT TO TITLE 36 CFR 261.50 (a) AND (b).** Contact Fremont County Weed & Pest at (307) 332-1052 for information on where to obtain certified weed-free hay.
- A variety of increased uses makes it critical for campers taking livestock into the backcountry to observe trail courtesy and low impact methods. Information regarding low impact livestock camping is available at the District Office.

All visitors with livestock entering the Popo Agie Wilderness are required to obtain a free *Survey of Usage & Information Permit*. The permit outlines all livestock regulations and helps the Forest Service care for the area. For additional information, or to have a permit mailed to you, contact the District Office at (307) 332-5460.

COMMONLY USED CAMP LOCATIONS

There are no developed horse facilities on the Washakie District, however there are trailhead corrals for temporary use at Bruce's parking area, Worthen Reservoir & Christina Lake.

<u>Area</u>	<u>Forage Availability</u>	<u>Comments</u>
Sand Creek	Available.....	Very windy at timberline
Valentine Meadows.....	Available.....	Good location for camping with horses
South Fork.....	Available.....	Good <i>central location</i> for camping with horses
Dutch Oven Lake.....	Available.....	Good location for horses
Moss Lake.....	Available.....	Locations along Moss Creek recommended
Washakie Lake.....	Limited.....	Area between Washakie and Loch Leven Lakes recommended
Grave Lake.....	Limited.....	West end of Grave Lake is recommended for camping
Baptiste Lake.....	Scarce.....	Most of area is above timberline
Lonesome Lake.....	Closed.....	Closed to grazing
Lizard Head Meadows.....	Available.....	Good places for horses
Sanford Park.....	Good.....	Good place for horses. South side preferable for camping
Smith Lake.....	None.....	Not recommended
Deep Creek Lake.....	Scarce.....	Limited camping at timberline
Ice Lake.....	Scarce.....	Most of area is above timberline
Poison Lake.....	Available.....	Good place for horses
Bill's Park.....	Available.....	North side of river recommended



DISPERSED CAMPING ON THE SHOSHONE NATIONAL FOREST

Dispersed camping (camping in areas other than developed campgrounds) is allowed on the Shoshone National Forest. The following rules apply outside of designated wilderness (check with the local district office for rules when camping inside the wilderness)

- Campsites should be 200 feet from trails, lakes, or wet meadows and 100 feet from streams or creeks.
- There is a 16 consecutive day stay limit. Any new locations must be at least air five miles from the previous locations.
- Group size may be limited. Check with the local ranger district office for specifics in the area you want to go.
- Grizzly Bear Food Storage Regulations must be followed when in designated grizzly bear use area. See the Grizzly Bear Special Order (located on the Special Orders Page under Region-wide) to find where these areas are and about their regulations. In general all odorous items (including food, toothpaste, deodorant, soaps, pet foods, beverages, refuse) must be stored at night and during the day when unattended in one or several of the following ways.
 - Suspended 10 feet at all points from the ground and 4 feet way from any supporting tree or pole.
 - Stored in a locked bear-resistant (Forest Service approved) container. Coolers are **NOT** bear resistant. Bear Resistant canisters are available at Forest Offices.
 - Stored out of sight in a closed, hard-sided vehicle.
 - For more information concerning camping in grizzly use areas go to Properly Storing Your Food in Bear Country.
- Dispersed camping or campfires are not allowed in the area commonly known as the North Fork Canyon and includes the area 1/2 mile on either side of the center line of U.S. Highway 14-16-20 between the National Forest boundary and the East Entrance of Yellowstone National Park. Within this special recreation corridor all camping and campfires must be within developed recreation sites.
- Some areas on Forest are closed and signed as such to disperse camping due to grizzly bear activity or resource protection. Be alert to signage.
- Check with the local ranger district office in the area you plan to be for any seasonal campfire restrictions that may apply.

Please use "Leave No Trace" ethics so that those coming behind you will have the same pristine experience as you.





Campgrounds and Picnic Areas

Washlachie Ranger District
Shoshone
National Forest

# on Map	Site Name	Daily Fee	Site Host	Camp Sites	Trailer Sites	Max. Spur Length	Elevation (Feet)	Approx. Season	Water	Amenities <small>Bathroom Picnic Shelter Coal grates</small>	Average Temp. High/Low	Accessible by Disabled visitors?	Additional Information	Approximate Distance from Lander
1	Sinks Canyon Campground	\$15	No	09	05	20'	6,850	May thru Oct	Yes	R-1 P-9 C-9	78°/58°	Yes	Lake and Stream Fishing, Hiking, Rock Climbing, Bear Resistant Containers at campsite #s 2, 3, 5 & 8	8.7 miles via Hwy 131/FR 300 (Sinks Canyon Rd/loop Rd)
2	Bruce Picnic Area	None	No	No Camping	None	20'	7,100	May thru Oct	No	R-1 P-9 C-9	78°/58°	No	Fishing, Hiking, Rock Climbing	10 miles via Hwy 131/FR 300 (Sinks Canyon Rd/loop Rd)
3	Worthen Meadows Campground	\$15	No	28	28	24'	8,800	July thru Sept	Yes	R-3 P-28 C-28	70°/52°	No	Fishing, Hiking, Boat Ramp, Wilderness Access, Bear Resistant Containers at Campsite #s 1, 2, 4, 7, 14, 17, 18 & 20	15 miles via Hwy 131/FR 300 (Sinks Canyon Rd/loop Rd)
4	Worthen Meadows Picnic Area	None	No	No Camping	None	24'	8,800	July thru Sept	Yes	R-1 P-6 C-6	70°/52°	No	Fishing, Hiking, Boat Ramp, Wilderness Access	15 miles via Hwy 131/FR 300 (Sinks Canyon Rd/loop Rd)
5	Fiddlers Lake Campground	\$15	Yes	20	20	40'	9,400	July thru Sept	Yes	R-5 P-20 C-20	70°/52°	Yes	Fishing, Hiking, Boat Ramp, Bear Resistant Containers at Campsite #s 8, 9, 10, 13, 17 & 19	18 miles via Hwy 131/FR 300 (Sinks Canyon Rd/loop Rd)
6	Little Popo Agle Campground	None	No	04	01	16'	8,800	July thru Sept	No	R-1 P-4 C-4	70°/52°	No	Fishing, Hiking	23 Miles via Hwy 131/FR 300 (Sinks Canyon Rd/loop Rd)
7	Louis Beach Picnic Area	None	No	No Camping	None	24'	8,550	July thru Sept	No	R-2 P-18 C-18	72°/55°	No	Fishing, Boating, Hiking	26.0 miles via Hwy 131/FR 300 (Sinks Canyon Rd/loop Rd)
8	Louis Lake Campground	\$10	No	09	09	24'	8,600	July thru Sept	No	R-1 P-9 C-9	72°/55°	No	Hiking, Boat Ramp, Fishing, Bear Resistant Containers at Campsite #s 5, 6, 7 & 8	26.5 miles via Hwy 131/FR 300 (Sinks Canyon Rd/loop Rd)
9	Dickinson Creek Campground	None	No	15	06	20'	9,400	July thru Sept	No	R-2 P-15 C-15	67°/50°	No	Fishing, Hiking, Bear Resistant containers at campsite #s 7, 10 & 11	To cross tribal lands, you must purchase a tribal fishing license. 15 miles NW on US 26/287. Turn left (West) at Hines Store then SW for 19 miles on Moccasin Lake Rd/ FS329

Bug Information

General Insect Protection:

- ✚ Wear long-sleeved shirts and long pants. Very light-weight, light-colored clothes can be very cool, and they keep most of your skin protected.
- ✚ Wear light colored clothes. Lighter colors make it easier to see insects while they are still on the outside of your clothes.
- ✚ Tuck your pants into socks. This keeps ticks and other crawlies from getting inside your pant legs.
- ✚ Wear a hat for both sun protection and keeping insects out of your hair.
- ✚ After your hike, take a shower and check all over your body for ticks.

Preventing Ticks:

- ✚ Avoid brushy areas and tall grass. Try to walk in the middle of the trail and avoid hanging branches.
- ✚ Sunny, dry areas can still have ticks, but fewer than shady, damp areas.
- ✚ Use DEET-based insect repellents on exposed skin. A 25%-30% solution works. Mix 2 ounces of 100% DEET with 6 ounces of 4.7% DEET pump spray repellent for a 28%.
- ✚ Check each other for ticks when you stop for breaks.

Removing Ticks:

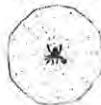
- ✚ Wipe the wound area with an alcohol wipe.
- ✚ Grasp the tick with a sharp pointed tweezers right down where it is entering the skin.
- ✚ Pull it straight away from your skin with a slow, steady pressure. Don't yank it; don't twist it; don't rock it back and forth.
- ✚ Even removing the tick as efficiently as possible may leave some of its mouth parts in your skin. If this happens, pinch up a fold of skin that contains the bite area and carefully scrape the skin containing the mouth parts with a scalpel or razor blade. Or, use a sterilized needle to break the skin and remove the mouth.
- ✚ It is very important to thoroughly clean the wound with antiseptic.
- ✚ If you're concerned with the possibility of Lyme disease, keep the tick in a film canister or between a piece of folded tape and take it to a public health lab for inspection.

Mosquitos:

- ✚ Use DEET-based insect repellent in a 20% solution. Spray it on exposed skin to stop mosquitos from landing. Be sure to wash it off in the shower as soon as you get home.
- ✚ Hike during the morning and early afternoon. Be off the trail before sunset to avoid the peak mosquito hours.
- ✚ Hike on open, sunny trails rather than in shady, protected forest. The views are better, the wind will blow mosquitos away, and the drier air is harder on bugs.
- ✚ Burning citronella candles can help keep mosquitos away from an area, but wind will blow the smell away easily.

Treating Mosquito Bites:

- ✚ Don't scratch it. That just causes more damage and possible infection.
- ✚ Wash the bite area with soap and water.
- ✚ Apply an anti-itch medicine such as Calamine lotion or anti-itch stick.



Preventing Spider Problems:

- ✚ Never reach someplace that you cannot see – under rocks, into holes, around branches.
- ✚ Shake out clothes, gloves, boots before putting them on.
- ✚ When hiking through trees, point the end of a hiking stick out ahead of you and move it in a circle to catch the webs 4 or 5 feet out.
- ✚ Look before you sit down or lean against a tree to rest.
- ✚ Wear gloves when doing any outdoor work.

Treating Spider Bites:

- ✚ Wash the bite area with soap and water.
- ✚ Place ice pack or cold water towel on bite area.
- ✚ Elevate and rest the wounded spot to reduce swelling.
- ✚ Watch for symptoms and record them.
- ✚ Call or visit a doctor as soon as you can.
- ✚ Try to identify the spider. If it is available, take the spider's live or dead body with you to the doctor.

Preventing Bee Stings:

- ✚ Avoid wearing bright or flowery patterned clothes. You may attract a bee looking for flowers. Wearing light-colored clothes, like tan or white, is good.
- ✚ Avoid perfume and scented lotions.
- ✚ Avoid wearing shiny jewelry.
- ✚ Avoid strongly odored food that may be attractive.
- ✚ Don't drink from cans – a bug may have gotten inside trying to get to the sweet liquid. Look in your cup before you drink from it.
- ✚ Keep your food and garbage sealed in plastic bags.
- ✚ If a bee or wasp is bothering you, slowly move away down the trail. Swatting at it or rapid movement can provoke an attack.

Treating Stings:

- ✚ Stay calm. Getting excited will just speed up the blood flow and spread of venom.
- ✚ If the insect is still attacking you, brush it off and leave the area quickly.
- ✚ If the stinger is still stuck in you, remove it by scraping with a credit card or pulling it out with tweezers. It has been recommended that using tweezers can force more venom into the wound, but more recent studies say that removing the stinger as quickly as possible is more important. So, use what you can to get it out.
- ✚ Apply ice or cold water to the sting area.
- ✚ Control itching and swelling with over-the-counter antihistamines.
- ✚ Don't scratch or rub the sting spot.
- ✚ If allergic reaction symptoms appear or the victim is known to be allergic, get medical help immediately. Symptoms include difficulty breathing, swelling of tongue, mouth or throat, and hives.

There are other bugs that can bother you while hiking. Chiggers, black flies, and other crawling, creeping swarming things are all part of the wild. Be aware of the kinds of insects to be found in the areas you hike and be ready in case of an encounter with them. Having a wilderness first aid booklet along is always a good idea.

Information from www.hikingdude.com

Traveling in Bear Country

Following the suggestions below will help make your visit safer for you, your companions and wildlife.

- **Inquire** about recent bear and mountain lion activity in the area.
- **Let someone know where you are going** and when you plan to return.
- **Travel in groups** and only during daylight hours.
- **Make your presence known.** Call out, clap your hands, or sing loudly, especially around loud streams, on windy days, and in areas of low visibility.
- **Stay on trails** to reduce the chance of sudden encounters.
- **Be aware of your surroundings.** Look for bear-activity signs: tracks, scat, diggings, torn-up logs, and turned over rocks.
- **Keep children close to you** and within your sight at all times.
- Carry a bandanna, shirt, or hat to drop to distract an approaching bear or lion. **Do not drop your backpack! -- Leave it on for added protection.**
- Control pets.

- **Do not run from a bear or lion-** running may trigger an attack. Bears can run faster than horses, both uphill and downhill. Talk to the animal in a calm, low voice while slowly backing away.
- Immediately **pick up small children** and stay in a group.
- Contact a wildlife management agency in the area you are visiting to learn about local regulations and guidelines or for additional information about wildlife encounters.

Bear and mountain lion attacks are extremely rare. However, if you are attacked, most wildlife experts recommend that:

- If a **mountain lion** attacks, fight back aggressively using anything available, including your fists. Stand tall and face the lion.
- If a **black bear** approaches, try to scare it away by shouting, making noise, or throwing small stones. If a black bear attacks, fight back!
- If a **black or grizzly bear** attacks at night while you're in a tent, fight back aggressively with sticks or stones.
- If a **grizzly bear** attacks you during the day, most experts recommend that you play dead: Either curl up in a ball or lie face down, using your hands and arms to protect the back of your neck and face, and keep your pack on for added protection. Do not move or make noise until you are sure the bear has left the area.



THE BEAR FACTS

When Camping in Bear Country, Always Remember Food and Odors Attract Bears

Don't Endanger Yourself and Others by Rewarding a Bear with Food.

ALWAYS STORE FOOD PROPERLY

A bear will eat anything that you, your livestock or your pets will eat or drink. All human and livestock food and garbage including cooking grease should be sorted unavailable to bears. Wash dishes after each use. Check your pockets and saddlebags for forgotten food every night before sleeping.

ODORS ATTRACT BEARS

Store food in plastic bags. Use freeze-dried foods. Avoid smelly foods like bacon. Gut and clean fish water away from your campsite. Puncture fish air bladder and throw remains into water. Personal cleanliness is good insurance. Keep sleeping bags and personal gear clean and free of food odor. Don't sleep in the same clothes you wore when cooking. Don't sleep in the cooking tent. It is best to sleep 100 yards (300 feet) from properly stored food. Leave perfumes, cosmetics and scented products at home. They may attract bears.

NEVER BURY GARBAGE

Properly store and pack out all garbage. Bears remember where they got food before and will often return.

FOOD STORAGE IN BEAR COUNTRY

Within Bear Country, all food and beverages; including canned food, pop and beer; garbage; processed livestock or pet food; and scented or flavored toiletries (toothpaste, chapstick) should be stored unavailable to bears at night and when left unattended during the day.

Attractants should be hung at least 10 feet off the ground and 4 feet from any vertical support or stored inside a hard-sided vehicle, or bear resistant:

- Cars
- Pickups
- Enclosed horse trailers
- Hard sided campers, or chamber shells

Food should be stored out of sight of vehicles. Coolers, pop-up campers and tents are **NOT** considered bear resistant.

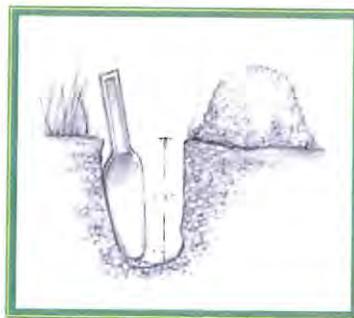


Leave No Trace

Dispose of Human Waste

Improper disposal of human waste can lead to water pollution, the spread of illnesses such as giardia, and unpleasant experiences for those who follow.

- Please take time to locate and use bathrooms, outhouses and other developed sites for human waste disposal when available.
- When possible, carry waste out using a commercial device designed for transporting human waste. You can also make your own container by placing a handful of kitty litter inside a brown paper bag, and then placing it inside a plastic bag once used.
- Using doubled plastic bags for soiled toilet paper is one option for transport; doubling the bags helps prevent accidental contamination.
- Always pack out feminine hygiene products. They take years—if not decades—to decompose, and while they are breaking down, their odor attracts animals.
- If no facilities are available and carrying out waste is impractical, dig a “cat hole” to bury waste. The cat hole should be 6 – 8 inches deep and at least 200 feet from water, camp, trails and drainages. Don’t leave human waste under rocks where it is more likely to get washed into water sources by rain or be stumbled upon by some hapless hiker. It is important to locate your cat hole away from water and places where other people may accidentally encounter it.



THANK YOU FOR YOUR COOPERATION!

BEAR RESISTANT CONTAINERS



BACKCOUNTRY USERS – WE HAVE THESE CONTAINERS AVAILABLE FOR YOUR USE ON YOUR TRIP INTO THE WILDERNESS

TO OBTAIN A CONTAINER ALL WE REQUIRE IS A DEPOSIT OF \$100.00 FOR THE SMALLER CONTAINER – WEIGHS 2 LBS 15 OZ
\$115 FOR THE LARGE CONTAINER – WEIGHS 4 LBS 12 OZ

DEPOSITS CAN BE MADE BY THE FOLLOWING WAYS:

1. CASH
2. A PERSONAL CHECK
3. OR CREDIT CARD

YOUR DEPOSIT WILL BE RETURNED TO YOU WHEN THE CONTAINER IS RETURNED IN **GOOD, CLEAN CONDITION** TO THE WASHAKIE RANGER DISTRICT OFFICE.





SHOSHONE NATIONAL FOREST WASHAKIE RANGER DISTRICT HIKING TRAILS

TRAIL NAME	LENGTH (MILES)	LEVEL OF USE	DIFFICULTY	ELEVATION CHANGE (FEET)	ACCESS INFORMATION
**North Fork	15.0	Light / Moderate	Easy	8,500-10,500	Smith Lake Trail Lonesome Lake Jackass Pass Pinto Park Trail Lizard Head Trail
Pinto Park	7.0	Light / Moderate	Difficult	9,200-10,300	Middle Fork Trail North Fork Trail
Sheep Bridge	3.0	Heavy	Easy	8,400-9,100	Sheep Bridge Middle Fork Twin Lakes Trail
Shoshone Lake	8.0	Light	Moderate	8,500-9,750	Middle Fork Shoshone Lake North Twin Lakes
Silas Lake	1.8	Heavy	Easy	9,600-10,100	Christina Lake Trail Upper Silas Lake
**Smith Lake	7.5	Heavy	Easy	9,300-10,250	Dickinson Creek Cathedral Lake Pinto Park Trail
Stough Creek Lakes	7.0	Heavy	Difficult	8,800-10,600	Roaring Fork Stough Basin Middle Fork Trail
Tayo Lake	4.1	Heavy	Moderate	9,750-10,800	Middle Fork Trail Tayo Lake
Twin Lakes	1.5	Light	Easy	8,500-9,100	Sheep Bridge Stough Creek Lakes Middle Fork Trail
Washakie	3.0	Moderate / Heavy	Moderate / Difficult	10,100-11,600	Bears Ears Trail Washakie Lake Washakie Pass

** Rivers & Streams may be impassable during periods of heavy run-off or storms.



SHOSHONE NATIONAL FOREST WASHAKIE RANGER DISTRICT HIKING TRAILS

TRAIL NAME	LENGTH (MILES)	LEVEL OF USE	DIFFICULTY	ELEVATION CHANGE (FEET)	ACCESS
Bears Ears	16.0	Heavy	Difficult	9,300-11,200	Dickinson Park Lizard Head Trail Moss Lake Trail
Christina Lake	4.0	Moderate / Heavy	Easy	9,400-9,900	Christina Lake Fiddlers Lake Silas Lake Trail
Dry Creek	9.0	Light	Moderate	9,600-10,600	Forest Boundary Hays Park Don's Lake
High Meadow	3.0	Light	Difficult	9,000-9,900	Smith Lake North Fork Trail Pinto Park
Ice Lakes	7.2	Light / Moderate	Difficult	9,750-11,000	Tayo Lake Trail Ice Lakes Deep Creek Lake Pinto Park Trail
Lizard Head	7.0	Moderate	Very Difficult	10,000-11,800	North Fork Trail Pinto Park Jackass Pass
Louis Lake	2.0	Light	Easy / Moderate	8,600-9,600	Louis Lake 4-wheel drive road
**Middle Fork	16.0	Heavy	Easy / Moderate	7,200-10,300	Middle Fork Sweetwater Gap Stough Creek Pinto Park Tayo Lake Sheep Bridge Trail
Moss Lake	5.5	Light	Moderate	9,970-10,660	Bears Ears Moss Lake Gaylord Lake Trail

**** Rivers & Streams may be impassable during periods of heavy run-off or storms.**

Lightning Safety Outdoors

The capricious nature of thunderstorms makes them extremely dangerous; however, following proven lightning safety guidelines can reduce your risk of injury or death. You are ultimately responsible for your personal safety. You have the responsibility to act when threatened by lightning.

No place is absolutely safe from lightning; however, some places are much safer than others. The safest location during lightning activity is an enclosed building. The second safest location is an enclosed metal vehicle, car, truck, van, etc., but NOT a convertible, bike, or other topless or soft-top vehicle.

Bolts From the Blue

There are times when a lightning flash can travel horizontally many miles away from the thunderstorm cloud itself and then strike the ground. These types of lightning flashes are called "Bolts from the Blue" because they seem to come out of a clear blue sky. Although these flashes are rare, they have been known to cause fatalities.

When a Safe Location Is Nearby

When a safe location is nearby, follow the "30/30 Rule."

- Seek safe shelter when you first hear thunder, see dark threatening clouds developing overhead or lightning. Count the seconds between the time you see lightning and hear the thunder. You should already be in a safe location if that time is less than 30 seconds.
- Stay inside until 30 minutes after you last hear thunder.

Plan Ahead! Your best source of up-to-date weather information is a NOAA Weather Radio (NWR). Portable weather radios are handy for outdoor activities. If you don't have NWR, stay up to date via Internet, TV, local radio or cell phone. If you are in a group, make sure all leaders or members of the group have a lightning safety plan and are ready to use it.

Determine how far you are from a safe, enclosed building or a safe vehicle. As soon as you hear thunder, see lightning, or see dark threatening clouds, get to a safe location. Then wait 30 minutes after the last rumble of thunder before you leave the safe location. If you are part of a group, particularly a large one, you will need more time to get all group members to safety. NWS recommends having professional lightning detection equipment so your group can be alerted from significant distances from the event site.

When groups are involved, the time needed to get to safety increases. So you need to start leaving sooner. Your entire group should already be in a safe location when the approaching storm reaches within five miles from your location.



When a Safe Location Is Not Nearby

The lightning safety community reminds you that there is NO safe place to be outside in a thunderstorm. If you absolutely can't get to safety, this section is designed to help you lessen the threat of being struck by lightning while outside.

Being stranded outdoors when lightning is striking nearby is a harrowing experience. Your first and only truly safe choice is to get to a safe building or vehicle. If you are camping, climbing, on a motorcycle or bicycle, boating, scuba diving, or enjoying other outdoor activities and cannot get to a safe vehicle or shelter, follow these last resort tips:

- Do NOT seek shelter under tall isolated trees! The tree may help you stay dry but will significantly increase your risk of being struck by lightning. Rain will not kill you, but the lightning can!
- Do NOT seek shelter under partially enclosed buildings.
- Stay away from tall, isolated objects. Lightning typically strikes the tallest object. That may be you in an open field or clearing.
- Know the weather patterns of the area. For example, in mountainous areas, thunderstorms typically develop in the early afternoon, so plan to hike early in the day and be down the mountain by noon.
- Know the weather forecast. If there is a high chance of thunderstorms, curtail your outdoor activities.
- Do not place your campsite in an open field on the top of a hill or on a ridge top. Keep your site away from tall isolated trees or other tall objects. If you are in a forest, stay near a lower stand of trees. If you are camping in an open area, set up camp in a valley, ravine, or other low area. A tent offers NO protection from lightning.
- Wet ropes can make excellent conductors. This is BAD news when it comes to lightning activity. If you are mountain climbing and see lightning, and can do so safely, remove unnecessary ropes extended or attached to you. If a rope is extended across a mountain face and lightning makes contact with it, the electrical current will likely travel along the rope, especially if it is wet.
- Stay away from metal objects, such as fences, poles and backpacks. Metal is an excellent conductor. The current from a lightning flash will easily travel for long distances.

