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POWDER RIVER BASIN RESOURCE COUNCIL PRESS RELEASE

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For Immediate Release

POWDER RIVER REVIVES CBM WATER RULE

Governor was wrong in rejecting EQC-approved proposal, group tells court

Gov. Dave Freudenthal's move to block a carefully prepared and thoroughly debated citizen initiative to reform management of coalbed methane discharge water was "arbitrary, capricious" and "not in accordance with the law," the Powder River Basin Resource Council stated in pleadings filed today in state District Court.

Freudenthal announced in late April that he would not approve the proposed rule, which had cleared the Environmental Quality Council in February after more than a year of hearings, revisions and debate. The rule promulgated by the EQC would have required the Department of Environmental Quality to require industry applicants to submit representative and valid data in support of their applications for permits to discharge CBM water. Such data would be required to establish that the discharged water is actually put to livestock or wildlife use during periods of discharge; and that the quantity of water did not cause unacceptable water quality.

"The Governor's conclusion that the rules reach beyond the statutory authority of the Environmental Quality Act is arbitrary, capricious, an abuse of discretion, not in accordance with the law and unsupported by substantial evidence," Powder River said in filing for review of the decision in state District Court in Cheyenne.

Freudenthal's "suspicions" and "assumption" about the intent of the rule and its impact on CBM activity are insufficient reasons to block a narrowly targeted and carefully crafted rule that won EQC support after months of work and extensive public input, the group said.

Powder River's request for legal review of the governor's action was a natural and necessary response, according to members of the group's board and other landowners in the Powder River Basin.

Phil Hoy, a Gillette businessman who sits on the Powder River board, recalled a meeting of the group's leaders and Freudenthal in late 2005. "He told us then that his hands were tied and we had to get him something he could work with to bring the CBM water discharge problems under control," Hoy said.

"Well, we did just what he asked us to do. We spent a lot of time, money and effort going through every step of the process, and so did the EQC. And in the end, the governor cut us off at the knees. He told us to get a rule passed, but then when we did, he went against the will of the people. Someone in government has to stand up for the people—but the governor doesn't seem to want the job."

Powder River board Chairman Bob LeResche, who owns a farm on Clear Creek near Clearmont and was one of the original petitioners for the rule, said he was especially concerned by Freudenthal's argument that the EQC can't promulgate citizen-proposed rules without first clearing them with state bureaucrats at the Department of Environmental Quality.

"One of the things the governor claims is that they can't change a rule at the request of citizens—that it has to originate with some bureaucrat," LeResche said. "But that's not the way democracy works. It's not the way rules are set up in Wyoming. Our citizens in Wyoming have successfully petitioned the Council before, and other governors have not demanded bureaucratic approval."

Bill West, an Arvada rancher who joined the rulemaking petition, said Freudenthal's decision continues to allow CBM discharges to damage landowners.

"The quantity of CBM water affects quality," West said, "The Council realized that DEQ's assumption that all the CBM water is being beneficially used by livestock and wildlife is not a legitimate way to issue permits. In fact, very little of the CBM water is put to use."

Steve Adami, a rancher and accountant from Buffalo who sits on Powder River's board and signed the original petition, rejected Freudenthal's position that the EQC—and the agency it oversees, the DEQ—lack the power to make and enforce rules governing water discharges that are damaging the environment.

"That's more of a smokescreen than a real argument," Adami said. "What is frustrating is while the Governor and DEQ are splitting legal hairs in Cheyenne, there are real problems with CBM water discharges causing environmental harm that need to be addressed. If CBM discharged water is causing harm to the environment then DEQ should have the ability to regulate that water. If they would have addressed these problems in a proactive manner rather than continually trying to find some way to avoid dealing with it, the rule making petition would not have been necessary. It is unfortunate we have to go to court in an attempt to get the DEQ to do their job."

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