



*Transmitted via email*

September 1, 2020

Teton District Board of Health  
460 East Pearl Ave.  
Jackson, WY 83001

Board of County Commissioners  
200 South Willow  
Jackson, WY 83001

***Re: Proposal for Rulemaking to Protect Teton County's Public Water Systems***

Dear Board Members:

Humans have a fundamental right to clean drinking water and sanitation.<sup>1</sup> Providing our residents safe, clean and affordable drinking water and basic sanitation are without a doubt core government responsibilities.<sup>2</sup>

With those basic principles guiding us, Protect Our Water Jackson Hole and Wyoming Outdoor Council are pleased to submit for your consideration a draft rule intended to ensure that our community: from Hoback Junction to Buffalo Valley and everywhere in between, has safe, clean and affordable drinking water now and in the future. One critical and indispensable step in achieving this goal is through local government action to prevent nitrate levels in groundwater utilized by public water systems from ever again exceeding the EPA's maximum contaminant level of 10 milligrams per liter (10 mg/L). Doing so requires *early intervention* by county agencies in cases where nitrate levels in a public water system reach 3 mg/L which is the level indicating groundwater contamination.<sup>3</sup> As a community, we must *prevent future "Hobacks"* and this rule is a huge step toward doing exactly that.

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<sup>1</sup> See Resolution 64/292 of the United Nations General Assembly adopted on 28 July 2010, *The Human Right to Water and Sanitation* available at: [https://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/64/292](https://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/64/292)

<sup>2</sup> Sharmila L. Murthy, *A New Constitutive Commitment to Water*, 36 B.C.J.L. & Soc. Just. 159 (2016), <https://lawdigitalcommons.bc.edu/jlsj/vol36/iss2/2>

<sup>3</sup> See U.S. EPA - Estimated Nitrate Concentrations in Groundwater Used for Drinking, available at: <https://www.epa.gov/nutrient-policy-data/estimated-nitrate-concentrations-groundwater-used-drinking> ("While

As proposed, the rule would require all public water systems located in Teton County to register with the health department. The registration information required by the proposed rule would be the same information public water systems currently provide to the U.S. Environmental Protection Agency. The information would be stored in a publicly accessible and user-friendly database maintained by the county. For the vast majority of the 114 public water systems operating in Teton County, registration with the health department would be the only requirement.

However, in the event nitrate levels in public water systems reach 3 mg/L or higher, a number of actions would be triggered, including reporting (Chapter 6) and public notice (Chapter 7). The proposed rule specifies in Chapter 8 that if nitrate levels exceed 3 mg/L in two consecutive months, or three times in any calendar year, *an investigation of the public water system, wellhead(s), and surrounding area must be conducted*. The purpose of the investigation is to identify obvious sources of nitrate contamination that may be impacting the public water system, and to report findings and recommendations based on the investigation. Depending on those findings and recommendations, Chapter 9 may require *remedial action* to ameliorate groundwater nitrate levels, including replacement or removal of septic systems, if necessary.

The final provision, outlined in Chapter 10, requires all public water systems in Teton County to have a Wyoming DEQ—approved source water assessment and source water protection plan on file with the health department, and to make those plans available to the public upon request. Federal and State funding may be available to defray costs associated with the preparation of these plans.

We believe these simple, straightforward measures will help to prevent another Hoback from ever happening again in Teton County. And we believe our community would agree this rule is necessary. The unfortunate—and enormously costly—situation impacting Hoback Junction could have been avoided by early intervention when it became apparent years ago that nitrate levels in public water systems were trending upwards. But regrettably, no action was taken, and nitrate contamination now exceeds EPA’s maximum contaminant limit of 10 mg/L and has rendered groundwater in the Hoback area unfit to drink without expensive filtration. Many residents without access to resources drink bottled water, or simply do without, putting themselves and their families at risk. Nitrate levels exceeding 10 mg/L violate Wyoming’s groundwater quality standards for domestic use, creating significant uncertainty and possible constraints on further septic system-dependent development in this area.<sup>4</sup>

Hoback Junction is the proverbial canary in the coal mine—we must take action now to prevent the situation from repeating itself in other unsuspecting areas or neighborhoods. As you know, Teton Conservation District has identified a number of “nitrate hot spots” emerging in

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nitrate does occur naturally in groundwater, concentrations greater than 3 mg/L generally indicate contamination (Madison and Brunett, 1985), and a more recent nationwide study found that concentrations over 1 mg/L nitrate indicate human activity (Dubrovsky *et al.* 2010”).

<sup>4</sup> WDEQ/WQD Water Quality Rules and Regulations, Chapter 8.

other areas of our county. As a community, we must do everything in our power to prevent a repeat of what happened in Hoback.

The proposed rule would also implement a recommendation made by the Hoback Steering Committee:

Recommendation #3: Drinking water issues that are identified within public drinking systems have the potential to also affect private drinking water systems. No formal mechanism exists to assure that private well owners are aware of the problem. There is need for outreach to adjacent private well owners when public water systems fail.<sup>5</sup>

We believe this draft rule provides a sound starting point upon which to build the necessary regulatory framework to address these significant community concerns. Let's learn from Hoback and get out in front of this before it's too late.

We appreciate the opportunity to share our recommendations, and look forward to working with you and other community members to achieve a satisfactory and successful outcome.

Sincerely,



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Dan Heilig  
Senior Conservation Advocate  
Wyoming Outdoor Council



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Dan Leemon  
Executive Director  
Protect Our Water Jackson Hole

Cc: Teton Conservation District

Enclosure: Proposed rule

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<sup>5</sup> See Hoback Drinking Water Stakeholder Group Final Recommendations Teton County Board of County Commissioner Meeting: 06/08/2020 Carlin Girard: Water Resources Specialist, Teton Conservation District