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Fishing on the Washakie Ranger District

Species	Creeks	Rivers	Lakes
BROOK TROUT	Sawmill Creek, Louis Creek, Rock Creek, Slate Creek, Dickinson Creek, Funnel Creek, Ranger Creek, Sand Creek, Slate Creek	Middle Fork of the Popo Agie River	Atlantic, Bear (Lower & Upper), Boot, Cathedral, Christina, Cloverleaf, Cook, Dutch Oven, Fiddlers Lake, Frye, Glacier, Gustave, Island, Jug, Lonesome, Louis Lake, Macon, Middle, Phyllis, Roaring Fork, Shoal, Shoshone, Silas (Lower & Upper), Smith, Toadstool (& Upper Toadstool), Tomahawk (& Little Tomahawk), Washakie, Worthen Reservoir
BROWN TROUT		Middle Fork of the Popo Agie River	Lock Leven
CUTTHROAT TROUT		Middle Fork of the Popo Agie River	Bear, Baptiste, Cliff, Footprint, Gaylord, Grave, Helmet, High Meadow, Holster, Lonesome, Moss, Palette, Poison, Silas (Lower & Upper), Stough (Big & Little), Tomahawk (& Little Tomahawk), Valentine (& Upper Valentine).
GOLDEN TROUT			Coon, Deep Creek, Leg, Saddlebag, Tayo, Thumb, Valentine (Upper), Washakie (Little), Windy Shelf, Squirrel
GRAYLING (ARTIC CHARD)		Middle Fork of the Popo Agie River	
MACKINAW (LAKE TROUT)			Cathedral, Christina, Grave, Gustave, Louis Lake, Middle, Smith
RAINBOW TROUT	Louis Creek	Middle Fork of the Popo Agie River	Christina, Fiddlers, Frye, Hanks, Lock Leven, Louis Lake, Poison, Washakie (& Little Washakie), Worthen Reservoir
SPLAKE (HYBRID)			Louis Lake



Off Road Vehicles

[ORV's]

"Off Road Vehicles are fun and exciting ways to experience national forests, and we've seen dramatic increases in their popularity in the last decades," said Forest Service Chief Dale Bosworth in 2005. "Land managers, working with states, counties, motorized sports enthusiasts, conservationists, local communities and others, will provide sustainable motorized recreation experiences in national forests and grasslands for the long run."

Motorized vehicles are **NOT** allowed in wilderness areas. ATV's and Motorcycles are allowed on any forest road or trail that is posted *open to motorized vehicles*. It is your responsibility to know whether the trail you are on is for motorized travel. If you plan on using an ORV, please call or visit the Washakie Ranger District to get a MVUM (motor vehicle use map).

TREAD LIGHTLY! PLEDGE

Travel & recreate with minimum impact
Respect the environment and the rights of others
Educate yourself plan and prepare before you go
Allow for future use by leaving it better than you found it
Discover the rewards of responsible recreation



DELORME



Atlas & Gazetteer™

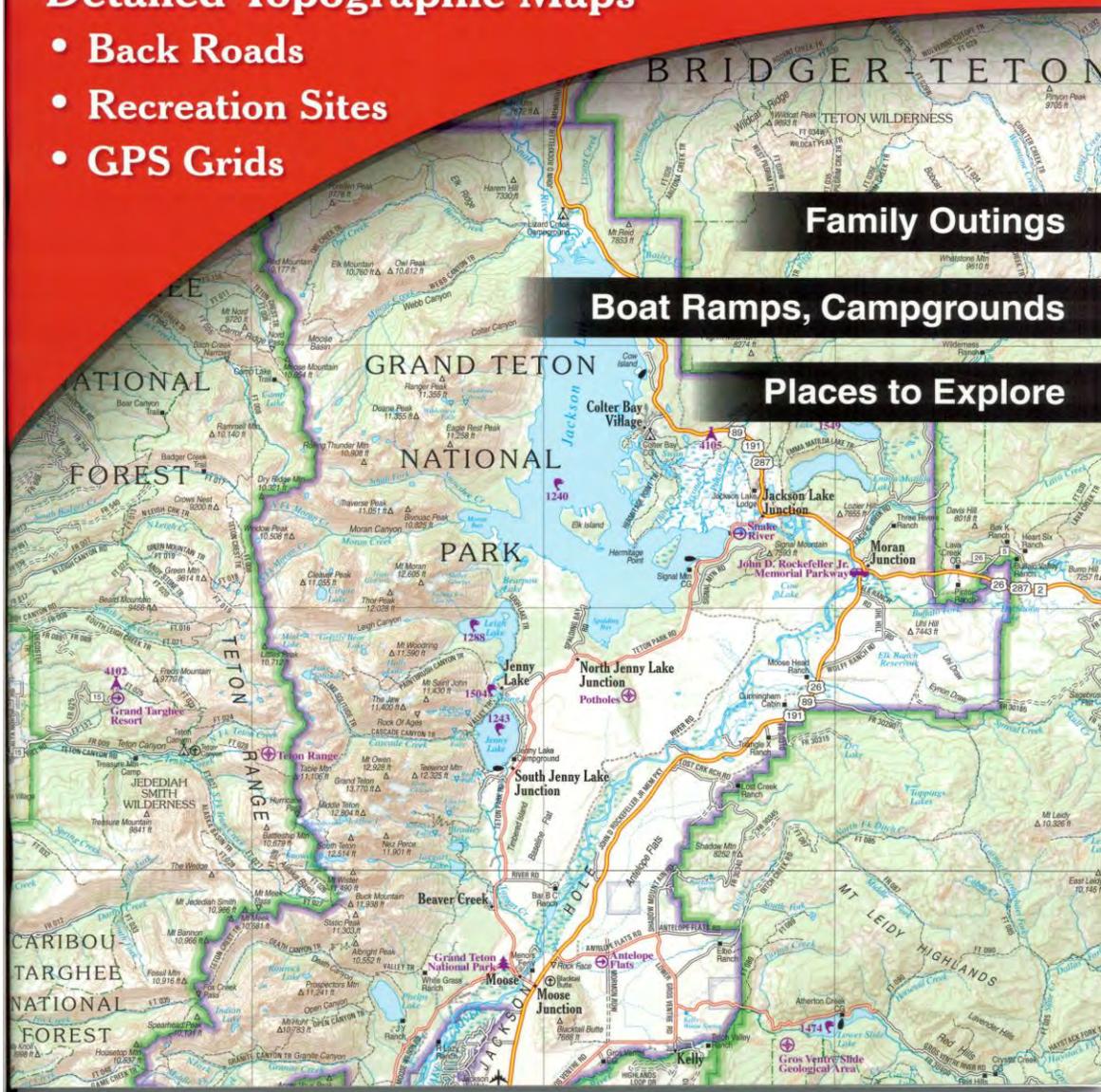
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Rec. 3

Wyoming

Detailed Topographic Maps

- Back Roads
- Recreation Sites
- GPS Grids



Wyoming Recreation Guide

BLM

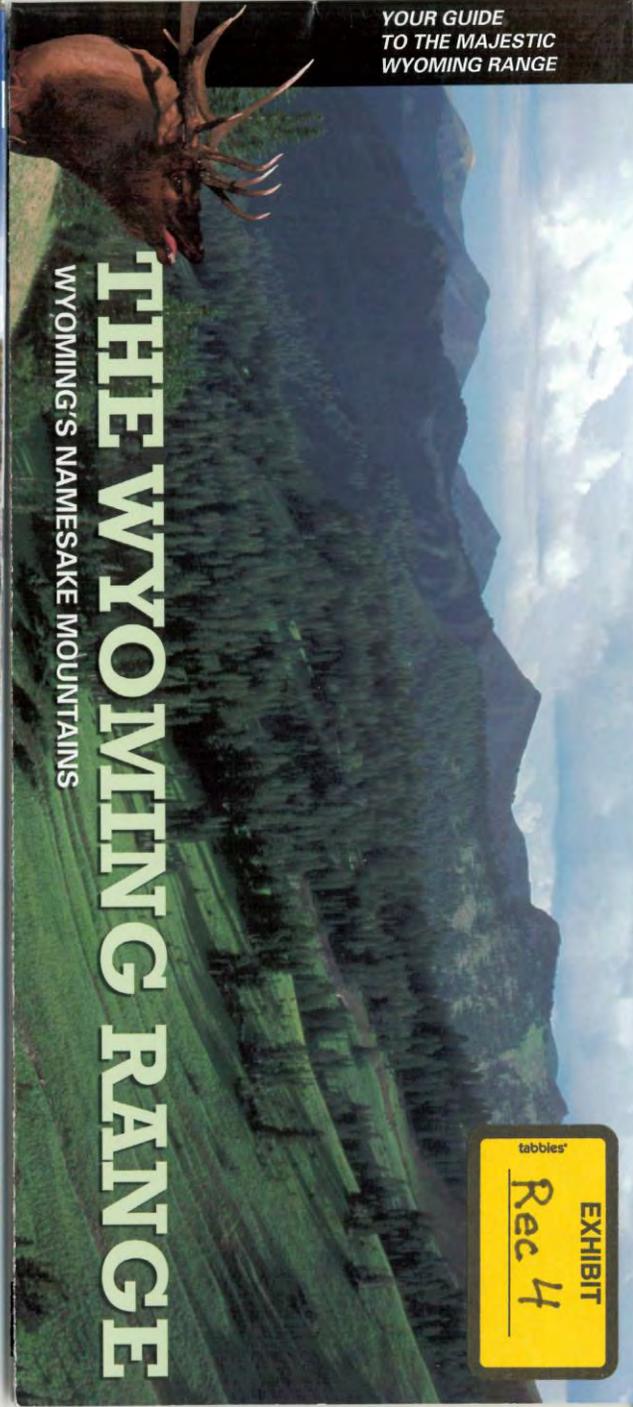


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www.blm.gov/wy

YOUR GUIDE
TO THE MAJESTIC
WYOMING RANGE



THE WYOMING RANGE

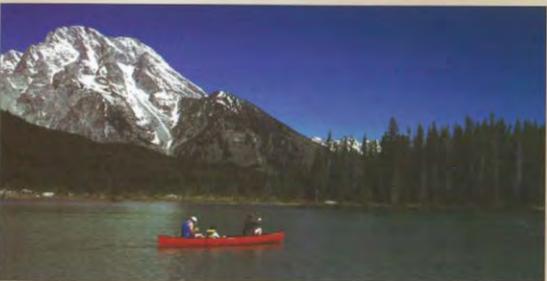
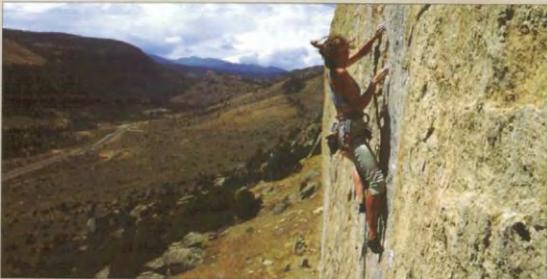
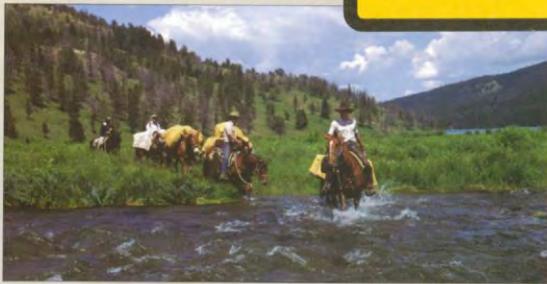
WYOMING'S NAMESAKE MOUNTAINS

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Public Lands Recreation Opportunities

Wyoming

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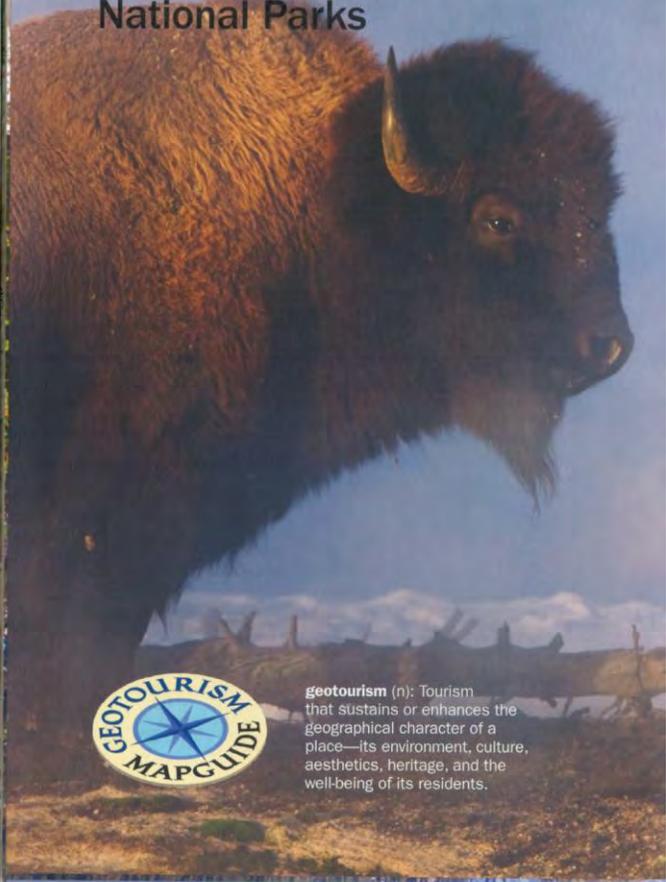
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Greater Yellowstone Region

IDAHO, MONTANA, and
WYOMING

including Yellowstone
and Grand Teton
National Parks



geotourism (n): Tourism that sustains or enhances the geographical character of a place—its environment, culture, aesthetics, heritage, and the well-being of its residents.

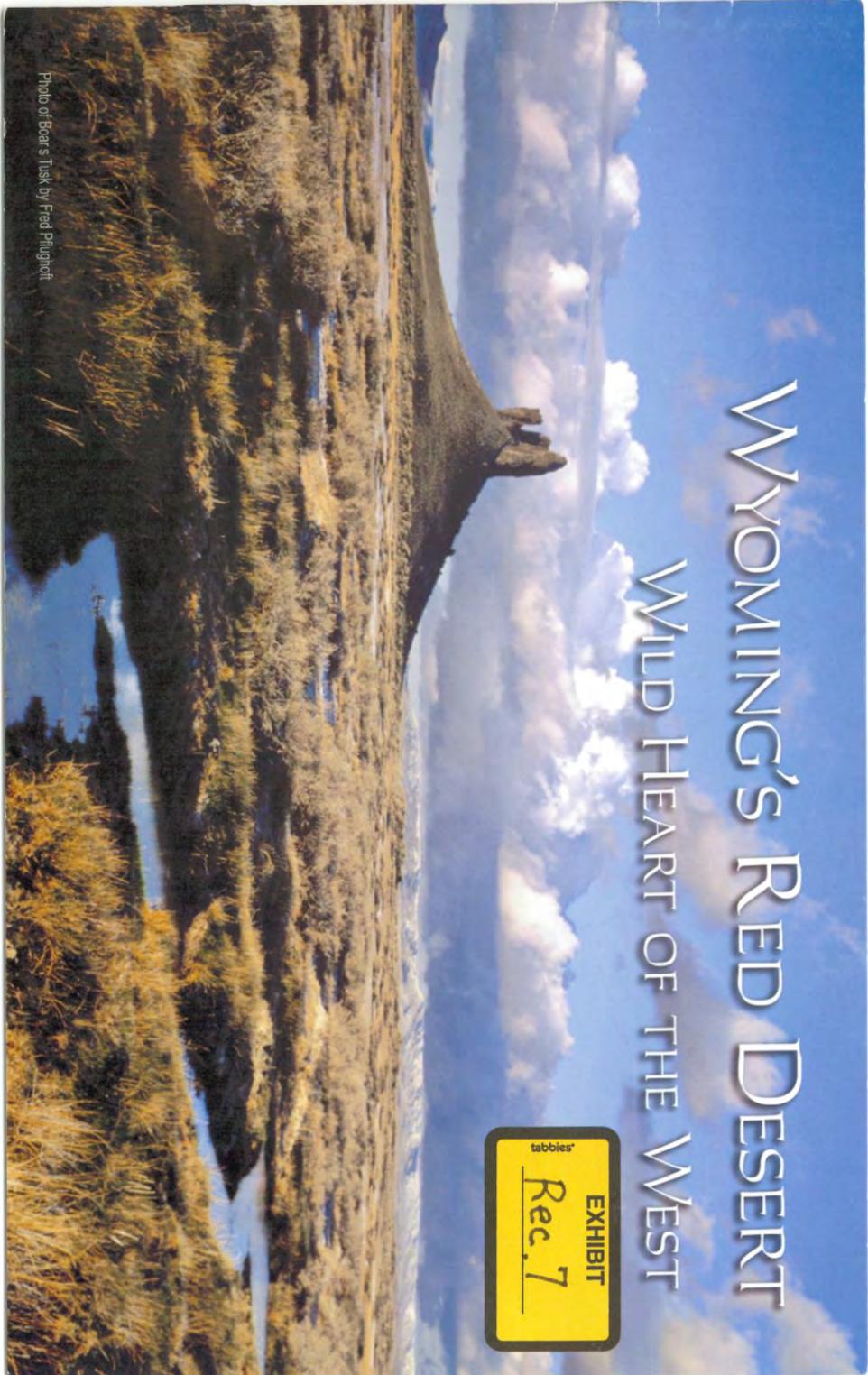


Photo of Boar's Tusk by Fred Pflughoff

Figure B-48. Wyoming Wilderness Association (2 pages)

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THE UPS STORE #3605

PAGE 02/03

Department of Environmental Quality
Attn: David Waterstreet
122 W. 25th St. Herschler Bldg. 4W
Cheyenne, WY 82002

September 16, 2016

Re: Categorical UAA

Dear Mr. Waterstreet:

Thank you for accepting these comments on behalf of the Wyoming Wilderness Association regarding your August 20, 2014 decision to downgrade recreation-based water quality standards on 87,775 Wyoming stream miles based on a Categorical Use Attainability Analysis for Recreation. (UAA)

The Wyoming Wilderness Association is a non-profit outreach, education and advocacy organization working to protect Wyoming's public wild lands. Our organization represents over 850 members across Wyoming and the United States that have a vested interest in protecting and preserving some of the last most pristine and primitive places left in our country.

Our organization is concerned that the decision to downgrade protections on such a large percentage and wide-variety of Wyoming surface waters over such a large geographic scope could only have been reached without conducting the cite specific analysis or appropriate public outreach required by the Clean Water Act and the Wyoming Environmental Quality Act. The Wyoming Wilderness Association is principally concerned with the downgrading of thousands of miles of Class 1 streams in designated wilderness, despite the fact that the very nature of that classification prohibits their degradation.

The Administrator's attempt to downgrade pristine low flow streams within congressionally-designated Wilderness areas is a unique assault on Class 1 water quality in Wyoming. This reclassification to secondary contact recreation raises the permissible levels of *E. coli* five times above levels deemed safe for swimming in thousands of miles of wilderness streams. This decision clearly conflicts with the WQD's policy for use attainability analyses, which provides: "*Class 1 waters are specially designated waters on which the existing water quality is protected regardless of the uses supported by the water.*" UAA Implementation Policy at 25, Wyoming Surface Water Quality Standards. The DEQ's own UAA Implementation Policy is clear that water quality of Class 1 waters, by nature of their status, must be maintained regardless of whether primary contact recreation (or any other use) is an existing or attainable use. The DEQ's UAA policy for Class 1 waters expressly prohibits the lowering of water quality standards regardless of whether DEQ deems a use existing or attainable. Moreover, Class 1 waters are designated by the

Wyoming Wilderness Association
PO Box 6588 Sheridan, WY 82801
phone: (307) 672 2751 Fax: 307 672 2752



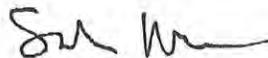
Environmental Quality Council in accordance with formal rulemaking procedures. WQRR Chapter 1, Section 4(a). The Administrator's decision to downgrade Class 1 waters to allow for more pollution contradicts the authority of the EQC, and defeats the intent of its Class 1 designations.

It is our understanding that, after inaccurately and illegally downgrading protections on the vast majority of Wyoming's surface water, the DEQ is now asking the public to provide evidence for reinstating individual streams to primary contact status. We take issue with that process. It is not the public's burden to defend thousands of miles of individual wilderness streams in a 45 day window. It is the DEQ's responsibility to illustrate to the EPA that its downgrades are warranted. We do not see how the DEQ can defend a downgrade model so broad and shielded from public review that it went so far as to degrade Class 1 wilderness streams in direct violation of its own policy.

This error alone is telling of the inadequate public comment opportunity surrounding the decision. Surely if wilderness advocates, conservation organizations and outdoor recreation groups were aware of downgrades to Class 1 wilderness streams and eligible Wild and Scenic river segments, these issues would have been corrected through appropriate public input channels. In the same way, appropriate public outreach would have illustrated that many of the reclassified streams are indeed used recreationally for dunking, splashing, wading, soaking and for many, these pristine low-flow streams epitomize the Wyoming wilderness experience. Wyoming citizens have a passion for their public lands, our outstanding outdoor recreation opportunities, and they especially value their right to comment on decisions in their own backyard.

The Wyoming Wilderness Association requests that the DEQ/WQD withdraw its Categorical UAA for Recreation and August 20, 2014 decision and renew a transparent public process informed by accurate cite-specific information and citizen input. At the very minimum, the DEQ must reinstate primary contact status to all Class 1 wilderness waters. We look forward to staying up to date as the process evolves.

Thank you for your consideration,



Sarah Walker
Wyoming Wilderness Association
PO Box 1112,
Dubois WY 82513
swalker@wildwyo.org
307.455.2246

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PO Box 6588 Sheridan, WY 82801
phone: (307) 672 2751 Fax: 307 672 2752



APPENDIX C. COMMENTS RECEIVED DURING THE SEPTEMBER 16, 2015 PUBLIC HEARING

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PROCEEDINGS

(Hearing proceedings commenced 5:35 p.m., September 16, 2015)

Entity: Hearing Officer Frederick

Comment: Order, please. Please, as you're signing in, we're going to get the hearing started here shortly. There are plenty of seats up in front for those who are coming in yet and over on this side as well. So with that, I'm calling this public hearing on the categorical use attainability analysis for recreation to order. It's approximately 5:35.

My name is Kevin Frederick. I'm the administrator of the Department of Environmental Quality's Water Quality Division. To my right is David Waterstreet. David Waterstreet is the manager of the watershed section that was deeply involved in developing the categorical use attainability analysis. At our sign-in desk is Mike Thomas. Mike is an employee, a natural resource scientist working with David Waterstreet.

In the back, I would like to acknowledge our Senior Assistant Attorney General, Dave Ross, Who works with the Department of Environmental Quality. Also in back is our public information officer, Keith Guille, and here in the first row is Mr. Nephi Cole, a policy analyst with the Governor's Office.

First of all, I would like to thank you for coming to this public hearing tonight. I appreciate your interest, as we all do. We're certainly interested in hearing your comments, and if you aren't providing oral comments, certainly taking any written comments that you wish to provide, and those will become part of the official record for this public hearing as well and given just as much attention and consideration as any oral comments.

So with that said, I'd like to mention that we do have a lot of commenters here that wish to speak tonight, and if you have brought written comments with you, I would encourage you, in the interest of time, to provide those to us, if you haven't already, rather than reading them directly into the record. Essentially all that does is make another copy in the transcript. We already have a copy of your written comments, so there's - there's no need to read them directly for our court reporter. Certainly, if you want to provide some additional oral comments, you are more than welcome to. We want to try and keep this hearing moving along relatively quickly, and we appreciate your consideration as we try to do that.

As you can see, we have a court reporter with us today. He will be taking a transcription of this entire hearing. He will definitely appreciate it if you speak clearly, and he will not hesitate to remind you if you're speaking too fast for him to record.

He's asked me to consider providing a short break for him. I know his hands are going to get tired after a while. He's going to be typing like crazy. So perhaps in an hour and 15 minutes, we'll take a brief break just to give Eric a little chance to get his fingers back into shape.

For those of you who aren't familiar with the building, there are restrooms just down the hall as you exist this room to your right. When you come to a hallway off to the right, just make a quick right and both the women's and gentlemen's restrooms are right there.

We're scheduled to go until 8:30. I hope we can come close to achieving that objective. If we have to stay a little longer to finish up, we certainly will try and accommodate everyone who wishes to make an oral statement tonight.

This is a public hearing to accept verbal and written comments and supporting information regarding DEQ's designation of Wyoming streams for secondary contact recreation as described in its final categorical use attainability analysis for recreation or the categorical UAA.

There are copies over there on the table, if you haven't seen them. Hopefully, most, if not all of you, have at least read it or spent a little time going through it. There's a lot of information there.

Also on that table is a copy of the form that is designed to help provide information to the Department in order to decipher and confirm whether or not stream conditions are truly primary or secondary in the use.

The designation of streams in the state for secondary contact recreation is based on DEQ's technical analysis described in the categorical UAA completed in August of last year. The analysis evaluates whether primary contact recreation, for example, immersion, full-body contact, or frequent use of the water by children, in Wyoming streams that are existing or attainable uses.

The analysis identifies streams where primary contact recreation uses are believed to be non-existent or non-attainable due to: insufficient flow to support immersion - and in this case, the Department based its analysis on six cubic feet per second - flow to support immersion or full-body contact activities, distance from areas easily accessible to children, and where no supplemental information has been provided to DEQ to demonstrate that primary contact recreation is an existing or attainable use.

