



Department of Environmental Quality



To protect, conserve and enhance the quality of Wyoming's environment for the benefit of current and future generations.

Dave Freudenthal, Governor

John Corra, Director

January 18, 2007

Ms. Sheila G. Dillard
U.S. Department of Energy
Office of Legacy Management
LM-10/FORS
1000 Independence Avenue, SW
Washington, DC 20585

RE: Draft *Strategic Plan*, U.S. Department of Energy (DOE), Office of Legacy Management

Dear Ms. Dillard:

The Wyoming Department of Environmental Quality, Water Quality Division (WDEQ/WQD) has reviewed the above referenced draft document and would like to take this opportunity to provide you with comments developed following staff review. As the regulatory agency for water quality issues in Wyoming we are responsible for protecting and, when necessary, overseeing the remediation of all water resources.

Uranium mill tailing sites, uranium mines, and associated operations have impacted both surface water and groundwater resources in Wyoming. As long term management of these facilities passes to the U.S. Department of Energy (DOE) the WDEQ must be involved with the transfer of control from the U.S. Nuclear Regulatory Commission (NRC) because of our responsibilities to protect human health and the environment. Our concerns lie especially with contaminants that may migrate beyond facility boundaries.

We continue to be concerned with overall size, or area, of existing and proposed *Legacy Management* sites in Wyoming, some of which encompass hundreds, if not thousands of acres. We prefer to not see large tracts of land in Wyoming fenced off, have public access restricted, or otherwise made unavailable for use. ~~To reduce the size of these sites we believe that natural attenuation as a final remedy for ground water contamination, should rarely be the preferred remedy; should never require, nor result in extending long term care boundaries in order to meet standards; should allow for public review and comment; and always include continued, frequent ground water monitoring to confirm modeled predictions.~~

We have urged the NRC, and urge you, to make every effort to reduce the size of future, as well as existing *Legacy Management* sites, recognizing that to do so may require extending the operation of an active remedy for a longer period of time or more aggressive remedial actions. In all cases, the costs associated with the management and control of large areas, as well as the loss of public benefit



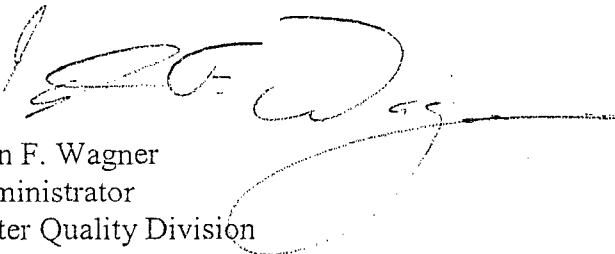
from access to those areas should always be given careful consideration during the evaluation and selection of remedial options. We believe that the development of new and emerging groundwater remediation technologies may be able to clean up these sites more quickly or efficiently, and that DOE should carefully consider encouraging and supporting their application at *Legacy Management* sites.

While the draft *Strategic Plan* implies the importance of coordination and communication with state regulatory agencies and the public in Part IV (*Success Indicators*, "Community, state, ... acceptance of remedy maintenance."), we believe that more definitive procedures, other than simply relying on NEPA requirements, are critical to the 'acceptance' process and warrant further discussion in the final document.

Language has been included in *Long Term Surveillance Plans* (LTSPs) to require additional corrective action if contaminants in ground water migrate beyond facility boundaries. The draft *Strategic Plan* recognizes the potential for these situations to develop (Part III: *Legacy Management*, and Part IV: *Goal 1*) but fails to discuss the criteria that determine when, and if further corrective action is needed, or the source of funding for unexpected, yet necessary, corrective actions. Recognition of the potential for remedy failure suggests that final remedy selections should be based upon careful consideration for success. In the final analysis, remedies having less chance of success should require an evaluation of the costs associated with future corrective action in anticipation of future failure.

We are pleased to see DOE's plans for becoming involved earlier in the corrective action process. We work closely with the Nuclear Regulatory Commission (NRC) on the restoration of many UMTRA Title I and Title II sites here in Wyoming, and believe that a closer working relationship with the DOE on the *Legacy Management* sites may help to resolve the issues and concerns identified in this letter. We look forward to working closely with the DOE to carry these sites forward into the future.

Sincerely,



John F. Wagner
Administrator
Water Quality Division

JFW/bb/7-0023.LTR

cc: Mr. Mark Thiesse, District Supervisor, WQD Lander
Mr. Kevin Frederick, Program Manager, WQD Cheyenne
Mr. Gary Janosko, Branch Chief, Fuel Cycle Facilities Branch, U.S. Nuclear Regulatory Commission