I would like to make just an observation that the model that was developed and applied in this particular case by the Department, in coordination with others, including the US EPA, is an improvement upon the predecessor, which essentially assumes that all waters are usable or attainable for primary recreational use. There was no science applied to it. It was essentially a rebuttable presumption made by EPA under the Clean Water Act, and it provides states the ability to rebut that designation, and in this case, the model that DEQ has done was essentially designed to accomplish that.

So we believe it's an improvement over the approach that has been taken historically. We believe there's some science that's been applied to it, and it's been given serious and open consideration.

The use attainability analysis has been public noticed twice for review and comment by the public. There has been at least one public meeting that I'm aware of to present information, take questions from those that attended, as well as to try and answer questions.

This hearing tonight is not a debate. It's not a question and answer session. Those who are providing testimony, I may want to ask a clarifying question just so I can better understand, if need be, what a particular comment is. That's essentially all I will do.

We are going to limit oral comments to no more than ten minutes. And again, I encourage those who have been - who have brought written comments to provide those, and if they are amenable to presenting written comments in lieu of oral comments, that's fine. If we get into testimony that's beginning to go towards ten minutes, David here will be keeping track and will let you know when you achieve the nine-minute mark and you'll have a minute left to essentially wrap up and conclude your comments, and we'll enforce that pretty strictly.

As you saw when you signed in, you've indicated whether you're going to provide written comment or oral statements. We've provided assigned speaker numbers and we'll go in order down the list.

And anything I've forgotten here, Dave? We have a long way to go here.

So with that, our first speaker is Doug Miyamoto with the Wyoming Department of Agriculture. Doug, when you do approach the podium, you have to push the button on the mike to turn it on.

Entity: **Doug Miyamoto, Wyoming Department of Agriculture**

Comment: Again, my name is Doug Miyamoto. I'm the Director of the Wyoming Department of Agriculture, and I'm here today to stand in support of DEQ's categorical use attainability analysis for recreation.

The reason that we support this proposal is because it allows us a more accurate baseline of designated uses for water bodies across the state, and it allows us a cleaner process than the current method does. I think it's important to point out that all water bodies in the state will still be protected for contact recreation. The goal here is to designate whether those support primary or secondary contact recreation.

It think here it's also important to illustrate how the original standard for contact recreation was developed. I think it's important to note that this is a decades-old process, and these standards were developed by surveying people at public swimming beaches on the East Coast and the Great Lakes region where primary contact recreation was occurring. And there was subsequent surveys that were sent out following that contact with the water, but it doesn't represent the vast majority of recreation that occurs in a lot of the streams in Wyoming.

I have done personally a lot of - I've completed a lot of use attainability analyses myself, and I've submitted these use attainability analyses before, and I can tell you from personal experience, it simply isn't feasible to conduct use attainability analysis for recreation on 80,000 miles of stream, particularly when this method doesn't offer the Department of Environmental Quality any improvement in water quality administration.

I think that it's important to point out that as a regulatory entity ourselves with the Wyoming Department of Agriculture, we view accuracy as core foundation of responsible regulation. I think it holds true here, and DEQ's categorical use attainability analysis proposal provides a much more accurate baseline than the current system, certainly much more than the rebuttable presumption and a carte blanche layer of assuming that everything in the state can support primary contact recreation until it's proven otherwise.

Also, as the Wyoming Department of Agriculture, we contribute funding through our budget to local governments through conservation districts a significant amount of money for water quality monitoring, and it simply isn't reasonable for us to send that money ahead, pass it through, knowing that a lot of that is going to be turned into useless use attainability analysis. We already knew the answer before we went out there.

Wyoming is one of the highest, driest, coldest and least populated states in the Union. I don't say that to belittle the state. It's some of the reasons that I love it as much as I do. I think it makes it appealing, but that being said, it's not appropriate to designate water bodies for full-body immersion in risk of ingestion. That's at the basis of this water quality criteria, what is at risk of ingestion of this water to cause illness, and when you're not immersed in that water, a lot of our water bodies just simply don't provide that opportunity.

So in closing, I just want to commend DEQ and the Wyoming Association of Conservation Districts for ground-truthing this model, taking the time to do that to make sure that it works. Anytime you can develop a model that comes up and you find out that it's about 95 percent accurate, you've done a lot of work on it, and it serves a purpose the make governance a lot more efficient and a lot more effective than it is today. So thank you for your time.

Entity: Hearing Officer Frederick

Comment: Speaker Number 2, please. Please state your name and your organization for the court reporter.

Entity: Don McDowell, Lingle-Fort Laramie Conservation District

Comment: I'm Don McDowell. I'm Chairman of the Lingle-Fort Laramie Conservation District in Goshen County, Wyoming. I'd like to thank you for the opportunity to address this hearing, and on behalf of the Lingle-Fort Laramie Conservation District, I'm here to support the DEQ in their decision to accept the categorical UAA as a defensible and appropriate method for designation of recreational use of Wyoming waters.

Now, I included these same comments in writing, and I have an extra set for you, but we spent in 2010 a lot of time and effort and money to study the random sites that were sent

down to use from DEQ. Of the five in our district, three were dry, would only carry water in the event of a major rainfall event or after heavy snow. Two of them were actually wet, one of them on the head of Rawhide Creek. You could probably get wet in it, but there's not much water there. The other one was actually in the Laramie River, but both wet spots were located on private land.

And the Laramie River, below Grayrocks Dam, with the exception where it goes through the Fort Laramie historical site, it is surrounded by private property. So public access is slim to none on any of the actual waters we found.

So in closing and to make this quick, our district urges adoption and approval as submitted categorical UAA. The conservation district has supplied defensible field verifications and validated the attainable recreational uses identified by the categorical UAA.

We feel our data sufficiently verifies the accuracy of the model and defaulting all these waters as primary is just going to be a mess. It's going to put a burden on our district, it's going to put a burden on our budgets and the findings are not going to be any different than what we've already done.

This study was discussed openly in our board for two meetings prior to our actually going out to do it, and it was discussed again after we completed the surveys and submitted our findings, and as our meetings, our branch of government, they're open to the public, and the public had more than ample opportunity to offer comments.

And I'd like to thank you. And I also will present letters from the North Platte Valley and South Goshen Conservation District in support.

Entity: **Hearing Officer Frederick**

Comment: Thank you. And would you leave a copy of your written statement? Thank you. Speaker Number 3, please.

Entity: **Bobbie Frank, Wyoming Association of Conservation Districts**

Comment: Good evening. My name is Bobbie Frank. I'm representing the Wyoming Association of Conservation Districts. We represent the 34 local districts throughout Wyoming, local governments in Wyoming that are charged statutorily with the protection of our natural resources, including water quality.

Our comments - I'm going to summarize our written comments - are in addition to comments we submitted in September of 2013, March of 2014 and February of 2015.

Along those lines, we do feel DEQ's done an adequate and if not extensive job of notice and outreach on this categorical UAA. We support the UAA and the work that DEQ has done, and I will articulate some of the reasons why.

First, in light of the fact that the E. coli standard is a risk-based standard that is based on potential for ingestion of water, it is important to recognize, as the director of WDA indicated, some waters are capable of supporting primary contact rec activities that

increase our likelihood of ingesting versus those lower flow water where that risk is minimized. Subsequently, we should apply different standards to those different levels of risk, because the E. coli standard again is a risk management standard. It is not an absolute.

In addition, we think that DEQ's approached it very conservatively in terms of identifying even those low-flow waters that are located in recreational areas, campgrounds, schools and the areas where there may be a higher likelihood of activity.

In addition, current science indicates that - and this is according to EPA, and it's referenced in our comments. Current science indicates that the human waste has a higher likelihood of causing illness in humans and that further supports protecting those waters where there may be a higher risk of human waste contributions.

Nothing in the categorical UAA changes the current water quality conditions, nor does it eliminate protection of water quality. It recognizes that some uses are attainable and some uses are not, just like the other classifications of DEQ's water bodies in the Class 1 through 4 categories.

As you are aware, the districts work extremely hard to protect water quality. In the past four years alone, districts have led the efforts in their communities to protect water quality through assessment and implementation. This represented in the last four years alone a \$34 million investment. Of that 34 million, 22 million was invested specifically on 65 water bodies that are listed for E. coli.

There's been some discussion about this causing a widespread downgrade in water quality, and just for - in water quality, and just for example's sake, of those water bodies that are currently listed for E. coli, four of those were changed to secondary. Of those four, preliminary data indicate that three would meet the secondary standard. And that is preliminary data. I want to stress that. That again indicates that we're not discarding the protection of our water quality, that we're merely recognizing the uses that our various waters are capable of supporting.

The conservation districts statewide in 2010, as was indicated by the previous speaker, assisted voluntarily offering to DEQ to assist with site verification to validate accuracy of the model. The districts felt this was very important given that they were using a model-based approach, that we need to ground-truth it to ensure that it was scientifically defensible and protective of Wyoming's contact and - primary and secondary rec uses.

720 randomly selected sites were provided to the district who then invested significant time, energy and resources into ground-truthing and collecting data that was then submitted to DEQ. Those sites ranged from high backcountry wilderness areas to, as the previous speaker indicated, plain systems, ephemeral and intermittent draws.

I think that your record indicates the defensibility of the model, and we believe it is an appropriate approach to address the issue.

We also do believe that it's appropriate to retain the ability to submit site-specific UAAs, which is retained in Chapter 1 water quality rules in the instance that there's disagreement with the final designation, primary or secondary. We believe that what the categorical UAA does is narrow the number of water bodies that site-specific UAAs will be required.

Conservation districts have a statutory and moral responsibility to ensure the water quality efforts are focused where waters that are at risk to human health is higher due to the type of activities that it can support. If there are primary waters, we ought to be taking care of our primary waters for those contact rec, and we are still going to be committed to our secondary waters and making sure those support secondary uses. I don't believe there's any other entity of local government that spends the kind of time, money and energy in water quality protection that the districts do that will continue.

With that, Mr. Chairman, those are our comments. The rest are in our written comments. In closing, we would support the categorical UAA and the timely approval of the UAA by the EPA.

Entity: Hearing Officer Frederick

Comment: Thank you. Speaker Number 4, please.

Entity: Brian Connely

Comment: Hello. My name is Brian Connely. I'm just representing myself, not an organization, and I'm just here to comment on the accuracy of the model for the UAA. It obviously is a GIS model. It has been ground-truthed in places, but I just - after a quick perusal of maps, I'd just like to give an example of three place that - this image is going to be hard for a lot of people - that I have fully immersed, right, fully immersed, and that are red on these maps, and it's a head scratcher for me. I get around the state a lot, a lot in the backcountry.

Area 1, it's on the Absaroka southeast map, Meadow Creek. And this - these coordinates are longitude, latitude. 45 degrees, 55 minutes, 34 - 34 seconds point 104, and that's latitude. Longitude, 109 degrees, 17 minutes, ten seconds point 506. That's the head of Meadow Creek.

Anybody going up Francs Peak, probably a lot of you - or some people here have gone up to the top of Francs Peak. You know that the obvious camp spot is the head of Meadow Creek. It's a 14-mile round trip to Francs Peak, and when you come back, there's a little drop-off, kind of a little natural shower, I guess. And I didn't discover this myself, I was just told about it, everybody sits in that thing and takes a shower.

Willow Creek on Natrona County north map, and this is at 43 degrees, 24 minutes, 34 seconds point 463 latitude and 106 degrees, 47 minutes, 45 seconds point 732 degrees longitude.

In my job, we treat diffuse knapweed in the southern Bighorns, and we have several campers with up to 16 - well, say up to 19 people in those campers. And this is a known bathing spot on Willow Creek. This is where the crew bathes on those hot, dusty days.

And here is the biggest head scratcher, Horse Creek, Natrona County south map at 42 degrees, 42 minutes, one second point 624 latitude, 170 degrees, six minutes, 15 seconds point 179 longitude.

Horse Creek's a perennial spring. It's a warm spring. It's 51 to 54 degrees year-round. It doesn't freeze up by the springs. Talk about a swimming hole, that is a swimming hole. It comes out year-round at that temperature. It's one of the best small brown trout fisheries in the state.

This is where we treat leafy spurge. Again, campers, 19 people in the summer, and we bathe in Horse Creek.

And my comment is just that the maps provided and the designations look incomplete to me. It looks like there's a lot of streams that are red on those maps that I personally bathed in. I guess that's my comment. Thank you.

Entity: Hearing Officer Frederick

Comment: Thank you. Do you wish to provide what you have been -

Entity: Brian Connely

Comment: Oh, sure. It's just scratched on.

Entity: Hearing Officer Frederick

Comment: Any photos?

Entity: Brian Connely

Comment: You don't want photos. (Laughter).

Entity: Hearing Officer Frederick

Comment: Thank you. Speaker Number 5, please.

Entity: Zach Hutchinson, Audubon Rockies

Comment: Good evening. My name is Zach Hutchinson. I'm an employee of the National Audubon Society. Before I read our statement, I would like to say that this statement was provided by Daly Edmunds, our regional policy coordinator, and that this statement does not necessarily reflect any organization that I represent here in Casper other than the National Audubon Society. With that said, first off, I just want to thank the DEQ, the opportunity -- I'd like to thank you for the opportunity to provide comments for this.

And then Audubon Rockies is a regional office of the National Audubon Society with a staff working in Wyoming and Colorado. On a regular basis, we work with national Audubon Society members, members of the public, community leaders and independent Audubon chapters throughout Wyoming with the goal of protecting birds and their habitats.

As a conservation organization whose work focuses on avian species and whose staff engages with the public and members, we are concerned about the DEQ's current sweeping proposal to raise the permissible levels of E. coli in more than 76 percent in the

state's surface waters, including thousands of miles of streams in national forests and other public lands. Should the proposal go forward, surface quality standards on these streams will be weakened to allow levels of E. coli five times higher than the previous limit.

Audubon Rockies is respectfully requesting that the DEQ withdraw its August 2014 decision. Withdrawing the decision does not mean that the aspects of the analyses completed to date are not retained, but instead ensures a more transparent, robust and inclusive process.

We acknowledge that there were two comment opportunities years ago, but lack of public participation on such a large proposal reflects how few members of the public knew of these. To that end, Audubon Rockies requests that the DEQ open another comment period to allow recreational users an opportunity to engage on the issue and provide testimony.

The ribbons of rivers and stream that cut through Wyoming's landscapes not only provide people with life-sustaining water, but also provide crucial habitat for hundreds of migrating, nesting and wintering birds. For example, the food source of avian species, such as Bald Eagles and American Dippers, are directly dependent on the quality of the rivers, maintaining healthy riparian ecosystems are important not only for avian species but also our communities.

The Clean Water Act, which regulates quality standards for surface waters, sets a goal that where attainable water quality that provides for the protection and propagation of fish, shellfish, and wildlife and recreation in and on the water will be achieved. We argue that the proposal by the DEQ contradicts the letter and spirit of the Clean Water Act. Given the importance of outdoor recreation to residents, this downgrade could have economic impacts, as those participating in outdoor recreation may become concerned about the safety of the water they are encountering.

Audubon staff and members, including those that participate with independent local chapters throughout Wyoming, recreate in areas referred to as low-flow streams. They are among 71 percent of residents that participate in outdoor recreation each year.

This recreation is not limited to birding, but involves camping, hiking, day hikes and extended backpacking trips, fishing, hunting, photography, canoeing, rafting and simply enjoying the beautiful landscapes and wildlife that makes Wyoming unique. Outdoor recreation in Wyoming generates \$4.5 billion annually in consumer spending and \$300 million in state and local tax revenue.

Our staff and members enjoy the outdoors and the outstanding recreational opportunities, sharing them across multiple generations. With friends and families in tow, recreational pursuits often involve a myriad of stream encounters that usually includes exposure to the waters in Wyoming streams, those farther than one mile from towns and schools and one-half mile from developed campgrounds and public land trailheads.

In closing, Audubon Rockies is concerned about the impacts of this decision would have on the ecological health of Wyoming's streams and rivers. Many people directly affected by

the decision were not included in the process and many assumptions were made about recreational activities -- many of the assumptions made about recreational activities were incorrect. Therefore, we request that the DEQ open another comment period to allow recreational users, including individual members of the public and independent Audubon chapters around the state, an opportunity to engage on the issue and provide testimony.

As part of this process, we strongly encourage that there are public meetings around the state, such as this one, that would afford members of the public an opportunity to participate. Given the attendance of tonight's meeting, this reflects what an important issue this is to Wyoming's residents. Thank you.

Entity: **Hearing Officer Frederick**

Comment: Thank you. One question. Any specific examples of assumption that you believe DEQ misjudged?

Entity: **Zach Hutchinson, Audubon Rockies**

Comment: Not in the oral statement; however, I believe there is in the written statement that I presented at the front desk.

Entity: **Hearing Officer Frederick**

Comment: Thank you. Speaker Number 6, please.

Entity: **Hap Ridgway, Elk Creek Ranch**

Comment: My name is Hap Ridgway. I'm speaking for Elk Creek Ranch. Elk Creek Ranch is located up in the northwestern corner of the state. It is a ranch camp for teenagers. We opened up in 1957 and operated ever since then.

The teenagers, we backpack and hike. We trail ride. We pack trip. We fish. We camp a lot. We're out in that -- those high mountains of northwestern Wyoming. Teenagers love water. They're in it all -- any time -- opportunity they have. They -- and many of these things, many of the times they get into the water and there's a water fight or they're swimming or they're daring people to get in underneath the waterfall, all those things, a lot of them are in streams that are not downgraded in this proposal. A lot of them are in those, and in spite of that theme, there are spots up there that do not fit the model that you talked about.

Elk Creek last year had ranchers from 25 states and from three other nations. People make those journeys, spend that money because they're looking for a pristine, primitive, unique experience. I'm concerned about this and how it affects that and how we present that.

The second thing I'd like to say is we've heard a little bit about outreach. I really appreciate this opportunity tonight, but I agree with other speakers that the outreach was not great early on. I'm down here -- even now there's this one meeting. The governor and his office planning the energy meetings, and there have been two cycles of those, I believe, has six meetings around the state. People don't have to travel five or six hours, get a hotel room and all of that. They can drive to those meetings, get to one of those meetings in one or two hours. It's very difficult to get here. There are many people I know in Cody who are not here who would love to be here.

And as far as notice goes, the Casper Tribune is a great -- is a great paper, I understand that, but it is not as common as the Billings Gazette or the Cody Enterprise or the Powell paper up in our corner of the country. I know we're sort of isolated, but I think outreach includes much better notice, and it includes more meetings.

The third thing that concerns me is just the disproportionateness of this action. Wyoming's a conservative state. One premise of conservatism is change what you need to change, don't change what you don't need to change, and this, to me, changes a lot that doesn't need to be changed. There is probably a core issue here that is very important that needs to be changed, but it's -- this is swatting a fly with a sledgehammer.

We've heard a lot about this model and the sampling. I spoke to conservation folks up in one of the offices in the Big Horn basin and they talked about the ten sites they went to visit and verify. You've heard how that works now. And she went through that and said nine of the ten tested out exactly the way the DEQ said they would. One didn't. I said were any of those -- and I hate to disagree with the presenter from before -- were any of those in the high country, and she said no, none of them were. So is there a problem up there or not?

I don't think the sample, or the model, gets at that question, and I'm back to that point of change what you need to change, don't change the other things.

I think it really needs a redo. I won't go through all of that. I just was -- I come away from this very troubled by the -- I think the reach out to everybody and the notice and all that bothered me, the disproportionateness bothers me, but what really bothers me is the danger to our resources. Very subtle, but a danger to our resources. Thank you very much.

Entity: Hearing Officer Frederick

Comment: Thank you. Any written statement?

Entity: Hap Ridgway, Elk Creek Ranch

Comment: No. I sent one in a while ago.

Entity: Hearing Officer Frederick

Comment: Yeah. Got it. Thank you. Number 7.

Entity: Gary Wilmot, Wyoming Outdoor Council

Comment: Hello. I'm Gary Wilmot. I'm the Executive Director of the Wyoming Outdoor Council. The Outdoor Council was founded in 1967, and its mission is to protect Wyoming's environment and the quality of life for future generations.

I'm here today on behalf of the 1500 members, and the Outdoor Council doesn't support the categorical UAA in its current form. We believe that it needs to be improved. I'm also here as a father. I have two young girls, and both of them spend a lot of time in the outdoors, and actually I don't think this is a surprise to anyone here that kids like to play in small streams and even those small streams that are deep in the backcountry.

I've also worked as a guide and a teacher throughout Wyoming's forests and high mountains and basins. Over a period spanning more than a decade, I've lived for 135 weeks in remote locations, camping and hiking with my students and relying on the state's surface water for every possible use, including swimming, dunking my head or just cooling off after a day hiking.

Many of the waters that were reclassified in this categorical UAA and that now allow for more pollution are waters that my kids, my students and members of the Wyoming Outdoor Council do use for primary contact recreation. There are too many stream segments to catalogue for the purpose of this testimony or meeting, so my aim here is to address the model used by the Wyoming DEQ, which we've heard a lot of great things about so far.

When my colleague, Dan Heilig, called me a year ago to tell me about this decision, I went immediately to the Wyoming DEQ's website and I loaded the maps, and literally, the first stream segment I look at was a place that that summer I had camped with my kids, and they swam in the creek for three days and that section of stream was downgraded to secondary contact recreation.

It was located in the wilderness, high in the Wind River Mountains, and, you know, we swam and we fished in it, and it was actually the kind of water that was so big that a parent is a little bit nervous. You know, my kids were up on the rock slabs in the pools, but just below the rock slabs, it was flowing swiftly enough that I wouldn't let them play there.

And, you know, for me, that first look showed me that there were problems with the model, you know, and I'm not sure whether it was just the fact that it was the wrong -- you know, it should have been lower than six cfs, but I think streams were caught here that shouldn't have been downgraded, streams that are actually used for primary contact recreation.

And I think what also was evident to me is that the public awareness around this and the presentations that I have heard subsequently by the Wyoming Department of Environmental Quality describe a lot of these waters as dry draws, and these weren't dry draws. You know, my kids were swimming in them, you know, just a month before.

In addition to looking at flow, the model for this rule made an exception for streams close to populated places and trailheads. It was based on the premise that children won't travel more than one mile from a populated place to play in the water. That place I referenced a moment ago, located between Clear and Deep lakes in the Wind River Mountains, that was more than a six-mile hike. The DEQ based its one-mile distance on school bus policy. And while I agree it might make some sense in regard to getting to school by 7:45 a.m., it's a flawed assumption in regard to how people recreate and how kids recreate in the state of Wyoming.

This summer, my kids spent four solid weeks in the mountains. They traversed an entire mountain range and they covered a hundred miles. They played in the high mountain

streams that flowed less than six cfs. That was a long trip for an 11- and a nine-year-old, but truth be told, I think Wyoming families bring their kids into the mountains and the mile mark is often passed before the end of the first game of 20 questions.

This gets to the heart of the matter for me. The model that you're currently deploying here captures a lot of great streams that people actually use for recreation. My family, friends and members of the Wyoming Outdoor Council know this firsthand.

It's too onerous for citizens to come to you with every single stream we use. It just doesn't seem like the right way to handle this issue. A better solution would be to flip the assumption back to primary contact recreation in a lot of the areas of the state.

So my biggest request would be that you consider scaling this reclassification back quite a bit to get rid of a lot of the big flaws. Take wilderness out of the -- or take wilderness areas out of the model completely. Streams in the wilderness shouldn't be reclassified by this rule. And that should extend to wilderness areas, wild and scenic river segments, and their tributaries, too.

Streams near recreational areas on BLM lands should also be designated as primary contact recreation. The National Continental Divide Trail is a great example of a corridor where the highest standard for recreational waters is essential. Consider taking high country areas out of the model, especially on national forests.

I also hope you scrap that assumption that people will not walk more than half a mile from a trailhead or a mile from a population center to play in the water. That's a seriously flawed assumption.

The model also captures a lot of streams that people use for recreation. You might fix this by using a more appropriate flow data for the early summer months specifically when the snowpack runoff is at its peak and when outdoor recreation is also at its peak.

I know the Wyoming DEQ was attempting to solve a problem when it undertook this rulemaking. Unfortunately, it missed the mark by not including the people that it most affected, the recreation users of our state.

The DEQ and many of Wyoming's conservation districts have done a lot of important work on this rule, and I ask that DEQ to take this opportunity to build on that effort and to craft a rule that both solves the problem it set out to address while delivering the result that it actually sought, which was to accurately reclassify the state's waters.

And that second goal of accurately, accurately classifying the state's waters, it wasn't met here. Water is scarce and precious in Wyoming, and this decision sets a very low bar for its protection. I hope we can do better.

And in conjunction with my testimony here today, the Wyoming Outdoor Council did submit comments. So thanks for considering our comments. Appreciate it.

Entity: Hearing Officer Frederick
Comment: Thank you. Speaker Number 8.

Entity: Shannon Simms, Medicine Bow Conservation District
Comment: I'm Shannon Simms. I'm Vice Chairman of the Medicine Bow Conservation District. And we submitted comments at the door, but I'd like to add to those.

We feel the categorical UAA is an appropriate and accurate method for designated primary and secondary recreational uses. One of the strong -- one of the reasons we feel strongly as such is we worked closely with DEQ to ground-truth the model and those models came out accurate a high percentage of the time.

Also, I would like to point out that any time that these models are inaccurate, we still had the opportunity to go back and do a site-specific survey. It's cost-effective and a time-efficient model, and I think in today's environment, that's a very important consideration as well.

I've already -- as I mentioned, we've already submitted comments, so I'm going to keep it short. And thank you for your time.

Entity: Hearing Officer Frederick
Comment: Thank you, Shannon. Speaker 9.

Entity: Steffen Cornell, Meeteetse Conservation District
Comment: Hi. My name is Steffen Cornell. I'm here to represent the Meeteetse Conservation District. On behalf of the Meeteetse Conservation board of supervisors, I'm submitting this letter to reiterate our support of the final categorical use attainability analysis for recreation conducted by the Wyoming Department of Environmental Quality, Water Quality Division. Please give thoughtful consideration to any and all comments previously submitted by MCD as well as the Wyoming Association of Conservation Districts.

We would like to commend DEQ for this tremendous effort that it has endured in order to have the best and most accurate recreation use designations possible for Wyoming streams and rivers.

It goes without saying that in order to adequately implement the Clean Water Act, we must be working with accurate data and properly classified waters. As you're most certainly aware, conservation district law provides that conservation districts are charged with the statutory responsibility to implement soil and water conservation projects and as such has the technical expertise necessary to have conducted the site-specific UAAs that resulted in the validation of the UAA model.

As with any model, we believe that while there may be some instances where additional site-specific verification will be necessary, the UAA model has provided a solid base to build on and able to be fine-tuned. This is demonstrated by the high level of agreement achieved when results of the model are compared to the hundreds of field surveys that were conducted by conservation districts and the Wyoming DEQ.

The EPA has gone on record to support the DEQ's approach and scientific reasoning in properly identifying streams that do not meet the criteria for primary contact recreation. While we may disagree with EPA in their assertion that proper public process was not followed previously, we do remain encouraged and optimistic that this public hearing will satisfy EPA and that it will move forward with approving the UAA, as it has proved to be the most logistically feasible and economically appropriate means to identifying waters currently. Thank you.

Entity: Hearing Officer Frederick

Comment: Thank you, Steffen. Speaker Number 10.

Entity: Evan Reimondo, National Outdoor Leadership School

Comment: My name is Evan Reimondo and I'm here on behalf of the National Outdoor Leadership School. I'd like to thank the DEQ for hosting this additional public hearing. And I'd also like to commend the DEQ, with the participating conservation districts, for their extensive work on this issue. It truly was a significant effort, and we appreciate the work.

As a nonprofit outdoor educational institute that operates in the wildlands of Wyoming, we are vested stakeholders in the health and purity of these streams. NOLS was founded in Lander, and this year, we celebrate our 50th year of teaching environmental education and wilderness leadership skills in the backcountry of Wyoming. The waters of the Wind River Range, Absarokas, Wyoming Range, Tetons, Bighorns and the Red Desert support our professional operation and also the personal pursuits of our staff.

I apologize for this next part, but I would like to respectfully request that the DEQ withdraw the categorical UAA for further revision. Should the categorical UAA go forward with the original intent, we recommend that the US Forest Service and BLM lands, including wilderness, roadless areas, areas of critical environmental concern, wilderness study areas, lands with wilderness characteristics, special recreation management areas and candidate and concurrent wild and scenic streams and river and their tributaries be removed from the scope of the downgrade. These areas are expected by visitors to be pristine in nature, and the waters within them should be held to the highest standard of purity and remain primary contact recreation waters.

We have three primary reasons for redaction or revision of the categorical UAA. The first. The application of the model is too broad, and the model itself relies on some flawed assumptions.

Many of the mountain and foothill streams with six or less cubic feet per second of average annual flow have either seasonally sufficient flows for primary contact recreation or they form pools in places where that use is attainable and often desirable. The ground-truthing done by the DEQ and the conservation districts, though admirable, do not match the scale of the model, nor was there an adequate diversity of mountain, foothill and wilderness streams. We offer that the outdoor recreation community and NOLS could assist with the gathering of this pertinent data, and we encourage the DEQ to pursue such efforts.

Additionally, the buffer distances assigned to maintain primary recreation standards around public facilities and trailheads are largely irrelevant. We, and others, have shown that many people will travel many miles from trailheads and from public access areas, even off-trail, to use small streams for recreation.

The second. The categorical UAA unfairly flips the presumption of clean water for recreation and puts the burden of proof on the public to show which of the thousands of downgraded streams should be held to a higher standard. This type of action lacks precedent nationally and is a burdensome task to put on the people of Wyoming. I believe the DEQ initially undertook this effort because completing traditional UAAs was considered a burdensome task, so to put it on the people, I think that move goes counter to the purpose and intent of the Clean Water Act.

The third and final is that the public outreach, education and engagement have been insufficient. A rule with broad impacts should be broadly known and understood by the people of Wyoming before it is implemented. Additional outreach efforts should include regional public meetings that provide an overview of the impacts and opportunity for public discourse and comment. Municipalities and businesses near large wildernesses in mountain areas, like Lander, are disproportionately affected by these stream downgrades and should have their own hearings.

We, at NOLS, are proud to teach and practice the highest standards of public land stewardship, and NOLS has worked tirelessly to preserve the high quality of lands and waters where we operate. We implore the DEQ to work with us and maintain these resources at the highest standards as a part of Wyoming's great natural heritage.

The DEQ's website states since 1973, the DEQ has served as the state's regulatory agency charged with protecting, conserving and enhancing Wyoming's land, air and water for the benefit of current and future generations. We respectfully request DEQ to redact and revise the categorical UAA and to remove Wyoming's public wildlands and backcountry areas from its scope. Thank you.

Entity: Hearing Officer Frederick

Comment: Thanks, Evan. Go ahead.

Entity: Christine Lichtenfels

Comment: Hello. My name is Christine Lichtenfels. I'm here just on behalf of myself as a citizen of Wyoming, and much of what I was going to say has already been said by preceding speakers.

One of my big concerns, I have spent, you know, close to 300 weeks working professionally in the mountains, instructing or guiding the public, some of them young, you know, 13 and 14 years old, 15 years old, some of them 60, 70 years old. You know, it ranges. And so I feel like I have a good understanding of how far people travel and what people will use when they are recreating, what constitutes water that you will immerse yourself in.

And while -- you know, when you're living in the front country, you think you're going to swim in a lake. When you've been, you know, working hard, maybe been on a glacier for a while -- and the Winds do have quite a lot of glaciers -- or it's been raining, or whatever, and you finally get to a place where there's some running water and you haven't had a bath or shower or anything for a week or ten days, or however long it might be, very small amounts of water are adequate to fully immerse yourself. I promise you that.

So I think there's been a wrong -- the understanding of what should be the cutoff for what primary recreation is, it has been set too high. Six cfs, you can fully immerse yourself in much less than that.

And I think the previous speaker also acknowledged that the flow regime varies, and so what might be six cfs over the year can be much higher for a significant time when people actually are in the mountains.

I think another, what's also been mentioned is that younger people, kids do -- will actually hike much further than one mile. I have a hard time understanding how a school bus policy constitutes a scientific basis for a model of how far younger folks will walk. Obviously, working with them, I've seen them hike hundreds of miles even.

Even just last week I think it was, I was coming out of the Cirque and, you know, hiking down Big Sandy Trail and the numbers of kids that were this high (indicating) that were hiking in with backpacks on, I can't even count on my two hands. There were many of them hiking quite a ways in. So I think I have that concern.

I ask that you withdraw the UAA. I would like to see -- you know, certainly, there are going to be some streams, ephemeral dry draws. I mean, we're not -- that's not a question, but wilderness areas -- I guess I should also mention, you know, as I have been a trail runner for much of my adult life, and when you're running, you cover an awful lot of terrain and, you know, you come across any little bit of water, and if you can throw water on your head, which truly, that's the most critical part of full immersion part anyway, and take your ball cap and put water in it and put it over your head so the water keeps dripping over your face so you can try to cool down until you hit the next water body, you know, that's what you do that, to me, is also core of what living in Wyoming is about, that you can go explore.

I don't know every single place that I may, in the future, want to run or hike, or whatever, so I can't identify every stream, which, of course, is why you want a model, and I understand that, but I definitely think that you know, a key part of recreation is that much, much smaller water bodies are adequate to immerse your body in when you have been out in the mountains for a long time and are desperate and are not, you know. Your standards are different than they are from when you are in the front country.

So I would ask that you take all wilderness areas out of that. That's an area that I think most Wyoming people feel like you should be able to freely roam and have some expectations of recreation that things are primary recreation.

And then, of course, the various other types of wilderness areas, like wilderness study areas, wild and scenic rivers, or rivers that flow into wild and scenic rivers, they should be held at that higher level, too. I think we might all be better served if it were done at a smaller scale, you know, different areas of Wyoming, then people could be involved, people who know those areas best and the standards might be better suited to those.

So thank you for taking my comments, and I hope you will withdraw the UAA as it is right now.

Entity: Hearing Officer Frederick

Comment: Thank you. Number 12.

Entity: Kristin Tilly, Shoshone Conservation District

Comment: Hello. I am Kristin Tilly with the Shoshone Conservation District. Our conservation district has five locally elected supervisors and encompasses 528,000 acres in the northernmost part of the state. Along with the South Big Horn Conservation District, we represent the 11,994 residents of Big Horn County on natural resource matters.

We have 1,609 stream miles according to DEQ's in an average six-inch annual precipitation area. The very large majority of those stream miles just cannot and will not support primary recreation. Prior to this categorical UAA, they were listed as doing just that.

This categorical recreation UAA more accurately reflects reality. Our experience, study and site visit concur with these designations. In the late summer and fall of 2010, I logged 160 hours and 1,144 miles to visit the 18 randomly generated sites for statistically valid field verification of the accuracy of the model as our part of the statewide effort. Without this categorical UAA, 1,236 of our district's 1,609 stream miles -- that's 77 percent -- would be inappropriately and incorrectly identified as supporting primary recreation with its risk of ingestion.

Accuracy should be, has to be, a goal everyone supports. The Shoshone Conservation District supports the categorical use attainability analysis for recreation just as we have through comments made by our association during the numerous opportunities for public input, including September 2013, March 2014 and February 2015, as well as at every monthly public meeting of the board of supervisors of our district just like very one of the 34 conservation districts in Wyoming.

Accuracy is necessary to have our resources, valuable time and dollars wisely and most effectively used where they can have maximum impact for the health, safety and general welfare of Wyoming's water users. Thank you for listening.

Entity: Hearing Officer Frederick

Comment: Thank you, Kristin. Number 13.

Entity: Sandy Shuptrine, Teton County Conservation District

Comment: I thank you for this opportunity. My name is Sandy Shuptrine, spelled S-h-u-p-t-r-i-n-e. I am the chair of the Teton Conservation District, and I want to begin by affirming two

comments that have been submitted by our water resource specialist in August. Among them was a map that showed reclassifications of areas within our district too numerous to count to secondary classification.

And I have to -- our district struggles with this. We understand our fellow conservation district colleagues in other places in the state. We live in different landscapes. And I have to agree with the people that are asking for consideration for that, because in the mountainous areas, our primary interest in our conservation district is recreation, and we agree with many of the comments that have been made to that effect; in fact, probably all of them that deal with recreation.

Part of our mission statement is to through water-based research, we ensure the health, safety and general welfare of the people and resources in our district. We are currently involved in three watershed studies. For us at least, this puts the cart before the horse. If we are to complete these studies and verify what's going on in our area, a lot of time, effort and money will be expended, but meanwhile, we've had a reclassification of all of those areas.

Another comment that I think we have a lot of concern about is the burden of proof being shifted to the general public, and especially in the light of recent Wyoming legislation that strictly limits the ability to access any property, including public lands, that is not one's own for data collection. It doesn't seem clear about how we're supposed to be coming to DEQ with the information that's being asked for if we feel that some stream has been inappropriately classified.

Also, DEQ's water quality rules and regulations refer to -- this is paraphrasing -- "where attainable, the highest probably water quality commensurate with fisheries and drinking water" should be sought, and we totally agree with that. And we think that this is -- and we've had a big struggle at our board meetings, because it's either we're starting from a higher standard or we're starting to have to prove that it should be a higher standard. And everybody agrees that dealing with UAA is difficult, but we do request that our conservation district, if adjustments are not made, that our conservation district be removed from the model and the we operate under the old way of being, which much better suits our interests and our public. Thank you very much.

Entity: Hearing Officer Frederick

Comment: Sandy, a question, please. That request, is that on behalf of the Teton County Conservation District or on behalf of yourself?

Entity: Sandy Shuptrine, Teton County Conservation District

Comment: The request at this point in time, I have approval to -- from the district to submit this letter, but we have differences on our board. We have some absolute approval of this and some concerns about asking for that. So it's a mix.

Entity: Hearing Officer Frederick

Comment: Okay. So let me understand, then. The request is on your behalf at this point in time. It's under consideration by the district? Perhaps that's explained in the letter.

Entity: Sandy Shuptrine, Teton County Conservation District

Comment: Yeah. I hope the letter clarifies it to some degree.

Entity: Hearing Officer Frederick

Comment: Okay.

Entity: Sandy Shuptrine, Teton County Conservation District

Comment: Thank you.

Entity: Hearing Officer Frederick

Comment: Thank you. And do we have a copy of that?

Entity: Sandy Shuptrine, Teton County Conservation District

Comment: Yes. I put one right here. Do you want a second copy? Actually, do you want me to step back here to answer your question?

Entity: Hearing Officer Frederick

Comment: If you'd like to.

Entity: Sandy Shuptrine, Teton County Conservation District

Comment: The reason I'm hesitating is because we did not have our full board there, and we basically split down the middle, but the people that were hesitant did invite this letter to come to the hearing. So it's kind of a foggy answer for you, but that's what happened.

Entity: Hearing Officer Frederick

Comment: Thank you. That helps. Is that an extra copy?

Entity: Sandy Shuptrine, Teton County Conservation District

Comment: Sure.

Entity: Hearing Officer Frederick

Comment: Thank you. Number 14, please.

Entity: Dave Hohl

Comment: My name is Dave Hohl. I'm speaking as a citizen from Pinedale. And I'm not as good an extemporaneous speaker as some of the previous, so I'm going to read my comments.

There are approximately 300 million citizens in the United States and approximately 500,000 in Wyoming. We citizens can't each, individually, conduct all affairs that are in our interests and concern to each of us. Rather, for reasons of efficiency and effectiveness and through the creation and approval of constitutions, we collectively have created and empowered organizations to act in our interests and to protect us.

At the federal government level, the EPA, and the state level, Wyoming DEQ, are empowered to ensure that the environment in which I live and recreate are suitably free of hazards to my, and our, health and safety. I fully agree with and support the need for both

these agencies to function in their prospective roles, acting in my interest. We citizens and our interests are the primary clients of government in this country.

In regard to the situation that is the subject of this hearing, recreation use reclassification of state waters, I feel the DEQ has missed the mark. Their website indicates that they have been working with public on this for five years, yet this is the first public hearing on the issue and is being held after the decision has been made. Based on citizen interest shown here, I submit that the previous public involvement has been extremely low-key and obviously inadequate.

My career was with the U.S. Forest Service, including 15 years managing recreation on the Pinedale Ranger District, the west side of the Wind River Mountains extending 70 miles from Union Pass to near South Pass. Many people recreate at developed sites such as campgrounds and other developed areas. Others seek more personal and private experiences at dispersed sites spread across the state's invaluable public lands and yet others, such as bicyclists and hiker on the Continental Divide National Scenic Trail, cross remote areas such as the Red Desert. A large portion of these recreationists seek water as an important element of their experience and sustenance.

As Wyoming is an arid state, locations with water are particularly prized, not only in forest settings, but even more so in the desert. These streams and springs are often small, below the six cfs standard. Kids play in these streams. They are safe -- they are safe places for kids to play as opposed to larger streams. This type of dispersed recreation can occur anywhere on public lands and also on private. It is appropriate and reasonable that citizen expect setting reasonably free of health hazards.

Recreation and tourism is the second largest economy in the state, second only to minerals. Much is at stake economically in ensuring that Wyoming not acquire the reputation that its waters are being managed in a manner that they are not safe for citizen occupancy and use.

I own 21 acres near the upper Sweetwater River. This property has a stream 42.5544311, comma, minus 109.0833675, comma, 483 running through it for which the standard has been lowered. I was not consulted as to what kind of use I make of this stream.

During the 15-plus year course of constructing a cabin, which is still ongoing, I have stayed in a sheep camp on the site. While I have brought and continue to bring potable water from town, I also use the creek as supplemental water for cooking and dishwashing and for bathing, using either a sun shower or dipping water from the creek to wash and rinse. I consider this primary contact.

As state above, I believe the DEQ process has been inadequate at best and the results flawed. I request the DEQ start over, defining the problem and issues, and work with, in a positive manner as partners, its principal clients, we citizens. Thank you.

Entity: Hearing Officer Frederick

Comment: Thank you, Dave. A quick question. Recognizing that both primary and secondary classifications can contain E. coli, would you take any additional precautions or any different precautions?

Entity: **Dave Hohl**

Comment: I probably -- I probably would, yes.

Entity: **Hearing Officer Frederick**

Comment: Thank you. Number 15.

Entity: **Dan Smitherman**

Comment: My name is Dan Smitherman, S-m-i-t-h-e-r-m-a-n. I'm here representing myself as a private citizen. I live in Bondurant, Wyoming, I'm a former outfitter, who has permitted on all three wilderness areas of the Bridger-Teton National Forest, Wyoming Range and the Popo Agie Wilderness Area on the Shoshone, and I'm here to oppose the categorical UAA for several reasons.

The first one. It appears to me that we have a process backwards. You know, rather than degrade all the water and make the public prove that it has a certain type of use, maybe we ought to protect it and have the government prove that we shouldn't use it.

And it also appears to me that the process for us to go through re-categorizing a particular stream is kind of onerous. They have to have that "long." They have to have pictures. They have to have other types of evidence.

Quite frankly, a lot of time when I'm in the backcountry, I don't have a GPS with me. I only have a camera with me, because they generally don't work. So I would like to see it reversed the other.

Secondly, I'm extremely concerned over the apparent arbitrary distance measurement from one mile to a half mile, and I have some examples. And again, I apologize. I don't have specific that "long." The GPS on my horse was broke that day. But on July the 31st of this year, at the head of Pine Creek in the Bridger Wilderness, I observed four young people, two under the ages of ten, play in the water for two full days. They were nine miles from the nearest trailhead.

On August the 15th of this year, I took a four-year-old two miles from the nearest trailhead and watched him play in a stream that fed into a stream that you had downgraded to secondary use.

The second thing that concerns me is I agree with -- I believe the gentleman's name was Brian. There seems to be some GIS areas. Again, I have some examples. If you look at Cliff Creek in Sublette County from below the falls to the headwaters has been downgraded. I've guided hunters in there many times. I've watched them bathe, drink, wash their hands, do everything in that creek. Mountain bikers and hikers can access those falls, and like the falls, he mentioned they're more than happy to get underneath them and take a shower.

Kilgore Creek, which was downgraded for the entire length, is in the same situation. It's used a lot in the fall by hunters. I've guided hunters. I've watched them use that water, and there's plenty of places on that creek where you can get full body immersion, and the creeks that feed Kilgore, Jamb Creek, Grizzely Creek, are all the same way.

Another example is on the Soda Fork of the Buffalo. Every stream that feeds into that river was downgraded to secondary category, and I've seen primary contact on many of those, including myself. I've drank that water. I've washed my hands in that water. I've cooked with that water.

And lastly, my third concern, and maybe it's because I'm not real bright, but I notice that Kilgore Creek, which I mentioned earlier, is dumping directly into the Hoback River, a section of which is eligible for designation as wild and scenic and is managed under the comprehensive river management plan for the Snake River Basin, wild and scenic by the Bridger-Teton, and I don't fully understand how you can degrade a river that dumps into a body of water that's eligible for wild and scenic designation. And like I said, Cliff Creek dumps into that same river and the upper end of that river has been degraded.

I appreciate the opportunity to give my comments. You know, I recreate in all these areas personally. I take my grandkids in there, and I've seen them use these waters, and I think the public and the recreation community needs more opportunity to provide input to the DEQ. Thank you.

Entity: Hearing Officer Frederick

Comment: Thank you. Just a couple questions --

Entity: Dan Smitherman

Comment: Sure.

Entity: Hearing Officer Frederick

Comment: -- if you wouldn't mind. Are any of those streams that you mentioned on private land?

Entity: Dan Smitherman

Comment: Some of them are. Some of them start on public, end on private, but for the most part, they're on private land, some in wilderness and some on non-wilderness.

Entity: Hearing Officer Frederick

Comment: And do you think all of these that you mentioned would support full-body immersion?

Entity: Dan Smitherman

Comment: In places, yes.

Entity: Hearing Officer Frederick

Comment: In places.

Entity: Dan Smitherman

Comment: Like several other speakers before me have said, a lot of these low-flow streams, they pool, they have different flow rates, depending on what time of the year, but Kilgore and Wolf Creek, for example, in Sublette County, there's plenty of places that where you show degradation that even my body can be immersed.

Entity: **Hearing Officer Frederick**

Comment: Okay. Thank you.

Our court reporter has asked for a quick break. Let's plan on starting back up at then after here. And we will be starting the session at ten after. So please be back in your seat.

(Hearing proceedings recessed 6:57 p.m. to 7:13 p.m.)

Entity: **Hearing Officer Frederick**

Comment: Thank you. Just a couple of announcements real quickly. Over on the table here we do have forms for providing written comment. If you have to leave early and for whatever reason, please feel free to fill this out and leave it with one of our folks in the back of the room.

Also, I'd like to just real quickly acknowledge. We have some guests visiting with us from Cheyenne East High. They're a moot court and oral argument competitions team. They won the state tournament this year and are moving on to the nationals, and they're attending the public hearing tonight as an educational field trip. So I think that's worth a little...

(Applause.)

Entity: **Hearing Officer Frederick**

Comment: Thank you. I appreciate the interest and seriousness and dedication and openness that our speakers are providing us tonight and I would definitely like to acknowledge them for that.

It's always interesting to have a public hearing in Wyoming, and I'm always impressed with the way people handle themselves professionally, and this group is just another example of that, and I wanted to say thank you for that.

One of our speakers came up to me just briefly after or during the break and had second thoughts in response to a question that I opposed to him and wished to make a little clarification. Eric, I don't know. Can you go back to Dave Hohl's and re-read the question that I asked at the end of Dave's --

(The question was read back.)

Entity: **Dave Hohl**

Comment: My response on the spur of the moment was that I probably would, but the real key here is that I don't feel that I should have to. My expectation is that water is not to be hazardous to my health.

Entity: **Hearing Officer Frederick**

Comment: Thank you, Dave.

Entity: Dave Hohl

Comment: Thank you.

Entity: Hearing Officer Frederick

Comment: Speaker 16, please.

Entity: Dick Inberg, Wyoming Wilderness Association

Comment: I'm Dick Inberg, and currently, I am President of the Wyoming Wilderness Association Guidance Council, and I'm representing the Wyoming Wilderness Association. My remarks that I make will primarily apply to wilderness areas, wilderness studies areas, and our wildlands in forest and BLM.

Of course, I'm very concerned with any proposal to degrade Wyoming's water. And we're kind of a headwater state here -- not kind of, we are a headwater state, and our water quality affects millions of people downstream. We have to keep that in mind. The plan to reclassify or degrade more than 75 percent of Wyoming's streams really doesn't fit that scenario of us thinking about people downstream. True, we are talking low-flow and intermittent streams, streams with less than six cfs average annual flow.

Now, I've heard the figure bantered around here, six cfs, and so I had to do a couple of quick calculations here to kind of figure out what six cfs meant to the amount of water that we're talking about.

One cfs is 450 gallons per minute. Six cfs is 2700 gallons per minute or 161,600 gallons per hour or 3,878,000 gallons per day, which would supply any one of our major towns in Wyoming, including Riverton, where I'm from. And it will also supply the water for 420 acres of irrigation under Wyoming water law.

I'm concerned with any proposal degrading the water quality in the state of Wyoming. We're a headwater state, and I've already said that. I'm looking at my wrong notes, so I will turn the page here.

My particular focus and my main concern is the degradation of our water within our wilderness areas, wilderness study areas, both BLM and Forest Service, and our forest wildlands.

Our Wyoming wilderness and wildlands are valued for their pristine environment and water throughout the country. Do I use the water classified as secondary contact or low-flow water? You bet I do, as my recreation is in the wilderness and wild areas, and that's where I hang out, and I've had 20 years' experience or 60 years' experience traveling both by foot, horseback and muleback and whatever in our backcountry. Cooking, washing, cleaning fish and game, I've used all that. I use water for all that in the backcountry, and a lot of it are secondary streams.

It's common now to take solar showers. We've got these little solar devices where we can take solar showers. We can dip this water up and put it in a bag, and in a couple of hours, we've got a warm shower.

We're using water out of these low-flowing streams and putting it all over our bodies and ingesting some of it. You can't help but do it. And I've drank a lot of water in our backcountry over the years. Of course, now I use a filter, but I didn't always.

In the backcountry, we use streams classified as secondary contact more than primary contact streams, because in the high country, we're away from the streams, and the main streams, we're on the secondary streams. That's what we're using. So I think that in our wilderness areas specifically, our wilderness study areas and that, we do need a reclassification of these streams.

Looking at the map, you know, of these areas, man, it's just completely red. We're downgrading all our high-altitude, pure streams. So I just can't go along with that scenario at all. Thank you for your time.

Entity: Hearing Officer Frederick

Comment: Thank you. Thank you, Mr. Inberg. Number 17.

Entity: Cathy Meyer, Lower Wind River Conservation District

Comment: My name is Cathy Meyer. I represent the Lower Wind River Conservation District. We are here to support the categorical US -- UAA that the DEQ has proposed. We represent a district in Fremont County, that is one of three. It encompasses nearly 2 million acres, including the communities of Arapahoe, Morton, Kinnear, Pavillion, Shoshoni, Lysite, Lost Cabin, Moneta and Riverton. We represent about 24,000 citizens on natural resource issues, including, but not limited to, soil and water conservation.

The soils in our district are shallow sands, silts, loams and clays, which contain little organic matter and are low in fertility. Elevations range from 4600 to 8100 feet. Our temperatures range from minus 45 to 102 degrees sometimes. Our annual precipitation, annually precipitation, averages less than ten inches.

All flowing waters within the Lower Wind River Conservation District end up in Boysen Reservoir. Our main perennial streams are the Big and Little Wind Rivers. There are many intermittent and ephemeral streams which only flow in the spring when the snow melts or in a significant rain event.

Our conservation district has been involved with use attainability analysis since 2009. We are one of the districts that submitted a UAA for Poison Creek. If any of you are familiar with Poison Creek, it runs parallel to the highway out of Shoshoni to Casper.

Poison Creek seldom flows water. It is listed as primary. It needs to be listed as secondary. In the proposed categorical UAA, Poison Creek would be listed as primary only from the town of Shoshoni to Boysen Reservoir because it's close to a park, Boysen State Park, and to the rails to trail, places where people recreate. We support that portion of Poison Creek

being listed as primary and the remainder of Poison Creek being listed as secondary. It's a no-brainer. It doesn't flow water.

We have also been involved with the field verification of this categorical UAA. We spent nearly \$2,000 in time, mileage and supplies to provide that data to the DEQ. We are very appreciative of being able to do that because we felt that it was helping to verify this UAA, which is statewide, not just for specific areas.

We'd like to point out that the categorical UAA still allows for the individual UAA to be done on specific sites so if something is not properly categorized, it can be changed through a UAA for that specific site.

We would also like to point out that his categorization does not change the quality of the water. The waters that people recreate in might not meet secondary qualifications or standards and yet people are recreating in it. The UAA will not change the quality of the water.

We appreciate the opportunity to comment. Thank you.

Entity: **Hearing Officer Frederick**

Comment: Thank you, Cathy. Did you have a written statement you wanted to --

Entity: **Cathy Meyer, Lower Wind River Conservation District**

Comment: We already submitted that. Thank you.

Entity: **Hearing Officer Frederick**

Comment: Number 18, please.

Entity: **Leann Correll, Saratoga-Encampment-Rawlins Conservation District**

Comment: Good evening and thank you for the opportunity to comment here tonight. I'm here speaking on behalf of the Saratoga-Encampment-Rawlins Conservation District. The Saratoga-Encampment-Rawlins Conservation District has been very heavily involved in water quality issues for years and years. The district is very much in support of the categorical UAA in the work that they have done both now and will do in the future.

One of the things that needs to be pointed out about all of the conservation districts that are represented here tonight, as well as those that are not represented, each one of the conservation districts have a board of directors that are elected by district constituents on the general election ballot by all voters within the district bounds. So each one of those district representatives that serves on that board is there for the best interest of the constituents in their countries and they are elected just like any other elected official. As per elected officials, they have public board meetings every month.

During those public board meetings, there have been multiple opportunities for the public to be involved in the UAA categorical analysis and in that discussion. So although we have maybe a hundred people here, or a little bit more tonight, that represents maybe less than

one-tenth of a percent of all the constituents in the state of Wyoming and all the people in the state of Wyoming.

Over that time of about four or four and a half years, there have been multiple opportunities for the public to have input on those local levels, and they have. They've voiced their opinions to those district board members, who are their elected representatives. So there has been a lot of public input into the process of developing that categorical UAA throughout the years.

Another thing that we'd like to point out here in support of this categorical recreation UAA. This scientific model was developed and then modified, also ground-truthed and readjusted through this significant process over these years. So it wasn't like they just developed this model and then are implementing the model. There have been many adjustments, and the ground-truthing was one piece of that adjustment throughout the process. So has public input throughout that time.

We believe that this provides a better baseline than where we were before. And that's what we're trying to do is we're trying to make better uses of our resources and more target specific to those primary recreation so that we can protect them. So it provides that better baseline.

And of the 13 sites verified within the Saratoga-Encampment-Rawlins Conservation District during the summer and early fall of 2010, 77 percent of the sites were appropriately identified as secondary contact.

So if we look at that, our district alone -- and we heard another district talk about a 77 percent variance from going from primary to secondary -- we have a significant portion of that where we can tailor our resources to those primary contact.

And another added benefit of the model is that it actually classifies waters as primary contact recreation that are close to towns and schools, as we've heard, before those recreation areas.

We, as a district, understand that the streams may need to have some recreational designation adjustments. With any model, this is going to be the case. Whether we start out with it as the zero percent and everything is primary rec or we use the model and maybe start out with 77 percent accuracy in those designated as secondary to recreation, we may need to have those adjustments.

One of the things that we'd like to do as a district is encourage all of the public to help identify those. And it's not that the individual public has to do all of the UAA site-specific work themselves, we would like to be able to work with those recreationists, work with those publics in our area to identify ones that need those adjustments, and we would help in that process, because those board members are elected by those constituents.

So with that, I would stand for any questions.

Entity: Hearing Officer Frederick
Comment: Thank you, Leann. Number 19.

Entity: Jack Berger, Saratoga-Encampment-Rawlins Conservation District
Comment: I'm Jack Berger. I'm the Chairman of the Saratoga-Encampment-Rawlins Conservation District, and I'd like to thank you for the opportunity to address this issue. I speak in favor of the UAA model. I appreciate the DEQ having another meeting other than what they were required to have.

You know, we all want clean water. You know, that's a given, you know. And I think at this point, we understand the vast amount of time and effort that the conservation districts have spent on this, along with the Wyoming DEQ.

I sure can't question the speakers tonight who have pointed out exceptions to this model. It's highly accurate. We've established that. Nobody said it was a hundred percent, but like the previous speaker said, instead of starting here at zero with site-specific UAAs, let's start here with site-specific UAAs and then tweak it from there with however we need to go on the remaining ones. It would save everybody a lot of time and effort and money to start at a higher level, and this model sure accomplishes that.

I guess I keep hearing degrading. I don't know why that word keeps getting thrown around. It seems to me that the through process here tonight is that these streams we're talking about are pure now. I don't -- we've heard about all the people bathing in them. I'm not sure how pure they are at this point.

And it seemed like the thought that they're immediately going to change for the worst if this model is adopted, which there's no reason for them to change. You know, they're still going to be the same streams they are now. So I think there's a little bit of panic in this.

But I would encourage adopting this model and then that would allow us to focus on the streams that actually do need -- you know, can support primary contact recreation. Thank you.

Entity: Hearing Officer Frederick
Comment: Thank you, Mr. Berger. Did you have written statement, too?

Entity: Jack Berger, Saratoga-Encampment-Rawlins Conservation District
Comment: No.

Entity: Hearing Officer Frederick
Comment: Okay. Thank you. Number 20.

Entity: Phil Murphree, Wyoming Mining Association
Comment: I am Phil Murphree. I'm from Gillette and represent the Wyoming Mining Association tonight. On behalf of the Wyoming Mining Association, I appreciate the opportunity to provide additional comments on the proposed categorical use attainability analysis for

recreation, which we continue to support. I will say a few things here and shorten our written statement to just a few things that haven't been said tonight.

Reclassification of small streams with the appropriate secondary recreation status would allow regulators to focus their attention on impaired primary contact recreation waters. These are the waters commonly used for immersion and recreation and should be the streams that the general -- and water that the general public and WDEQ are focused on to ensure that the water quality standards are maintained in the state.

This data that has been gathered in this project would also be beneficial to the state's effort to prioritize impaired water bodies' improvement as a large amount of data has been gathered on stream flow, water quality and stream conditions.

The delay or failure of the UAA may actually draw focus away from impaired streams and recreation as common and toward streams unlikely to ever be used recreationally. This will delay timely improvements in stream conditions with the limited funds that WDEQ has.

For many streams, the secondary recreation standard is sufficient protection for low-flow conditions where resident time is great in the stream. Many streams and minor water bodies across Wyoming for which no individual UAA has been conducted will currently not meet the primary recreation, E. coli standard, wildlife impacts and grazing, even though those streams might be used periodically.

If the reclassification is disallowed for appropriate streams, dischargers, including municipalities, agriculture interests and mining companies, may have difficulty meeting the primary recreation standards, especially when the discharged waters include a component derived from wildlife activity, waterfowl and livestock grazing.

In some cases, compliance with the standard could significantly reduce the amount of water allowed to be discharged, even though the additional water would be beneficial for downstream users and in-stream aquatic life.

If the categorical use UAA is disallowed, the potential costs for treatment for discharging into a stream that is often near or above the primary E. coli standard due to activities unrelated to the discharge will increase unnecessarily.

The Wyoming Mining Association also encourage WDEQ to periodically review and update the web map as more information through the state and new UAA are developed, and this could provide an opportunity for reclassification of many of the streams previously mentioned in the meeting.

During this -- during the early parts of this process, the Wyoming Mining Association members provided a large amount of data to correctly classify streams as we maintain one of the great monitoring concentrations, hydrologic monitoring concentrations, on the planet.

Again, the Wyoming Mining Association appreciates this opportunity. We support the approval of the UAA, and we believe it will more effectively focus the attention of WDEQ on bacteria-impaired streams with primary recreation potential where improvements can be efficiently made and are warranted. Thank you.

Entity: Hearing Officer Frederick

Comment: Thank you. Number 21.

Entity: Rob Davidson, Council for the Bighorn Range

Comment: I'm Rob Davidson, the Director of the Council for the Bighorn Range, and I appreciate this chance to -- this opportunity to provide comments on the categorical use attainability analysis for recreation.

The Council for the Bighorn Range opposes the decision to -- this new standard, GIS-based standard, for reclassifying 87,000 acres -- miles of streams from primary contact recreation to secondary.

The Council is a grassroots, nonprofit 501(c)(3) eligible conservation organization with a membership drawn across the Bighorns and others interested in this region. We have submitted written comments, and we are only going to provide comments now based on some new information that we obtained tonight.

The Intermountain Region of the USDA Forest Service, and Region 2, the Rocky Mountain Region, submitted to this Council new comments on the UAA, and this Council actually supports it. What it is is it has asked that all waters managed to achieve the objectives of the Wilderness Act of 1964 as Public Law 8857 are the waters managed to achieve the objectives in the Wild and Scenic Rivers Act of 1968 remain designated as primary contact recreation use in order to maintain existing water quality in these areas. A change in use of these -- designation of these water from primary to secondary would conflict with the congressional mandates under the Wilderness Act and the Wild and River Scenic Act (sic).

I have firsthand experience in this thing in leading with the Cloud Peak chapter of Wilderness Watch monitoring the streams in the Bighorns and the Cloud Peak Wilderness. We did a ten-year benthic survey, full benthic survey, of -- and hydrologic survey of the streams leaving the Cloud Peak Wilderness and their water quality. No government agency had ever done this. This was done by a nonprofit. It was done with good citizen science.

We did not do E. coli at this period because the field protocols for doing that in a wilderness setting were not sustainable and would not have been accepted by an agency, even though the survey was -- in its final report was peer reviewed by employees of the DEQ on their own time.

We do feel idea that you are going to degrade wilderness waters. I'll just give you an example. In these secondary waters, they're kind of a Class A or Class -- you've got a grade A or a grade B water source. The application of these new standards would allow users to degrade these waters to the point where you just don't give them a pass with a C or a D. So this is why we oppose these standards, and I thank the Council for its time.

Entity: Hearing Officer Frederick
Comment: Thank you. And did you provide a written statement?

Entity: Rob Davidson, Council for the Bighorn Range
Comment: I did.

Entity: Hearing Officer Frederick
Comment: And did you provide us a copy of the --

Entity: Rob Davidson, Council for the Bighorn Range
Comment: Yes, I did --

Entity: Hearing Officer Frederick
Comment: Okay.

Entity: Rob Davidson, Council for the Bighorn Range
Comment: -- when I signed in tonight.

Entity: Hearing Officer Frederick
Comment: Okay. Thank you. Number 22.

Entity: Ken Hamilton, Wyoming Farm Bureau Federation
Comment: Thank you. My name is Ken Hamilton, and I work for the Wyoming Farm Bureau Federation.

Tonight I'm making comments on behalf of the 2700 agriculture producers, many of them who are at home trying to make a living and couldn't be to this meeting, but most of those folks support the scientific process that DEQ used for this effort. And I would like to add that I believe this is something that's long been needed.

It's always been very frustrating to me to find dry gulches and a lot of draws in Wyoming classified as primary contact because it was a political decision. And I think that this is the part about the UAA that we support the most is we're moving away from politics here and we're trying to address this with a scientific process.

So once again, I would just like to say that we support the use of this UAA process. We thank you for the opportunity. And we have submitted written comments. Thank you.

Entity: Hearing Officer Frederick
Comment: Thanks, Ken. 23?

Entity: Wayne Garman, Crook County Natural Resource District
Comment: We've submitted some written comments, but I would also like to, on behalf of -- I'm Wayne Garman, Chairman of the Crook County Natural Resource District.

On behalf of the Crook County Natural Resource District, we appreciate the opportunity to provide comments in support of the Wyoming Department of Environmental Quality's categorical use attainability analysis for recreation use designations on Wyoming waters.

In 2010, our district was asked to conduct field verification on 25 of the 720 randomly selected sites to provide a sufficient level of data to test the accuracy of the UAA model. The UAA for specific water bodies determined sufficient -- is to determine sufficient levels to data -- I better start over here.

The UAA for a specific water body is to determine a sufficient level of data to test the accuracy of UAA model. The UAA for a specific water body is determined based on a set of criteria that must be met to determine if the particular use can be supported. Contrary to the claim that the proposed categorical use analysis -- attainability analysis will downgrade water quality, it actually assigns water in a classification based on existing water quantity and water use it actually supports. The proposal for implementing the UAA allows people the continuous ability to submit a site-specific recreational use attainability to DEQ to change a designation if that is deemed necessary.

The categorical UAA is a robust, defensible and appropriate method for designing recreational uses on Wyoming surface waters. DEQ has operated professionally and offered numerous opportunities for input on the categorical UAA and has invited the submission of additional and site-specific information from the public and user groups.

It is imperative that Wyoming's waters are accurately protected for the attainable recreational uses. We believe the criteria utilized by the Department in determining primary versus secondary contact recreation uses is appropriate and reflects the intent of the standard and meets EPA expectations.

The Crook County Natural Resources District strongly supports the categorical recreation use attainability analysis proposed and adopted by the Department of Environmental Quality and submitted to EPA on December 1st of 2014. A tremendous amount of work has been put towards the categorical UAA across the state and in consultation with EPA. The staff and supervisors of CCNRD encourages the EPA to approve Wyoming's categorical use attainability analysis for designated use for recreational purposes. With that, thank you.

Entity: Hearing Officer Frederick

Comment: Thank you. 24.

Entity: Connie Wilbert, Sierra Club Wyoming Chapter

Comment: Hi. My name is Connie Wilbert, and I'm here tonight on behalf of the Sierra Club Wyoming chapter.

Before I -- I'm not going to read our statement. We do have a written statement, and I'll turn that in in just a moment, but I do want to just touch on a couple of high-level points that are encompassed in our comments.

And I'd also like to note that I brought with me comments from some other Wyoming folks who were not able to travel to Casper this evening to be here in person and who asked me to hand deliver their comments for the record.

So as I said, I'm here on behalf of several thousand members and supporters of the Sierra Club Wyoming chapter who are quite concerned about these proposed changes. And I'll say right up front that we oppose the categorical UAA as it's currently written and urge the DEQ to take a step back and correct some problems that are quite apparent in this plan and with a better product.

Some of the biggest concerns that our members have and that I, as a life-long Wyoming resident and a mother, share relate to the failure, we believe, of the Department of Environmental Quality to communicate with the citizens of Wyoming in an effective way about these changes.

We certainly heard tonight that certain constituencies of Wyoming citizens feel they've been well communicated with, and I'm glad for that, I'm glad for them, but it's also been noted that a large constituency of recreational users don't feel that way. Many people who have spoken to me knew nothing about these proposed changes until very recently, and they don't think they've been given a reasonable opportunity to be involved in this decision.

So while I'm glad that the conservation districts have been very well looped in, I'm concerned about just ordinary citizens who haven't heard about this and had a chance to be involved and to express their opinions; therefore, we request that the Department give the public more time to learn about these proposed changes and openly describe what they are to people so that people can understand them and can share their opinions with you. There's a wealth of knowledge out there by people who use these streams on primarily our public lands a lot, and I think that if you listen to them and give them the chance to understand the proposed changes, you'll learn a lot and end with a better product.

A second primary concern that we have, a kind of an overarching concern, has been discussed quite a bit here tonight already, and it has to do with some of the assumptions that underlie the model that DEQ used to come to the conclusions that I have come to. We certainly understand the desire to accurately identify streams that have so little water in them that recreational uses like swimming, playing, cooling off, immersion activities can't take place. That's great. We agree with that as a goal. We just think that the problems with the assumption that underlie this model are such that you aren't there. You haven't come to the correct conclusions and a number of specific examples have already been pointed out tonight all over the state.

People in this state are pretty outdoorsy. The Sierra Club is a great example of that. As one friend of mine said to me, boy, you Sierra Club people hike. You know how to hike, and we do. We're out there. We walk miles from designated trailheads and developed recreational areas and we often play in streams while we're out and about on the landscape. That's what we do. That's what lots of people do in this state.

On a hot summer day, it's pretty common for people to cool off in streams, both large and small, and assuming that people don't use smaller streams to -- for recreational activities, immersion activities, is simply not true. We've heard lots of examples of that tonight.

A big problem that we have with the model is the use of average annual flows to classify stream size. That completely obscures seasonal fluctuations in stream flows. Higher flows in the spring and summer correspond closely with time of high recreational use. Stream size classifications should be based on seasonal flow data, not average annual flows.

And a minimum flow of six cfs is too high. Streams with six cfs frequently have really nice wading and dipping pools and they shouldn't be arbitrarily changed to a secondary recreational use category. It doesn't make any sense. And again, we've heard many examples of that tonight throughout the state.

We echo what has been expressed previously, which is that streams in designated wilderness areas, wilderness study areas, inventory roadless areas, areas of critical environmental concern, resource natural areas, all those kind of more remote backcountry areas should not be reclassified. There's no reason to do it and there's lot of reasons not to do it. People use those streams all the time for immersion activities.

So I guess I'd just like to close by saying that we really believe that you have an opportunity to refine this proposal, or this decision, to step back from where you are now, refine the process and dramatically improve the outcome.

This public hearing today is a great first step, and we thank you very much for holding it, but I hope it's not the last step. I hope that you'll continue to listen to the people of Wyoming. I hope that you will openly give them the information that they deserve to have and take advantage of what they have to offer you to come to the best possible outcome of this process. Thank you very much.

Entity: **Hearing Officer Frederick**

Comment: Thank you. Quick question. You spoke several times of immersion. Were you referring to full-body immersion or partial-body immersion? In some the examples you were talking about with respect to low-flow streams being used quite frequently for immersion. I'm trying to --

Entity: **Connie Wilbert, Sierra Club Wyoming Chapter**

Comment: Right. When I hike with my family, we often, if it's a hot summer day, hop in a pool and splash around and get water all over ourselves. I consider that full immersion. I don't think that I need to be able to swim laps in it to qualify it as full immersion.

I think if people are getting water over their face and heads and all over their bodies, that counts. And kids do it all the time. I mean, we all know that. And we should want them to. We shouldn't want to not let our kids play in creeks. That's what we do.

Entity: **Hearing Officer Frederick**

Comment: Thank you.

Entity: **Connie Wilbert, Sierra Club Wyoming Chapter**

Comment: You're welcome.

Entity: **Hearing Officer Frederick**

Comment: Next.

Entity: **Michael Henn, Sublette County Conservation District**

Comment: Hello. I'm Michael Henn representing the Sublette County Conservation District. I'm here to stand in support of the categorical UAA.

There's been a lot of effort put into the development of the model. And a model is just that. It's been mentioned before, it's to start somewhere, start at a baseline. It's not supposed to be a hundred percent perfect, out the door, the model is accepted, everybody goes home and nobody looks back. It's developed to set a baseline, and then a few -- you know, the examples that have come forth today might be site-specific UAAs that would qualify for that designation.

Sublette County put in -- in 2010 did 63 random sites out of 720 that the conservation districts around the state did. Site verifications ought to help beef-up the model and make it as accurate as possible with the time allowed.

You know, models are meant to be able to summarize some series of data or something that just physically can't be done with the manpower at hand and that's why you have a model and that's why you try to get as accurate as possible so you can focus your dollars and your manpower to get to those areas that might be -- might need adjusted down to secondary or up to primary based on the effects of that our the outputs of that model.

I appreciate all the comments from all the people that have showed up tonight and think that within our district, our board and our staff has realized that once this model, if adopted, is not the end of the road. We will continue to address water bodies within Sublette County, which are roughly 7500 stream miles, to make sure that it's accurately represented and held to the appropriate standard for recreational use.

I have some written comments I'll give. I'm not going to recite it, and I'll stand for questions.

Entity: **Hearing Officer Frederick**

Comment: Thank you, Mike. Number 26.

Entity: **Tori Dietz, Washakie County Conservation District**

Comment: I'm Tori Dietz, the Director for Washakie County Conservation District in Worland. And we have submitted written comments and I wanted to summarize a few points here.

On behalf of the Washakie County Conservation District board of supervisors, we appreciate this additional comment opportunity and want to let you know that we strongly

support the Wyoming DEQ's categorical use attainability analysis for recreational use designations on Wyoming's waters. Our conservation district, since 1995, has taken a leadership role in water quality assessment, planning and implementation for streams within Washakie County. We work very closely with our landowners and homeowners on best management practices and have gained intricate knowledge and expertise on our local watersheds.

In 2010, we were specifically involved with assisting DEQ with ensuring their categorical UAA for contact recreation is scientifically defensible and accurate. This involvement included our field verification of 16 sites that have been randomly -- that were randomly selected by DEQ using their UAA GIS model.

Field verification included collecting GPS points, photos, watershed information and interviews with the landowners and land managers to gain historical and site-specific information. Once our on-the-ground verification was compared to the predictions of the DEQ GIS model, we found we were in a hundred percent agreement in that the secondary use designations were substantiated where there was low to zero flow and a low chance of ingestion. We believe in ensuring that those waters capable of supporting primary and secondary contact recreation uses are accurately designed so that human health is protected. Thank you.

Entity: Hearing Officer Frederick

Comment: Thank you, Tori. 27.

Entity: Chris Bonatti

Comment: Good evening. My name is Chris Bonatti. I'm a resident here in Casper. I'm an engineer. I'm a small businessman. I'm an avid paddler and a backpacker and very concerned by what I'm hearing here this evening.

I came into the room undecided and somewhat uninformed about the issue, but I have to say I agree predominantly with the remarks from the Sierra Club, from the Wyoming Outdoor Council.

And I should say also I'm a member of the Izaak Walton League of America. I think while I don't speak for that organization, I think they would predominantly agree with these other organizations on those grounds.

Speaking as an engineer, six cfs equates to about 5,000-some gallons per minute. If I were to wash my car with a source of 5,000 gallons per minute, I think the feds would be in and telling me to shut it down. That's an awful lot of water and certainly sufficient to create pools of immersible depth.

When I was in college and I was learning physics and I was learning other technical subject, we were always taught to consider the units and to look back at our answer to give it a sanity check, and a sanity check on something that results in 76 percent of the waterways in water being downgraded to secondary status, seems like that violates that test to me. So

I'm very concerned about the proposed rules and would urge DEQ to take a second look and allow more public comment.

Another point that has been made this evening is regarding public -- a sufficient public comment period. I listen for issues of this sort and this month is the first that I've heard of this issue. Public feedback opportunities only work if the public is sufficiently informed about the issue in order to comment back. I heard about this issue this month, and I heard about it from my father-in-law in Virginia, not here. Thank you.

Entity: Hearing Officer Frederick

Comment: Just a question, Chris. How long have you been in Wyoming?

Entity: Chris Bonatti

Comment: I've been in Wyoming two years. And I'm not as familiar, I guess, with the local sites that may or may not qualify with this. So I came in here to learn this evening more than anything else, but this is what I'm hearing.

Entity: Hearing Officer Frederick

Comment: Thank you. 28.

Entity: Ms. Purves

Comment: I don't need to.

Entity: Hearing Officer Frederick

Comment: Okay. Thank you. 29.

Entity: Cathy Rosenthal, Wyoming Association of Conservation Districts

Comment: Good evening. My name is Cathy Rosenthal, and I'm with the Wyoming Association of Conservation Districts.

First, I would like to mention I hand delivered comments at the door on behalf of the South Big Horn Conservation District that could not be here tonight that are in support of the categorical UAA.

These comments are in addition to WACD's comments submitted to DEQ in support of the categorical UAA, and I'm primarily going to address the surveys conducted in 2010.

I helped collect data verifications within the Cody Conservation District -- excuse me, Dubois-Crowheart Conservation District and Crook County Natural Resource District on over 100 sites that were randomly selected by DEQ in those areas combined from large flowing waters to dry draws.

Before 2002 -- sorry, before 2010, as Mr. Miyamoto mentioned earlier, we already knew before doing this effort that not all waters within Wyoming should be designated as primary recreational, part in due to previously submitted site-specific UAAs, as previously mentioned tonight by some of the conservation districts, and personally through starting a

site-specific UAA with Campbell County Conservation District that was put on hold due to this categorical UAA.

The model and verification efforts significantly strengthened what we knew. Specifically, areas that were visited on water bodies, primarily on private property, with little to no access and little to no flow, and ephemeral dry draws on private BLM and state lands. This, to me, significantly -- this, to me, signified the statewide UAA.

As for sites visited on flowing water bodies, the majority of these remain primary. For those that didn't, the change was most likely due to limited access. There were even water bodies evaluated with very little flow, less than two cfs, on Forest Service lands that did remain primary due to access to trailheads and campgrounds, to name just a few.

In the 100-plus sites I personally visited, the model and our verifications were over 75 percent accurate. We understand that the model is not 100 percent accurate and that site-specific UAA's may be needed.

That stand, I believe that the approval of the categorical -- the categorical UAA, that the majority of Wyoming's waters would be much more accurately classified, would save time and money on doing site specific UAAs and focus efforts and resources on water bodies of utmost importance to our health and well-being. Thank you for your time.

Entity: **Hearing Officer Frederick**

Comment: Thank you, Cathy. Number 30.

Entity: **Shaun Sims, Wyoming Association of Conservation Districts**

Comment: Shaun Sims, President of the Wyoming Association of Conservation Districts and the Uinta County Conservation District supervisor, citizen of the state and a landowner.

I want to talk in support of the UAA model. We, as districts, went out in 2010 with 720 randomly selected sites as has been mentioned time and time again. In Uinta County, I personally went with our district manager to some of these sites. We had 31 sites. Some of them had water, 16 of them. 15 of them did not. Some of them were very remote places. Some of them were close to towns. That data was gathered and sent to DEQ so that they could adjust their model on those areas that it did not reflect accurately and in doing so increase the accuracy of this model.

The model is just that. It is a model. It should be noted that if there are streams that are mis-categorized or felt that are mis-categorized, there is an avenue in which to bring them back to the correct categorization.

I hear a lot of downgrading. We don't feel this is a downgrade. This is getting the proper use attainability that that stream can support.

We're all in favor of clean water. We are not asking to degrade. We are not wanting DEQ to degrade. What this is getting the proper use that that water can sustain so that we can put the valuable resources, our time, our energy, our money into those areas that need --

that have the ability to support primary contact recreation and have those areas that possibly need some best management practices to upgrade those rivers' water quality that are not meeting their standard now. That is both an expensive process. The process that would have gone through with the UAA on each individual stream was a tremendously long, expensive process. This model gets those streams that would have been classified anyway. We have to take and account for those that are going to be in the edge of that model, but there is an avenue to do that.

The E. coli standard is an indicator. It is not an absolute. There are a lot of E. coli strains that are not toxic or cause human health issues. The strains live in both humans and animals. So if the E. coli standard is not met, it is not necessarily a hazardous stream; however, we do want the E. coli to meet the state standards, to meet EPA standards, and with this model, it allows us to put them resources into the proper areas that need that attention. Thank you.

Entity: Hearing Officer Frederick

Comment: Shaun, just a quick question. Can you see E. coli in the water?

Entity: Shaun Sims, Wyoming Association of Conservation Districts

Comment: No.

Entity: Hearing Officer Frederick

Comment: So how do you know if it's there or not?

Entity: Shaun Sims, Wyoming Association of Conservation Districts

Comment: The districts and other entities do a lot of water sampling. That information is available on listed streams in the state. You have to look there.

Entity: Hearing Officer Frederick

Comment: So if you had, say, a concentration of E. coli in a stream that was sufficient to meet primary recreational use and you had a stream right next to it with a concentration that was sufficient to meet secondary recreational use, could you tell by looking at them --

Entity: Shaun Sims, Wyoming Association of Conservation Districts

Comment: I don't believe so.

Entity: Hearing Officer Frederick

Comment: -- which one had more E. coli in it? Okay. Thank you. Did you have some written comments?

Entity: Shaun Sims, Wyoming Association of Conservation Districts

Comment: We've already submitted them.

Entity: Hearing Officer Frederick

Comment: Thanks. Go ahead, Jim.

Entity: Jim Magagna, Wyoming Stock Growers Association

Comment: Thank you. I'm Jim Magagna, M-a-g-a-g-n-a. I'm representing the Wyoming Stock Growers Association, our over 1,000 members, and I'll comment about four areas briefly.

First, with regards to the notice process on reclassification. We were certainly aware of the process you're undertaking. We saw those notices. We were aware that there was a public meeting. We did not participate in any of those because the process you were proposing just seemed to be so logical a way to address the issue, we did not anticipate it would be controversial and we felt no need to engage at that point in time. Obviously, history has proven us perhaps incorrect on that.

And in reference to that, it just seemed like this system needed an appropriate baseline. As we understood it, these streams had never been classified, truly classified, as primary recreation. They had been, as a group, placed in that category when the categorization system was created.

So this was the first real attempt by DEQ, utilizing other resources, to create a classification for these streams, and we believe that the standard of beginning with the secondary recreation classification is an appropriate starting point for Wyoming, given the nature of our streams in Wyoming. It left the flexibility to still move streams, as was necessary, to a higher classification. It didn't, in our view, represent a downgrading, because we have never classified these streams, except in bulk, just placing them someplace. So it represents a first attempt at classification.

The other thing, I think it's important to recognize that the classification itself does not change the quality of a single water. It simply puts it in a class. Whatever out there is out there is out there. There may be factors taking place, both natural and human, that are changing the classification -- the quality of these waters.

I found it interesting, sitting here tonight, that until the last speaker prior to myself, the issue of E. coli was never mentioned and yet that's what this classification system is all about. It's not about my preference for where I would like the stream to be classified or someone else's preference, it's about attainability. It's about meeting the ability of a stream to attain a certain level of -- attain and maintain a certain maximum level of E. coli. So we think this was the right approach to that.

I find it interesting, particularly in light of a previous comment, that if I might quote briefly, in March of 2014, the Rocky Mountain Region of the US Forest Service submitted comments to you in which they stated that "we support the shift from a single recreation use designation where all waters were managed for primary contact recreation. The proposed changes in recreation use designation will help us to better manage water quality for protection of recreational use by focusing available resources to those locations where primary contact recreation use is actually occurring or can potentially occur."

So at least at that just slightly over a year ago, the Forest Service, on which many of these streams was located, were strongly supporting the classification system that you've implemented.

I think it's important that we recognize that you've provided a methodology to reclassify streams on an individual basis. I believe that's the tool that we should all use in order to change classifications where change in classification is appropriate.

I would ask, though, that as you address petitions which you may be receiving to reclassify streams from secondary recreation to primary recreation that there are some key factors that need to be kept in mind.

The first of those is attainability. It's not whether I would like a stream to be classified as primary recreation, it's whether the E. coli level that is necessary for that classification can be attained and maintained. If the stream that's been petitioned for a higher classification currently contains a higher E. coli level than that that is specified for a primary recreation, then the question needs to be asked what is the cause of those higher levels? Is it a naturally-occurring cause? Is it occurring on a major -- on a long segment of the stream?

I certainly from the many, many years, over 40 that I spent in the Wind River Mountains, can think of streams where there's a pool of water in the stream that certainly lent itself to full-body immersion -- I probably took advantage of that at least when I was younger -- but does that pool represent that stream segment or does it represent a single spot within the stream? I think that's an important criteria to look at. And what's the cause of higher E. coli levels? Is it a natural cause? Is it human caused? Is it caused by wildlife, by livestock, et cetera?

And finally, I would ask that as you look at these, many, if not all, of these streams flow through private lands at some point in time, and I think notice to and consultation with the private landowner when a stream is being considered for reclassification is also very critical.

These would be our comments. We did not this time submit written comments, but we want to stand in strong support of the approach you've taken and the opportunity that you've provided for the citizens of Wyoming to come forward with whatever evidence any of us may have that would justify a reclassification of a stream from the classification you've given it this point in time. Thank you.

Entity: Hearing Officer Frederick

Comment: Thank you, Mr. Magagna. Number 32.

Entity: Kelly Booth, Lake DeSmet Conservation District

Comment: Good evening. My name is Kelly Booth, B-o-o-t-h. I am here on behalf of the Lake DeSmet Conservation District board of supervisors in Buffalo, Wyoming. We appreciate the change to further comment in support of the Wyoming DEQ's categorical use and attainability analysis for recreational use designations on Wyoming waters conducted by the Lake DeSmet Conservation District.

The Lake DeSmet Conservation District was established in 1947, and its boundaries are the northern half of Johnson County. The Bighorn National Forest is within our boundaries and also parts of the Cloud Peak Wilderness Area.

The Lake DeSmet Conservation District mission statement is as follows: The Lake DeSmet Conservation District is dedicated to the development and implementation of programs, to provide leadership and technical assistance for the conservation of Johnson County's natural resources, agricultural heritage and resource base, to promote and control soil erosion, to promote and protect the quality and quantity of Wyoming's waters and all other natural resources, to preserve and enhance wildlife habitat, to protect the tax base and to promote the health, safety and general welfare of the residents of the county through responsible conservation planning. The Lake DeSmet Conservation District feels that the DEQ's new designations continues to meet our goals in our mission statement.

The district was given 27 randomly selected sites, some of which were in very remote areas that required hiking several miles into the backcountry and wilderness areas within our district boundaries. Some sites we went to could only be reached by foot. Not even a horse could get to some of the locations I went to. All of the sites within the Lake DeSmet Conservation District were visited during the peak recreation season, between July 9th and October 1st of 2010.

The year 2010 was an average and typical year for Johnson County with normal rainfall and temperature. No extremes were noted. After all of the data had been gathered and evaluated by WDEQ on all sites on the Bighorn National Forest were proposed to remain primary, even if their flows were well below the six cfs required for primary designations.

The Bighorn National Forest that lies within the Lake DeSmet Conservation District boundary is used heavily during the recreation season. Most streams are located in or near high recreational areas such as Circle Park where a high use exists outside of the actual Forest Service campground. Circle Park Creek itself is under two cfs. The staff and the US Forest Service acknowledge that this and all other forest sites were in high use areas where camping and recreation is widely dispersed and should remain primary for this reason alone, regardless of flow.

The proposed secondary designations that occurred on private land were well below the six ccf -- pardon me, six cfs were inaccessible to the general public. Some were miles from a public road. One site I went to, I had to hike into -- over a mile into private land. Some were completely dry and showed no signs of even riparian plants.

We can assure the public that the Lake DeSmet Conservation District's employees conducted these analyses with the best interest of the people of the northern Johnson County and the natural resource itself.

So in summary, the Lake DeSmet Conservation District strongly supports the categorical recreation use attainability analysis proposed and adopted by the Wyoming DEQ and submitted to the EPA on December 1, 2014. Thank you. I did submit earlier our comments.

Entity: Hearing Officer Frederick

Comment: Thank you. And so it sounds to me like the model seemed to have worked fairly well for the Lake DeSmet Conservation District.

Entity: Kelly Booth, Lake DeSmet Conservation District

Comment: We believe so, yes.

Entity: Hearing Officer Frederick

Comment: In a variety of different conditions.

Entity: Kelly Booth, Lake DeSmet Conservation District

Comment: Yes.

Entity: Hearing Officer Frederick

Comment: Thank you. 33, please.

Entity: Mary Lou Morrison

Comment: My name is Mary Lou Morrison. I live in Casper. And I have been listening very carefully and learning and hearing new vocabulary about the water issue of which this is all about. But what I am very concerned with, and I guess I am protesting emphatically to you all, the DEQ, lowering 76 percent of the state's streams, and the fact that there's only been this public hearing, this one, and I'm sure not being involved in anything other than supporting and remembering what this state was like when I moved here in 1960.

I moved here from Kansas, and all of my life, living in Kansas on a wheat farm near Wichita, Kansas, I had read the funny papers, the Lone Ranger, and listened to him on the radio -- no TV, for Pete's sake, of course -- and said I want to go to Wyoming someday.

So I did come here in 1960 to teach art. I was a traveling elementary art teacher and then eventually did teach at Kelly Walsh when it was built.

And I married a Wyoming native in 1963 and who had grown up here in Casper, and we did much backpacking, hiking in all of the mountain ranges of the awesome beauty in the Wind Rivers, the Snowy Range, the Bighorns. And he also was in some of that time -- he's now deceased, but he was a guide around Dubois, a game guide for a game farm, or a game ranch.

Anyway, I just -- I'm very concerned, like I said. I'm being educated by listening, but I am so concerned about lowering the water qualities, because on these backpacking and wilderness trips, we were able -- I just remember being able to drink out of any of the mountain streams in the mountains where we were going and, of course, that, of course, has undoubtedly changed in some regions and some areas.

But it bothers me, and I guess I just don't support downgrading any of this, any of the quality, allowing it to be -- to be carrying E. coli or, to me, being polluted. I don't know what those two words, if that's interchangeable, but I definitely am supporting the -- I'm a member of the Wyoming Wilderness Association. I support the Sierra Club and the Wyoming Outdoor Council all of these years and just because Wyoming has always been so awesome. So let's keep that water in those higher mountain ranges especially pure as it is or as it has been.

Entity: Hearing Officer Frederick

Comment: Thank you very much.

Number 34. And I think this is our last registered speaker. Just about right on time. So if -- there will be an opportunity if someone else would like to make a comment before we close the meeting.

Entity: Perry Hayes, Lower Wind River Conservation District

Comment: I would like to.

Entity: Hearing Officer Frederick

Comment: Okay. We'll give you a chance. Go ahead.

Entity: Ted Lapis, Public Land User Committee

Comment: My name is Ted Lapis. I'm here representing the Public Land User Committee from Sheridan, Wyoming, and I appreciate the opportunity.

I would ask that you have more meetings around the state. I talked to a number of people in Sheridan who did not know about this and found it difficult to get away and come down.

I think that if you had more hearings in areas of the state, you would have a better selection, a cross-section of the public, as opposed to people who work for the conservation districts or some sort of professional -- have a professional interest. So I don't think your sample here is representative.

And I spent a long time in Wyoming learning about the ins and outs of water policy and cattle. I moved here in November '80 and I was a frequent visitor before that. But policies are a delicate thing. They're used as a management tool to reduce the work that's involved in making decisions, but I'll speak from a marketing point of view.

My definition of marketing is getting your unfair share, and when you have a good message, you can achieve your unfair share of a good or a service by being smart about it, but the way that this policy is going to be interpreted across the nation is easily viewable by just looking on the Internet, and if you have a too well worn profile with Google, I would suggest you start in the library so you're starting anonymously and look at how this has been portrayed in media across the country, and it's really giving Wyoming kind of a -- not such a great profile in terms of tourism, which is an important industry.

But the US Forest Service has reconsidered their opinion, and I do have their remarks that came out yesterday, and their objectives to manage for the Wilderness Act and the Scenic Rivers Act is something that's a certain change in their policy.

I was taught by my father to tell anybody who asked when I was three or four years old, "Where did you get the fish? Right in the mouth." And when I was getting ready for hunting, I was taught to answer the questions about the deer, "Right behind the shoulder," and the divulging of specific information to protect a particular water area is going to raise a lot of hackles.

Here is a stream that is currently classified as secondary use. It is extremely well used by people in Sheridan, although it's in Big Horn County. It's up near the Medicine Wheel and Paradise Valley, Paradise Falls.

These are some additional pictures of the stream in question, and it is a beautiful area, and it's a water slide, and there's no way that you use this water slide that you don't get immersed, and it is -- well, let's see. Johnson, Big Horn.

So this is actually near Bald Mountain, up by the Medicine Wheel, and across from Little Bald Mountain. It dumps into North Beaver Creek, but it's an area that is very beautiful, and I'm leery about how people are going to defend their favorite swimming holes in a public forum. And I do appreciate the opportunity to speak. Thank you.

Entity: David Waterstreet

Comment: Would you mind sharing that copy with us?

Entity: Ted Lapis, Public Land User Committee

Comment: No.

Entity: Hearing Officer Frederick

Comment: Thank you. And did you have any written comments you wanted to provide?

Entity: Ted Lapis, Public Land User Committee

Comment: Yeah, I do, and they're still on my phone. I'm going to print them off. Can I do that?

Entity: David Waterstreet

Comment: We'll talk afterwards.

Entity: Hearing Officer Frederick

Comment: Okay. Anyone else from the audience wanted to make a comment?

Yeah, go ahead. And you want to state your name and --

Entity: Perry Hayes, Lower Wind River Conservation District

Comment: My name is Perry Hayes. I'm from the Lower Wind River Conservation District. I'm one of the board members from Riverton.

After hearing a lot of the comments that were done -- and we appreciate your time and having this meeting -- I just want to do some clarification, I guess, would be my best way of putting it that until at the end of the night here with all the comments that were given by such -- so many speakers tonight, the E. coli thing was left at the end of the comments. And it was really -- that's one of the main factors that we have to look at is a key factor for these as primary and secondary, and the secondary, as you had commented earlier, doesn't mean that it's downgraded any more, but what it is -- actually, you can't see it in the water.

So what it's doing is it's taking some of these that take so many man hours, money, resources and time to categorize, it's changing them. Even though they still have water flow to them and stuff, it gives the people an opportunity to put their resources to something else, and it gives us a chance to use our resources in our districts and stuff especially to focus on other ones that are more demanding. And even though they're being placed into a secondary category, it's not suggesting that we are taking less time and assets towards those. We've already categorized those as well. It's just they don't demand as much time as some of the other ones.

And I think that is one point that was kind of divulged at the end that might have been a key point to ask some of the speakers earlier on in the night that were giving negative points toward everything that if they know all the criteria that goes into looking at these waters, E. coli is one of the main factors.

And I think some of the people that actually spoke that were just citizens I think are unaware of some of the circumstances and what the resources and what the categorizations are for doing these things, and so I think if that would have been brought up or if a keynote question would have been given to them before they stepped down from their presentation, I think ultimately, it would have gave a chance for people to acknowledge and see if they knew as much as what they were standing up here and trying to defend so prominently.

And that was just all I had to say. Thank you very much for your time.

Entity: **Hearing Officer Frederick**

Comment: Thank you. Just a quick question. So I think what you're ultimately getting at here in your discussion about some of the testing that you've gone through in identifying use attainability in terms of E. coli, so I guess by analogy, is it fair to say that there is a good chance that we have primary recreational designated waters that would not even meet a secondary E. coli standard?

Entity: **Perry Hayes, Lower Wind River Conservation District**

Comment: There could be a potential for that and there is in certain standards and that's what I think when a comment that you had provided for one of the speakers was can you see the E. coli in a primary or a secondary, there's no real visible site-to-site area where you're going to be able to say, "Oh, E. coli is in some spot or it's in some area." You have to do some further testing in those. And that's what a lot of testing and time and money and resources that all the conservation districts have put in to help with this model is showing is that there is E. coli in some of the waters, and it's more prevalent in certain areas than other and that's why we need to maintain the vegetation and try to control some of the areas.

But on the same token, we are not downgrading these in respect to them being less of an issue, it's just there's other one that are more of a primary factor that need more attention than some of the other ones. But we are still -- our main focus is taking care of all the waterways that are throughout the state.

Entity: **Hearing Officer Frederick**

Comment: Thanks.

Entity: Perry Hayes, Lower Wind River Conservation District

Comment: Thank you.

Entity: Hearing Officer Frederick

Comment: Any other one in attendance wish to make a comment?

Seeing none, I think we're good. Thank you again for attending and providing us with your perspectives on the UAA.

Just a little brief description, I guess, of what we're going to do here at DEQ. We're going to essentially study and evaluate and give a lot of consideration to everything that we've heard here tonight as well as the written comments that we received prior to this public hearing. We will develop a written response to all of the comments and all the questions that we've received and at that point in time, we will be providing that to EPA. That will essentially be our response to comments.

We will notify everyone who has signed up on the sign-in list of the availability of that response to comments. Normally, the response to comments will be attached to a cover letter that will explain what the Department would like the EPA to do, if anything, based on our analysis of the comments.

I suspect, given the volume of comments that we've received, this is likely going -- and given the fact that we also have staff that are out on maternity leave who are key to this whole effort, this will take us several weeks.

So I just want to assure you that full consideration will be given to everything we've heard, everything we've received in writing. It's been -- it's been informative and interesting and useful to hear the various perspectives from folks here at the hearing tonight and I'd like to thank you very much for that.

At this time, we have no immediate plans for any further public meetings or public hearings; however, we've received requests for additional public meetings. Those will be considered as we go through our response to comments and develop our response to comments.

So at this time, I guess I can safely say that the comment period for now on the UAA is closed at the end of this public hearing, and again, thank you very much for your participation.

Before you leave, if you have any written comments you want to drop off, please drop them off with the young gentleman in the back.

(Hearing proceedings concluded 8:45 p.m., September 16, 2015.)

APPENDIX D. COMMENTS RECEIVED AFTER THE COMMENT PERIOD ENDING SEPTEMBER 16, 2015

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Figure D-1. Richard and Jean Ferguson (1 page)

RECEIVED

SEP 28 2015

Sept 2, 2015

WATER QUALITY DIVISION
WYOMING

To: David Waterstreet & DEQ

From: Richard & Jean Ferguson
PO Box 4443
Jackson, Wyo. 83001

Re: E coli standards 307-734-9113

We are pleased you are providing comment for those too busy or old to drive to Casper.

We strongly disagree that E coli concentration standards should be lowered for 76% of the states water. Slow flowing streams are precious and used by many of us who hike and camp, especially with grandchildren. Don't ask us for GPS locations of where we go as we try to go many places away from civilization. Why are we purposely wanting more E-coli contamination for the public?

Figure D-2. Jeanne Leske (1 page)

Jeanne Leske
2001 Newport
Casper, WY. 82609-3803
September 22, 2015

Wyoming Department of Environmental Quality
122 West 25th Street
Herschler 4W
Cheyenne, WY. 82002

RECEIVED

SEP 24 2015

WATER QUALITY DIVISION
WYOMING

Attention: David Waterstreet,
Watershed Protection Program Manager

Dear Mr. Waterstreet:

As I missed the public hearing in Casper for categorical use attainability analysis last Wednesday evening, I would like to make some general comments on the water quality situation in Wyoming.

I very strongly think that we should NOT allow our standards to decrease. Even in low flow streams it is necessary to have the highest possible standards. Being an avid hiker and backpacker, I use the water for drinking (of course, I do filter it). I use National Forest streams (especially Bridger-Teton and Shoshone). To a lesser extent, I use BLM land for hiking. There are a lot of kids who play in low flow streams for which I fear you are changing the rules.

I know that a number of people have given you specific examples. This is a more general letter to support all who are against the lowering of our state standards. As a state agency, the DEQ needs to realize that they are responsible to all of the people in the state – not just the agricultural interests.

Very truly yours,



Jeanne Leske

Figure D-3. Callum MacKay (1 page)

ATTN
DAVID WATERSTREET.
307 777-5973.
WATERSHED MANAGER.

CALLUM MACKAY
Box 95

KELLY
WYO 83011
NOV 19TH 15.

DEAR SIRs,
WITH RESPECT TO WYOMING WATER QUALITY
RE-DESIGNATION.

I WOULD LIKE TO STATE THAT I AM
AGAINST ANY DOWN GRADE IN THIS VITAL WATER
IN STATUS OF E-COLI COUNT.

RECEIVED

NOV 24 2015

WATER QUALITY DIVISION
WYOMING

Figure D-4. Susan Marsh (1 page)

15 September 2015
DEQ:

RECEIVED

SEP 18 2015

WATER QUALITY DIVISION
WYOMING

I am writing to express concern about DEQ's plan to downgrade water quality standards in certain small streams around the state. A sweeping change does not allow consideration for local and specific stream values and uses. I am speaking for streams within public land in northwestern Wyoming, but there are similar concerns elsewhere in the state.

An overall downgrade of category 1 and 2 rivers within the Bridger-Teton NF is inconsistent with a number of land management goals the Forest Service has. One is the Snake River Headwaters Comprehensive River Management Plan, which states that water quality is one of the primary river values that the forest must protect for the designated Wild and Scenic Rivers within the forest. A 500% increase in E.coli in tributaries to designated or eligible Wild and Scenic Rivers would fly in the face of that plan as well as the BTNF Forest Plan and Forest Plan Amendment #2 (1992), which outlines protective standards for eligible rivers. There are a total of 40 streams included in eligible rivers within the forest.

Also, surface waters located in designated wilderness areas are Class 1 waters, considered "Outstanding National Resource Waters" which are subject to a stringent anti-degradation standard under the Clean Water Act. A downgrade of a water quality standard that allows more E.coli pollution is a violation of this standard. Since 1.2 million acres within the BTNF lies within Wilderness or congressionally designated wilderness study areas (intended to be managed to protect their potential as wilderness), many of the streams to be downgraded are within protected areas.

I am sure you are aware that DEQ's own policies prohibit it from downgrading Class 1 waters based on a finding that primary contact recreation is not an existing or attainable use. DEQ's Categorical UAA for Recreation cannot be used to downgrade recreation-based water quality standards in wilderness areas.

In addition to rivers designated under the Wilderness Act and Wild and Scenic Rivers Act, the BTNF contains administratively designated streams that are also slated for downgrade. Kendall Warm Springs and its outlet into the Green River (home of Kendall Warm Springs dace, endemic to this spot) and Big Fall Creek, designated as a geologic/hydrologic special area due to pure spring water and travertine deposits that form waterfalls, are two of them. Four research natural areas exist within the forest, three of which include streams that are slated for downgrade. This would conflict with the purposes for which the natural areas were designated. The BTNF has been trying to manage human use, roads, and grazing to protect all of these areas and the streams within them since their designation in 1998.

A great deal of time, effort, and funding has been spent restoring native cutthroat trout to some streams within the BTNF, including LaBarge Creek. Does it make sense to downgrade the status of this creek or its tributaries? Upper LaBarge Creek holds pure strains of native Colorado cutthroat trout; nearby, the Smiths Fork harbors Bonneville cutthroat, and over the Tri-Basin Divide from LaBarge Creek, the Greys River contains Snake River cutthroat. It would seem prudent to consult with Wyoming Game and Fish about the potential downgrade and the possible effect it might have on these trout subspecies, given the emphasis placed by another state agency on their continued existence.

Sincerely,

Figure D-5. Northern Arapaho Business Council (3 pages)

Northern Arapaho Business Council

P.O. Box 396

Ft. Washakie, Wyoming 82514

Phone: 332-6120 — 332-5006 - 307-856-3461

Red
10/5/15



September 30, 2015

Todd Parfitt
Director
Wyoming Dept. of Environmental Quality
122 West 25th Street
Cheyenne, WY 82002

Re: Northern Arapaho Tribe

Dear Mr. Parfitt:

We have recently become aware of Wyoming's effort to change certain stream classifications and to downgrade associated water quality standards. If we understand correctly, the maps attached herewith show the water bodies that Wyoming intends to reclassify. Many of these water bodies are on tribal land, within the exterior boundaries of the Wind River Indian Reservation, and therefore beyond jurisdiction of the Wyoming Dept. of Environmental Quality.

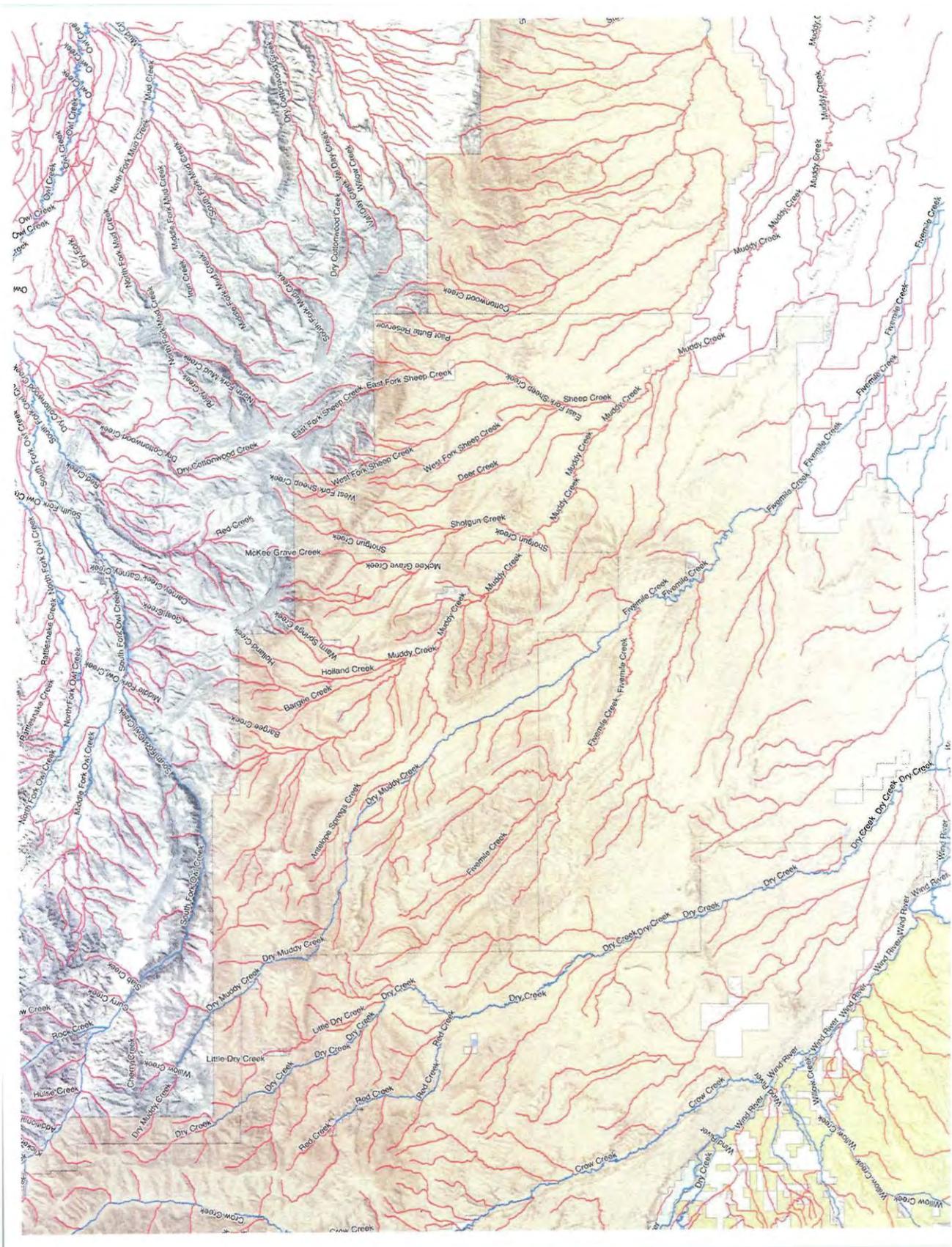
We ask that you revise your materials so that members of the public are not misled by any overbroad assertion of authority.

Sincerely,

A handwritten signature in black ink that reads "Dean B. Goggles". The signature is written in a cursive, slightly slanted style.

Dean B. Goggles, Chairman
Northern Arapaho Business Council

cc: Shaun McGrath, EPA Region 8



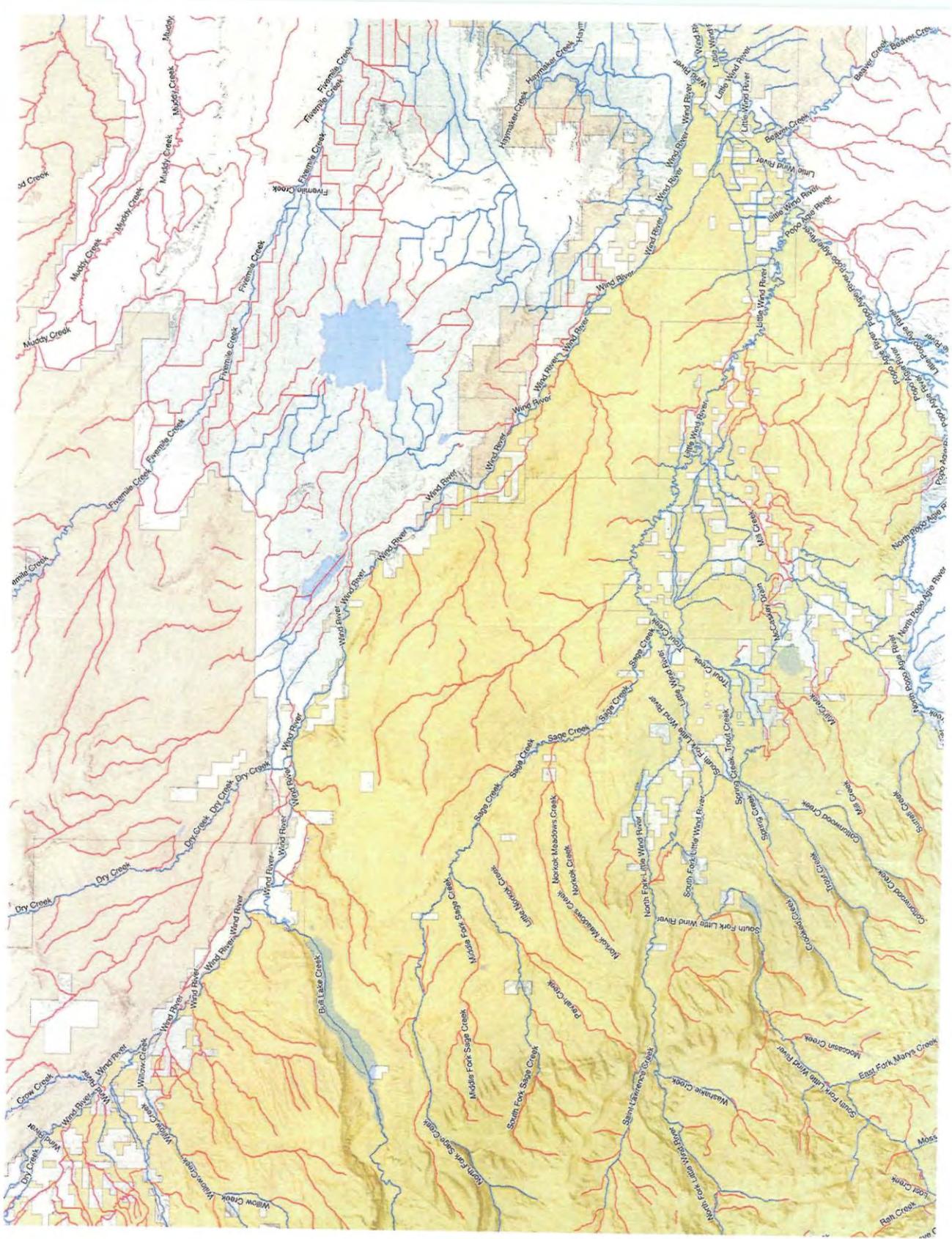


Figure D-5. United States Forest Service Intermountain Region (3 pages)



United States
Department of
Agriculture

Forest
Service

Intermountain Region

324 25th Street
Ogden, UT 84401

File Code: 2530; 2530; 2300; 2320

Date: APR 1 2 2016

RECEIVED

APR 1 8 2016

DEQ WATER QUALITY

David Waterstreet
Program Manager, Watershed Protection Program
Wyoming Department of Environmental Quality
200 West 17th Street
Cheyenne, WY 82002

Dear Mr. Waterstreet:

Per your request, enclosed is the GIS data (NHD base, 1:100,000 scale) for Wyoming waterbodies on National Forest System (NFS) lands in the Forest Service Intermountain Region that we would like to have remain designated as primary contact recreation. As we stated in our September 15, 2015 letter, we have determined that a change in recreation use designation from primary to secondary would be inconsistent with congressional mandates under the Wilderness Act of 1964 (P.L. 88-577) and the Wild & Scenic Act of 1968 (P.L. 90-542) and related policy and resource management planning documents to maintain existing water quality in these areas. The applicable language from these Acts follows.

Wild and Scenic Rivers Act (16 U.S.C. 1271), Section 1(b) states:

"It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes." (emphasis added)

Wilderness Act of 1964 (16 U.S.C. 1131a), Section 2(a) states:

"...it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness. For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by Congress as 'wilderness areas,' and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character..." (emphasis added)

Wilderness Act of 1964 (16 U.S.C. 1131c), Section 2(c) further defines wilderness as:

"A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are



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untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this chapter an area of underdeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation;... (emphasis added)

Wilderness Act of 1964 (16 U.S.C. 1133b), Section 4(b) mandates the preservation of wilderness character:

"Except as otherwise provided in this chapter, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character. Except as otherwise provided in this chapter, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use." (emphasis added)

Given this management direction, we are providing GIS maps/data for the following segments. We ask that these segments remain designated as primary contact recreation use.

- Designated wild and scenic rivers;
- All upstream waters and tributaries of designated wild and scenic rivers (note that only perennial and named streams are mapped);
- Suitable and recommended wild and scenic rivers (also known as candidate rivers);
- All upstream waters and tributaries of suitable and recommended (candidate) rivers;
- Eligible river segments (Note: Amendment Number 2 of the Bridger-Teton National Forest Plan is to be used as the correct list as Appendix E of the 2014 Snake River Headwaters Comprehensive River Management Plan is incorrect.). Tributaries to eligible river segments are not recommended for primary contact recreation status;
- All streams within legislated wilderness study areas;
- All upstream waters and tributaries to waters within designated wilderness that are outside of designated wilderness, and legislated wilderness study areas (WSA's);
- All streams within Forest Plan recommended wilderness areas (The Bridger-Teton NF only has WSA's).

We are not providing GIS data for the following segments, unless they are included in the aforementioned segments, to which the Wilderness Act of 1964 (P.L. 88-577) or the Wild & Scenic Act of 1968 (P.L. 90-542) also apply, because they are designated as Class 1 waters and will remain designated as primary contact recreation use (from Wyoming Water Quality Rules and Regulations, Chapter 1, Appendix A):

- All surface waters located within the boundaries of national parks and congressionally designated wilderness areas as of January 1, 1999;
- The main stem of the Snake River through its entire length above the U.S. Highway 22 Bridge (Wilson Bridge);
- The main stem of the Green River, including the Green River Lakes from the mouth of the New Fork River upstream to the wilderness boundary;
- All waters within the Fish Creek (near Wilson, Wyoming) drainage;
- The main stem of Granite Creek (tributary of the Hoback River) through its entire length;
- Fremont Lake;
- Wetlands adjacent to the above listed Class 1 waters.

Thank you for considering our request. If you have any general questions, please contact Mark Muir, Regional Hydrologist, at 801-625-5267 or mjmuir@fs.fed.us. If there are specific questions related to the data provided please contact Ronna Simon, Forest Hydrologist on the Bridger-Teton National Forest, at 307-739-5598, rsimon@fs.fed.us or Brian Goldberg, Resource Information Specialist on the Bridger-Teton National Forest, at 307-739-5561, or bgoldberg@fs.fed.us.

Sincerely,


NORA B. RASURE
Regional Forester

Enclosures

cc: kristinelee@fs.fed.us, mjmuir@fs.fed.us, chartman01@fs.fed.us, sharongseim@fs.fed.us, poconnor@fs.fed.us, pbode@fs.fed.us, rsimon@fs.fed.us

Figure D-6. United States Forest Service Rocky Mountain Region (3 pages)



United States
Department of
Agriculture

Forest
Service

Rocky Mountain Region

740 Simms Street
Golden, CO 80401
303-275-5350
FAX: 303-275-5366

File Code: 2530
Date: MAR 25 2016

RECEIVED
MAR 31 2016
DEQ WATER QUALITY

David Waterstreet
Watershed Protection Section Manager
Wyoming Department of Environmental Quality
200 West 17th Street
Cheyenne WY 82002

Dear Mr. Waterstreet:

Per your request, the enclosed CD is the GIS data (NHD base, 1:100,000 scale) for Wyoming waterbodies on National Forest System (NFS) lands in the Rocky Mountain Region that we would like to have remain designated as primary contact recreation. As we stated in our September 15, 2015 letter, we have determined that a change in recreation use designation from primary to secondary would conflict with congressional mandates under the Wilderness Act of 1964 (P.L. 88-577) and the Wild & Scenic Act of 1968 (P.L. 90-542) and related policy and resource management planning documents to maintain existing water quality in these areas. The applicable language from these Acts follows:

- Wild and Scenic Rivers Act (16 U.S.C. 1271), Section 1(b) states:
"It is hereby declared to be the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations. The Congress declares that the established national policy of dam and other construction at appropriate sections of the rivers of the United States needs to be complemented by a policy that would preserve other selected rivers or sections thereof in their free-flowing condition to protect the water quality of such rivers and to fulfill other vital national conservation purposes." (emphasis added)
- Wilderness Act of 1964 (16 U.S.C. 1131a), Section 2(a) states:
"...it is hereby declared to be the policy of the Congress to secure for the American people of present and future generations the benefits of an enduring resource of wilderness. For this purpose there is hereby established a National Wilderness Preservation System to be composed of federally owned areas designated by Congress as 'wilderness areas,' and these shall be administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character..." (emphasis added)



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- Wilderness Act of 1964 (16 U.S.C. 1131c), Section 2(c) further defines wilderness as: *“A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain. An area of wilderness is further defined to mean in this chapter an area of underdeveloped Federal land retaining its primeval character and influence, without permanent improvements or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man’s work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation;...”* (emphasis added)
- Wilderness Act of 1964 (16 U.S.C. 1133b), Section 4(b) mandates the preservation of wilderness character: *“Except as otherwise provided in this chapter, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character. Except as otherwise provided in this chapter, wilderness areas shall be devoted to the public purposes of recreational, scenic, scientific, educational, conservation, and historical use.”* (emphasis added)

Given this management direction, we are providing GIS data for the following segments. We ask that these segments remain designated as primary contact recreation use. We understand the effect of retaining the primary contact recreation use designation would be to protect the existing designated use, but not necessarily the existing water quality:

- Designated wild and scenic rivers
- All upstream waters and tributaries of designated wild and scenic rivers (note that only perennial and named streams are mapped)
- Suitable and recommended wild and scenic rivers (also known as candidate rivers)
- All upstream waters and tributaries of suitable and recommended (candidate) rivers
- Eligible river segments. Tributaries to eligible river segments are not recommended for primary contact recreation status.
- All streams within legislated wilderness study areas
- All upstream waters and tributaries to waters within designated wilderness that are outside of designated wilderness, and legislated wilderness study areas (WSA’s)
- All streams within Forest Plan recommended wilderness areas

We are not providing GIS data for the surface waters located within the boundaries of congressionally designated wilderness areas as of January 1, 1999, to which the Wilderness Act of 1964 (P.L. 88-577) also apply, because they are designated as Class 1 waters and will remain designated as primary contact recreation use (Wyoming Water Quality Rules and Regulations, Chapter 1, Appendix A).

Thank you for considering our request. If you have any question, contact Hydrologist Joan Carlson at 303-275-5097 or jy Carlson@fs.fed.us.

Sincerely,



 DANIEL J. JIRÓN
Regional Forester

Enclosure (CD)

cc: Joan Carlson, Ralph Swain

9/13/15

RECEIVED

Wyoming D.E.Q.

SEP 17 2015

WATER QUALITY DIVISION
WYOMING

Just a short note to tell you I oppose the proposed reclassification of streams to allow increased E-Coli levels. I am an avid backpacker and hiker. I normally hike and backpack in the Wind River and Snowy Range mountains as well as the Happy Jack area outside of Laramie. I frequently cool off and get my drinking water out of low flow mountain streams.

Increased E-Coli levels in low flow water would also affect bodies of water downstream.

If possible, would you please hold a hearing in Laramie on the proposed plan on stream reclassification?

Sincerely,
Bill Voigt
1708 Steele
Laramie WY
82000

Figure D-8. Wyoming Farm Bureau Federation (1 page)



September 17, 2015

RECEIVED

David Waterstreet, Watershed Section Manager
Wyoming Department of Environmental Quality
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SEP 23 2015

WATER QUALITY DIVISION
WYOMING

RE: Public Notice, July 23, 2015, Categorical Use Attainability Analysis for Recreation

The Wyoming Farm Bureau Federation attended the public hearing held by the Wyoming Department of Environmental Quality in Casper on the 16th of September. We provided written comments on the UAA as well as oral comments.

One of the items that was brought up by some of the environmental presenters was their feeling that waters which were in wilderness areas, wilderness study areas or some other special designated area should be automatically classed as primary contact waters.

Wyoming Farm Bureau Federation would oppose this type of an "automatic" designation on several grounds. Perhaps the most important would be that such a designation automatically bypasses the scientific model designed to correctly categorize these water bodies. By automatically placing a water body into a primary recreation category based entirely on a political boundary, the process would then become a political football instead of a scientific endeavor.

One of the presenters also wanted Areas of Critical Environmental Concern or ACECs included. This would also bypass the BLM's process of establishing ACECs based on a defined need. It would also make for some interesting regulatory processes. A stream legitimately identified as a secondary contact recreational water flows into an ACEC whereupon it magically transforms itself into a primary contact stream. Once it leaves then it could again transform back. An interesting process to say the least.

It was unclear whether the proponents of this "classification by location" proposal contemplate allowing these water bodies to be reclassified based on information from an on-site UAA or not, but given the resistance we've seen from some of these groups, we believe such an action would be strongly protested.

The last point we have would be the idea that water bodies only need be in a certain location and they would obtain a classification outside of any scientific assessment. We are aware that we already have such a system imposed by EPA on the State. We don't need to perpetuate the process.

Sincerely,

Ken Hamilton
Executive Vice President

cc Board
WyFB UAA additional comments

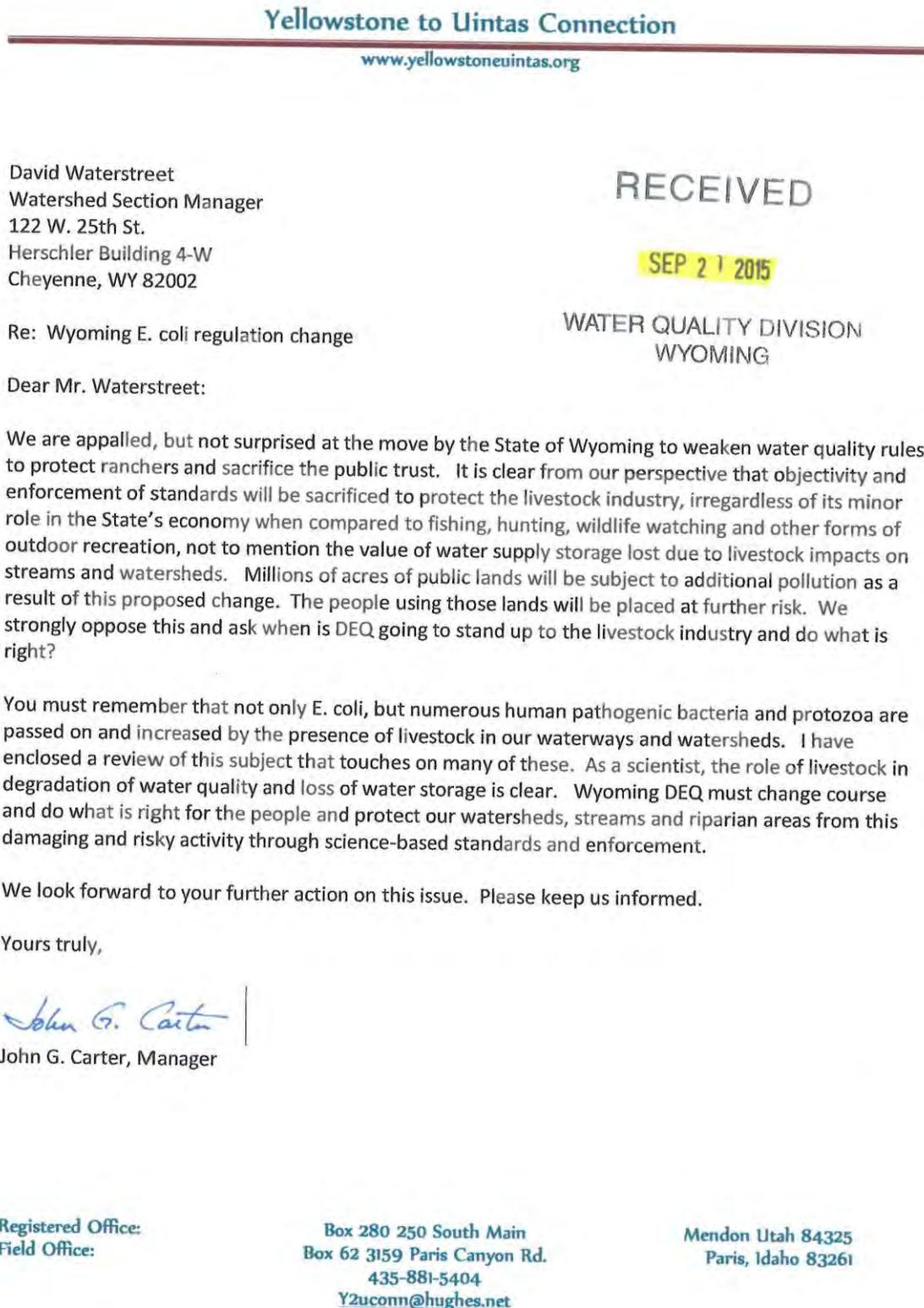
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WACD

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Figure D-9. Yellowstone to Uintas Connection (10 pages)



**Livestock and Water Quality
Literature and Examples**

By

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Edited 07/11/2012

Introduction

The feeding, housing and grazing of livestock throughout the U.S. is a pervasive presence. Watershed and water quality degradation accompany this industry and affect nearly every water body in the U.S. Government regulation is inconsistent and ineffective at controlling these problems. This discussion explores the scope of the problem nationally but provides a focus on one problem area that for a variety of reasons is not addressed in any meaningful fashion by government agencies. This is the influence of livestock on our Public Lands, their watersheds and water quality, particularly in the eleven contiguous western states.

The Scope of the Problem

The Environmental Defense fund summarized statistics from the 1997 U.S. Department of Agriculture Census of Agriculture (EDF 2000). The amount of animal manure and urine generated in the United States on an annual basis is staggering. Table 1 provides a summary of the waste generated and the amounts of nitrogen and phosphorous contained in that waste by type of livestock. A further summary of livestock in the eleven western states is shown in Table 2. Cattle are by far the largest generators of waste, producing about 3.5 tons/year for every man, woman and child in the U.S.

Table 1. Summary of Animal Wastes in the United States

Livestock Type	Number	Waste tons/yr	Nitrogen in Waste tons/yr	Phosphorous in Waste tons/yr
Hogs	57,450,288	110,000,000	650,000	225,000
Cattle	99,275,900	750,000,000	4,100,000	1,000,000
Poultry	1,316,425,230	50,000,000	650,000	205,000
Sheep	7,588,377	3,000,000	32,000	6,500
Total	1,480,739,795	913,000,000	5,432,000	1,436,500

Table 2. Livestock waste generated in the eleven western states

State	Cattle Waste tons/yr	Sheep Waste tons/yr	Hog Waste tons/yr	Poultry Waste tons/yr
Arizona	6,900,000	30,000	17,000	400
California	51,000,000	310,000	380,000	2,800,000
Colorado	19,000,000	230,000	850,000	1,600
Idaho	15,000,000	100,000	55,000	820
Montana	19,000,000	170,000	290,000	5,800
Nevada	4,100,000	36,000	2,300	210
New Mexico	13,000,000	120,000	11,000	540
Oregon	11,000,000	110,000	60,000	78,000
Utah	7,000,000	170,000	550,000	21,000
Washington	11,000,000	21,000	69,000	230,000
Wyoming	11,000,000	280,000	150,000	520
Totals	168,000,000	1,577,000	2,434,300	3,138,890

Cattle waste exceeds all others by approximately 100-fold in these states and the total waste generated by all forms of livestock comprises about 18% of the national livestock waste stream.

According to GAO (1995) in their 1992 National Water Quality Inventory Reports to Congress, eighteen states reported on agricultural non-point pollution by specific categories. These categories and their percent of agriculturally impaired stream miles were feedlots (26%), rangeland (25%), irrigated cropland (42%) and non-irrigated cropland (31%). Manure accounts for significant percentages of the nitrogen and phosphorous inputs to watersheds across the country. For example in the western United States, manure accounted for 39 percent of phosphorous and 53 percent of nitrogen input to watersheds. Statistical studies also indicated that increases in stream loadings of these nutrients are correlated with increases in the concentration of livestock populations in the watersheds (GAO 1995).

Public concern has been raised by the occurrence of drinking water contamination, fish kills, shellfish contamination, swimming advisories, nuisance odors and the links of these problems to agricultural practices. According to EPA (1998a), "AFO¹ activities can cause a range of environmental and public health problems, including oxygen depletion and disease transmission in surface water, pathogens and nutrient contamination in surface and ground water, methane emissions to the air, and excessive buildup of toxins, metals and nutrients in soil. ... AFOs have also been identified as substantial contributors of nutrients (e.g. nitrogen and phosphorous) in water bodies that have experienced severe anoxia (i.e., low levels of dissolved oxygen) or outbreaks of microbes, such as *Pfiesteria piscidia*." In 1991, a billion fish died from a *Pfiesteria* bloom in North Carolina's Neuse River Estuary (Burkholder 1999).

EPA efforts to address environmental and health concerns from AFOs and CAFOs² began in the 1970's. These efforts have included issuing permits under the Clean Water Act and promoting voluntary efforts among livestock producers to limit pollution. These efforts have not worked, the problem persists and has intensified as the size and numbers of these operations have increased. "Evidence suggests that EPA's regulatory and voluntary efforts to date have been insufficient to solve the environmental and health problems associated with AFOs. Agricultural practices in the United States are estimated to contribute to the impairment of 60 percent of the nation's surveyed rivers and streams; 50 percent of the Nation's surveyed lakes, ponds, and reservoirs; and 34% of the Nation's surveyed estuaries..." (EPA 1998a). EPA estimates that feedlots alone adversely impact 16% of impaired waters. This indicates that land application of manure and grazing of livestock on private and public lands contributes a majority of this pollution. While the Federal Water Pollution Control Act in 1972 designated feedlots as point sources, the FWPCA amendments of 1972 excluded agricultural storm water discharges and return flows from irrigated agriculture from NPDES permitting. Pastures and rangeland were also excluded, although a recent appellate court ruled that runoff from cropland used for disposal of manure from a facility designated as a point source was also a point source (Martin 1997). After nearly a 30 year delay, EPA is requiring states to establish Total Maximum Daily Loads (TMDLs) under Section 303D of the 1972 Clean Water Act. A TMDL is a calculation of the maximum amount of a pollutant that a water body can receive from both point and non-point sources and still meet water quality standards, and an allocation of that amount to the pollutant's sources.

Current EPA strategy to address this growing problem is focused on increased permitting of CAFOs and operations including the land application of manure from permitted facilities, focus on priority watersheds based on the number of CAFOs, AFOs and AUs, revise existing regulations and increase coordination with other Federal and State agencies and agriculture, and promotion of voluntary efforts, many of which provide money to operators to implement best management practices (EPA 1998a). For example during 1992 – 1994, \$89 million was provided to farmers for these voluntary assistance programs. GAO (1995) also reported there are about 6,600 CAFOs with more than 1000 AUs in the U.S. Between 1987 and 1992

¹ Animal Feeding Operation defined in 40 CFR 122.12(b)(1) as a facility in which "... animals have been, are or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility."

² Concentrated Animal Feeding Operation defined in 40 CFR 122 Appendix B as a facility that "Confines more than 1,000 animal units (AU); or confines between 301 to 1,000 AU and discharges pollutants: into waters of the United States through a man-made ditch, flushing system, or similar man-made device; or directly into waters of the United States that originate outside of and pass over, across, or through the facility or otherwise come into direct contact with the animals confined in the operation."

the number of animal units in the U.S. increased by about 4.5 million, or 3% with a decrease in AFOs and an increase in CAFOs, or the larger operations. (EPA 1998a).

“According to EPA, many operations with more than 1,000 animal unit equivalents are not required to have point source permits because they do not discharge during most storm events; others should have permits but do not because of mistaken exemptions or limited federal or state resources for identifying operations needing permits.” GAO (1995).

The five leading causes of water quality impairment of rivers are in order: (1) siltation, (2) nutrients, (3) bacteria, (4) oxygen-depleting substances and (5) pesticides. The five leading sources of impairment in order are: (1) agriculture, (2) municipal point sources, (3) hydrologic modification, (4) habitat modification and (5) resource extraction. Habitat modification includes such factors as destruction of watershed and streamside vegetation with the accompanying instream changes. Hydrologic modification includes flow reduction such as irrigation withdrawals (EPA 1998b) and changes in flow duration and timing.

The Federal government owns approximately 316 million acres of land in the 11 contiguous western states. Of these, 174 million acres of Bureau of Land Management land (Carlson and Horning, 1992) and 95 million acres of Forest Service (FS) land are grazed by livestock (USDA 1996). In addition, 212 million private acres are grazed by livestock (Armour et al 1991). Livestock grazed on BLM lands in 1994 included 7,639,992 cattle and horses and 8,587,695 sheep and goats (BLM 1996). Animals grazed on Forest Service land in 1989 included 1,150,565 cattle, horses and burros and 1,035,472 sheep and goats (USDA 1990).

Armour et al (1991) presented startling figures on watershed, wildlife habitat and riparian conditions. According to their analysis, 52 million acres of big game habitat, 100 million acres of small game and non-game habitat on BLM lands have declined in quality and 19,000 miles of sport fishing streams have declined due to land management practices including livestock grazing. They indicate similar losses on western National Forests (41 million acres) and private rangeland (134 million acres.) Fleischner (1994) pointed out that the ecological costs of livestock grazing include loss of biodiversity, declining populations, disruption of ecosystem functions, changes in community organization and change in the physical characteristics of terrestrial and aquatic habitats. Platts (1991) stated, “Many streams in the west are in their present degraded condition partly because many small annual effects have accumulated to become major detriments to fisheries; western streams reflect a century of these activities. The literature well demonstrates, however, that improper livestock grazing degrades streams and their riparian habitats.”

Effects of Livestock Grazing on Stream Ecosystems

One cannot address stream ecosystem effects of livestock grazing without a recognition of the interwoven and connected nature of watersheds, riparian zones, streams and watershed activities. Activities affecting watersheds or riparian zones also affect stream ecosystems directly, indirectly and cumulatively. Several recent reviews of livestock impacts on ecosystems have covered this topic in detail using hundreds of government documents and peer-reviewed scientific papers. These have included Armour et al (1991), Belsky et al, (1999), Fleischner (1994), Gregory et al (1991), Kauffmann and Kreuger (1984) and Platts (1991). The following discussion is drawn to a large degree from these references.

It is first important to understand that there is no portion of a watershed that is not connected to its riparian and stream ecosystem. It was said extremely well by Gregory et al (1991); “More than any other ecosystem, the structure and processes of lotic ecosystems are determined by their interface with adjacent ecosystems. The narrow, ribbon-like networks of streams and rivers intricately dissect the landscape, accentuating the interaction between aquatic and surrounding terrestrial ecosystems. Along this interface, aquatic and terrestrial communities interact along steep gradients of ecosystem properties. The linear

nature of lotic ecosystems enhances the importance of riparian zones in landscape ecology. River valleys connect montane headwaters with lowland terrains, providing avenues for the transfer of water, nutrients, sediment, particulate organic matter and organisms. These fluxes are not solely in a downstream direction. Nutrients, sediments and organic matter move laterally and are deposited onto floodplains, as well as being transported off the land into the stream. River valleys are important routes for the dispersal of plants and animals, both upstream and downstream, and provide corridors for migratory species.” It is this interconnectedness that is often overlooked by land managers. Thus, roads, timber harvests, livestock grazing and other watershed activities also affect streams that appear to be distant and unconnected to these activities.

Within uplands, soil, plant and animal communities developed and evolved over long periods of time and exist in a state of dynamic equilibrium with climatic and geologic forces. The soils and associated plant communities and plant litter absorb precipitation and allow it to percolate into the groundwater, reducing flooding and erosion. Animals and microorganisms work and aerate the soil and break down organic matter, maintaining the carbon and nutrient cycles upon which the ecosystem depends. The removal of vegetation and trampling by livestock denudes and compacts the soil, promoting drying, heating and alteration of the biological community. Precipitation is less effectively captured by the soil and runs off, carrying away the topsoil. In areas of the Bear River Range in northern Utah, as a result of livestock grazing, topsoil loss has approached one or two feet (Winward, 1999). This alteration in the watershed results in more rapid delivery of storm or snowmelt runoff into watercourses, carrying with it increased sediment and nutrient loads. This increase in runoff reduces the amount of water infiltrating into the ground and depletes the groundwater, resulting in lowered water tables and desertification. The net result for the stream ecosystem is a change in the duration and timing of inflows and decreased summer baseflows from the loss of late season groundwater inputs.

The riparian zone creates well-defined habitats within the drier surrounding landscape. While they make up a small portion of the overall area, riparian zones are generally more productive in plant and animal biomass than the surrounding areas and are high in diversity. Kauffmann et al (1984) point out examples of riparian diversity in a study area in Oregon. Within the area, 258 stands of riparian vegetation represented 60 discrete plant communities. They cite (Cummins and Spengler, 1978) that riparian vegetation provides up to 90% of the organic matter necessary to support headwater stream communities and Cummins (1974) that 99% of stream energy input may be imported from bordering riparian vegetation and only 1% derived from instream photosynthesis. Further, woody debris derived from riparian tree and shrub communities is important in slowing the stream, reducing energy and controlling erosion. It also provides diversity of habitats in small streams, helping create pools, settling out sediment, providing substrate for invertebrates and cover for fish. In addition, riparian vegetation provides shading for the stream, consequently lowering stream temperatures and providing cover for fish.

Gregory et al (1991) note that dissolved nutrients are transported into streams primarily in the groundwater. Because of the riparian zone position within the watershed, it intercepts the soil solution as it passes through the rooting zone prior to entering the stream. Riparian zones also contribute seasonal pulses of dissolved constituents derived from plant litter into streams. Thus the riparian zone functions to remove nutrients and modify inputs to the stream. Citing Peterjohn and Correll (1984) they noted that riparian forests were responsible for removal of more than three-quarters of the dissolved nitrate transported from croplands into a Maryland river. Because of their unique position at the interface between terrestrial and aquatic ecosystems, riparian zones play a critical role in controlling the flow of nutrients from watersheds.

Within streams organic inputs from the terrestrial ecosystem such as leaves, litter, woody debris, insects and photosynthesis provide the food or energy base supporting the aquatic biota. Algae, bacteria and fungi use organic substrates, nutrients and light for growth. Invertebrates process plant and other organic material, algae and microbes. Fish are adapted at various lifestages from larval to juvenile to adult to use

these sources of energy in their different forms. Many other forms of life including birds and mammals also depend upon these various organisms as a food source.

Livestock can interrupt the balance of this dynamic and diverse system by removing vegetation from upland areas resulting in compaction of soils which increases runoff, removal of vegetation which increases temperature and promotes drying of soils, the lowering of water quality in streams, increasing temperature in streams. Removal of streamside vegetation reduces in-stream cover, changes stream channel morphology, shape and quality of water column and the structure of streambank soil. These changes result in changes in stream biota. The following describe the direct and indirect effects of these alterations in the terrestrial ecosystem on the physical, chemical and biological components of stream ecosystems.

Stream Channel Morphology

The removal of riparian vegetation has severe effects on stream channel characteristics. Streambank stability is reduced due to fewer plant roots to anchor soil, less plant cover to protect the soil surface from erosion, disturbance and the shear force of trampling hooves. Impacts include increased streambank sloughing, increased erosion, increased channel width and reduced depth. Streambank undercuts are reduced due to streambank breakdown by sloughing and trampling. The stream channel contains fewer meanders and gravel bars due to increased water velocity. Pools decrease in number and quality from increased sediment and loss of woody debris (Belsky et al 1999). Marcuson (1977) found average channel width in a grazed area to be 53 meters and in an adjacent ungrazed area 18.6 meters while the ungrazed area had 686 meter/km of undercut banks and the grazed area only 224 meters/km. Duff (1979) found the stream channel width in a grazed area was 173% greater than the stream channel not grazed for 8 years. Platts (1991) stated, "When animals graze directly on streambanks, mass erosion from trampling, hoof slide and streambank collapse causes soil to move directly into the stream.

The loss of stream channel integrity and diversity results in impacts to fish populations. For example, Marcuson (1977) studied the difference in habitat and fish populations in grazed and ungrazed stream sections. The study documented 80% more stream alteration in the grazed area than in an adjacent ungrazed area with the grazed area losing 11 acres of a 120 acre pasture. The ungrazed section produced 256 more pounds of fish per acre than the grazed section. An enclosure study of a ¼ mile section of Big Creek, Utah after three years documented 3.6 times more fish in the ungrazed section than in the grazed reach downstream. Habitat studies showed the habitat inside the enclosure recovered significantly while areas outside the enclosure continued to decline under continued livestock use. Instream bank stabilization and habitat structures washed out in grazed areas but remained functional and in place within the enclosure. Native willows showed vigor and regrowth after four years rest (Duff 1977).

Sedimentation

Sediment load and turbidity increase from watershed inputs, instream trampling, disturbance and erosion from denuded streambanks, reduced sediment trapping by riparian and instream vegetation, loss of bank stability and increased peak flows from compaction. Fine sediments increase in depositional environments (pools, quiet water areas) from the increased erosion. White et al (1983) found sediment yield 20-fold higher in a grazed watershed when compared to an ungrazed watershed. USDA (1981) reported that topsoil erosion rates from grazed forest and rangeland were 4.2 tons/acre-year and 3.1 tons/acre-year compared to less than 1 ton for healthy forest and range. Packer (1998) documented that loss of soil in Utah and Idaho watersheds through erosion and runoff increased as ground cover decreased. A decrease in ground cover from 40% to 16% resulted in 6 times more runoff and 5.4 times more sediment yield. Belsky et al (1999) cite Trimble and Mendel (1995) who estimated that peak storm runoff from a 120 ha basin in Arizona would be 2 to 3 times greater when heavily grazed than when lightly grazed.

Sediments cover and fill rocky substrates, entomb eggs and larval fish and hinder emergence of hatched fish. Water flow in gravel is impaired, developing embryos do not receive sufficient oxygen and metabolic wastes are not flushed. Foraging success of aquatic organisms is reduced, fish migration can be disrupted, gill and respiratory systems of invertebrates and fish can be impaired. Species composition and numbers of invertebrates are changed by increased sedimentation and resultant habitat changes. Pools can be filled, dam and reservoir capacity reduced and filtration costs for domestic water supplies increased. Belsky et al (1999). Mortality for rainbow trout can exceed 75% when water column sediment concentrations approached 200 ppm. When sediment approaches 30% of substrate, <25% of eggs develop to emergence compared to >75% at sediment fractions <20% (Armour et al 1991).

Streamflow

As discussed above, overland flow increases due to reduced water infiltration into soils from compaction and loss of ground cover. This increases sheet and rill erosion and flooding. Groundwater recharge is reduced and the water table is lowered. Peak flows increase from larger runoff volumes flowing directly into the channel. Higher peak flows increase water velocity due to reduced resistance from streambank and instream vegetation and woody debris. The increased erosive energy results in downcutting, removal of submerged vegetation and woody debris for pool formation and reduced habitat diversity. Summer and late season flows are decreased due to less water stored in soil and lowered water table. The end result is loss of aquatic and riparian species, perennial streams become ephemeral and ephemeral streams are lost. Belsky et al (1999).

Nutrients

Nutrient concentrations increase as a result of runoff from disturbed watersheds, livestock urine and manure deposited on the watershed and in the stream. Nutrients are concentrated in reduced quantities of water (Belsky et al 1999). Saxon et al (1983) documented increases in runoff from more heavily grazed pastures when compared to those with less pressure. They suggested a linear relationship between runoff volume and nutrient loss. Hubbard et al (1987) studied runoff from land application of dairy cattle wastes. Nutrient concentrations in runoff were directly related to the application rate of dairy wastes. Schepers et al (1982) found that precipitation, stocking rate, hydrologic characteristics and sediment content in runoff were directly related to nutrient and chemical outputs. From leachate tests, they suggested that manure and standing plant material were the likely sources of most chemical constituents in runoff water.

Temperature

The widening of stream channels, lowered summer water flows, loss of streamside vegetation, undercut banks and their shading effect result in warming of the water due to increased solar exposure. Removal of streamside vegetation in the hot, arid west can result in stream water temps >85 F (Armour et al 1991) Claire and Storch (1983) cited in Platts (1991) found that willow cover in an ungrazed area within a livestock enclosure provided 75% more shade to the stream than was found in the adjacent grazed area where willows were less abundant. Streams with little or no vegetative canopy are very susceptible to the formation of anchor ice Platts (1991).

Impacts of increased temperature include increased evaporation and salinity and a poor to lethal environment for salmonids and other temperature sensitive cold-water species. Fish growth is reduced due to an increased metabolic rate and suppression in appetite. High temperatures can be acutely lethal, promote disease because of increased stress, adversely impact spawning and reproductive success and impede growth and migration (Armour et al 1991). These factors and increased competition from warm

water fish which are more temperature tolerant can bring a shift from salmonids to non-game fish. Belsky et al (1991).

Dissolved Oxygen

Dissolved oxygen levels decline due to higher water temperatures which lower the oxygen holding capacity of water. Algal blooms deplete oxygen by respiration at night or high oxygen demand for decomposition of algae and fecal material. This lowered oxygen environment means insufficient oxygen in spawning gravels, reduced rate of food consumption, growth and survival of salmonids and other aquatic species, especially at their early life stages. Belsky et al (1999).

Pathogens

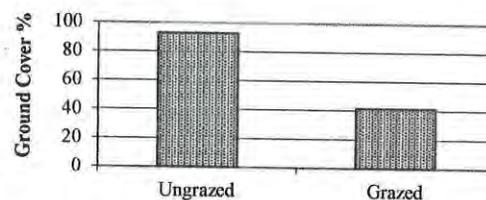
Pell (1997) in a review of 60 peer-reviewed scientific papers summarized major pathogens and health effects associated with dairy wastes. Numerous organisms causing health effects in humans from gastroenteritis to death were discussed. Protozoan species including *Cryptosporidium* and *Giardia*; bacteria species including *Salmonella*, *E. coli* O157:H7, *Brucella*, *Leptospira*, *Chlamydia*, *Rickettsia*, *Listeria*, *Yersinia*, and others were discussed. *Cryptosporidium* oocysts in the Milwaukee water supply in 1993 affected 403,000 people. *E. coli* O157:H7 is of concern because many outbreaks have been traced to ground beef and raw milk. *E. coli* O157:H7 can lead to kidney failure and death in some individuals. Pell (1997) said, "Aside from the problem of disease transmission among animals, more than 150 pathogens can cause zoonotic infections (from animals to humans).

Fecal coliform bacteria are a group of bacteria that reside in the intestinal tract of warm-blooded animals and are used as indicators of water pollution related to waterborne disease (EPA 1976). Cattle have been shown to produce 5.4 billion fecal coliform and 31 billion fecal streptococcus bacteria in their feces per day. Since cattle spend a significant portion of their time in or near streams, lakes and wetland areas and average 12 defecations per day, they can contribute significant numbers of these organisms to surface waters (Howard et al 1983).

Why Stream Health Problems Persist

In spite of the documentation of the level of watershed and habitat damage, and water pollution, public lands agencies universally protect the livestock industry, persist in denial about the negative effects of livestock on the landscape and engage in obfuscation when confronted with evidence. Agriculture and its non-point pollution have been effectively exempted from environmental regulation by delay, lack of monitoring and enforcement. As a result, little change comes about in the face of the ongoing damage. GAO (1988) found that grazing levels were not reduced on some allotments due to permittee and political pressure. EPA admits that regulatory and voluntary efforts to date have been insufficient to solve the environmental and health problems associated with AFOs (EPA 1998a). The following discussion revolves around documentary evidence collected by Dr. John Carter in the Wasatch-Cache National Forest and the denial and obfuscation used by the Forest Service to continue livestock use. Three examples are used (1) watershed health, (2) riparian health and (3) water quality.

Figure 1. Ground Cover



Watershed Health

During 10 years of monitoring vegetation, ground cover and soil conditions in allotments in the Logan Ranger District, extensive degradation has been documented in two allotments covering nearly 40,000 acres. Ground cover is low in grazed areas compared to ungrazed controls (Figure 1). In fact, over the ten year period, annual measurements have demonstrated that there is no significant improving trend in ground cover. Soil pits excavated in ungrazed and grazed areas showed soils in ungrazed areas had well developed soil profiles with good root structure and low erosion potential while soil profiles in grazed areas had poor root structure and high erosion potential. Winward (1998) in a tour of the area commented that one to two feet of topsoil had been lost in the grazed area being examined. Composite soil samples taken from each monitored location showed a reduction in soil nitrate and total nitrogen in grazed areas when compared to ungrazed areas, reflecting the ground cover conditions (Figures 2 and 3). This illustrates the watershed principles discussed earlier where removal of vegetation and ground cover increased runoff and erosion, carrying with it the associated soil and soil nutrients.

Numerous photos, letters and reports have been submitted to the Forest Service over a ten year period in an effort to get the Forest Service to address these issues. In spite of evidence such as this the Forest Service has failed to take action to protect these watersheds. The position of the Forest Service has been to deny damage, contend that their management will continue improving conditions (while failing to monitor) and that non-Forest Service observers don't know the difference between use and abuse.

Riparian Condition

Spawn Creek is a tributary of the Logan River in the Logan Ranger District, Wasatch-Cache National Forest. A two-mile section of this stream is annually grazed by 700 cattle. In 1997, Dr. Carter conducted a habitat survey to determine the condition of habitat attributes related to livestock use. The evaluation used methods described in USDA (1992). Bank stability, livestock trampling and instream cover were measured. Cattle were in the riparian pasture for one month. The evaluation documented that 89.5 percent of streambanks were trampled by livestock and were unstable. Undercut banks were found in only 3.5 percent of the stream, woody debris was nearly absent, providing less than 1 percent cover, shrubs provided almost no stream cover at 1.6%, stream substrate was embedded with silt, pools were minimally represented and average water velocity was high. All these factors indicate degraded stream habitat. Because Spawn Creek lacked significant riparian shrubs, during 1998, after one year's rest from livestock, willow growth was measured. It was determined that over 400 willows had appeared and were actively growing in an area that had been eaten to the ground during the previous grazing season while the cattle were present. Even though elk consume some portion of the willow growth, the evidence is clear both from this data and the literature that livestock are the principal mechanism for removal of willows.

These degraded habitat conditions were documented with photographs and a report submitted to the Forest Service (WCE 1998). Two years later, after resting the pasture during 1998 and 1999, the Forest

Figure 2. Nitrate in Soil

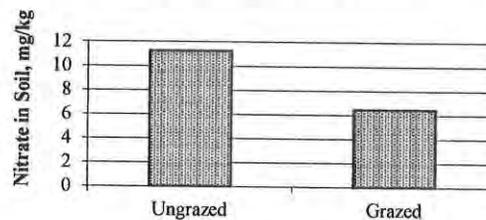


Figure 3. Nitrogen in Soil

