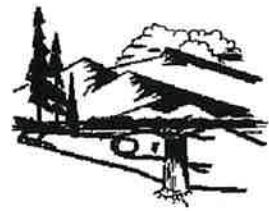




Department of Environmental Quality

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



Mark Gordon, Governor



Todd Parfitt, Director

July 30, 2024

Kelly Lamborn
Bureau of Land Management
Kemmerer Field Office
430 North Highway 189
Kemmerer, WY 83101-9711

RE: Wyoming Dept. of Environmental Quality Comments – Southwest Wyoming Carbon Dioxide Sequestration Environmental Assessment, DOI-BLM-WY-D090-2023-0010-EA

Dear Ms. Lamborn,

On behalf of the Wyoming Department of Environmental Quality (WDEQ), we appreciate the opportunity to comment on the Southwest Wyoming Carbon Dioxide Sequestration Environmental Assessment. WDEQ is charged with conserving and enhancing the quality of Wyoming's environment for the benefit of current and future generations. We envision a future where vibrant economic development and prosperity are achieved while providing sound and sensible environmental protection that protects human health and the environment.

It is important to note as a foundation for our comments that WDEQ has been delegated primacy over multiple programs by the federal government – water, air, solid and hazardous waste, abandoned mine land reclamation, coal mining, and underground injection control (UIC) wells, including class VI, for the geologic sequestration of carbon dioxide. In addition, WDEQ permits and regulates all minerals mined in the state such as gravel and bentonite. WDEQ has also received an agreement state status with the Nuclear Regulatory Commission for uranium mining and processing in the State of Wyoming. Wyoming received primacy delegations and agreement status as a result of federal agencies agreeing that Wyoming and WDEQ have the environmental, permitting and regulatory structure in place to ensure that any activity within WDEQ's authority is handled in a manner that protects human health and environment.

WDEQ's Water Quality Division submitted comments to the BLM on May 9, 2024. WDEQ wants to reiterate these comments during the public comment period. A copy of the comment letter submitted by WDEQ on May 9 is attached.

If you have any questions or need additional information, please feel free to contact Keith Guille at 307-777-6105 or keith.guille@wyo.gov.

Sincerely,

Alan Edwards
Deputy Director
Wyoming Department of Environmental Quality

Cc: Todd Parfitt
Keith Guille
Jennifer Zygmunt

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Mark Gordon, Governor

Todd Parfitt, Director

May 9, 2024

Maura Bradshaw
Planning & Environmental Specialist
Bureau of Land Management, Rock Springs Field Office
280 Highway 191 North
Rock Springs, WY 82907

Sent via email: mbradshaw@blm.gov

RE: Southwest Wyoming CO₂ Sequestration Draft Environmental Assessment, Moxa Carbon
DOI-BLM-WY-D090-2023-0010-EA

Dear Ms. Bradshaw,

The Wyoming Department of Environmental Quality Water Quality Division (WDEQ/WQD) appreciates the opportunity to review the Bureau of Land Management's (BLM) Southwest Wyoming CO₂ Sequestration Draft Environmental Assessment (EA) for Moxa Carbon as a cooperating agency. WDEQ/WQD has reviewed Draft EA, dated April 2024, and based on our review, the following comments are provided for BLM's consideration:

1. As of today, the WDEQ/WQD has not received any information regarding this project; therefore, assumptions regarding the Class VI Project related to this Draft EA were made as part of this review.
2. The area outlined by Moxa Carbon for sequestration appears to encompass an unrelated Class VI project that has received Class VI Permits to Construct (issued December 2023). Moxa Carbon has yet to begin the Class VI application process or notify WDEQ of its intent to complete a project for CO₂ sequestration in that area.
3. WDEQ/WQD understands that Moxa Carbon would not be able to proceed with the use of the right-of-way (ROW) until a Notice to Proceed (NTP) is issued by BLM, which is contingent upon WDEQ/WQD issuing a permit authorizing injection for the project. However, the Draft EA is unclear as to whether this issued ROW is exclusive or non-exclusive, or if it is considered exclusive only upon issuance of the NTP. WDEQ/WQD recommends that clarification be made as to the exclusivity of the ROW prior to and after issuance of the NTP.
4. Under the Proposed Action subsection of Section 2.0, the Draft EA states, *"A ROW granting the use of BLM-administered federal pore space for permanent geologic sequestration would allow Moxa Carbon to seek approval from the State of Wyoming Department of Environmental Quality for the construction and eventual operation of one*

or more Class VI Underground Injection Control (UIC) wells utilizing the BLM-administered federal pore space.”

This language suggests that a BLM ROW is required before Moxa Carbon can apply for a Class VI permit to construct from the WDEQ. Obtaining a BLM ROW and applying for a WDEQ UIC Class VI permit to construct are exclusive of each other. The BLM ROW would need to be in place prior to WDEQ’s issuance of a permit authorizing injection, as the Class VI operator will need to access the pore space for the injected CO₂. WDEQ/WQD recommends that the Draft EA be revised to reflect the appropriate timeline for obtaining the BLM ROW.

5. Under the Pore Space Stipulations listed in Appendix 4, the EA states, “*Locations of CO₂ sequestration wells that penetrated structural closure along the Moxa arch or within the WY Thrust Belt should be evaluated for the presence of hydrocarbons and helium within the Nugget and Madison formations before injection of CO₂ begins.*”

As stated above, WDEQ/WQD has not received any information regarding this project and is therefore unaware of the target injection zone for this project. If the target injection zone for this project is the Nugget Formation, WDEQ/WQD would have significant concerns with the suggested evaluation in the Madison Formation. In general, WDEQ/WQD cannot support penetrating confining zones below the target injection zone, as doing so may compromise the confinement of the sequestered CO₂, creating a direct conflict with our regulations. Wyoming Water Quality Rules, Chapter 24, requires the operator to demonstrate confinement of the CO₂ plume. Therefore, it is imperative that operators with potential projects understand our regulations to plan site characterization and evaluation activities accordingly. WDEQ/WQD recommends the Draft EA be revised to “*for the presence of hydrocarbons and helium within the targeted injection formation(s) before injection of CO₂ begins.*” WDEQ/WQD also strongly encourages that operators with potential projects contact us early in project planning so that we can assist operators with understanding and complying with our regulations.

WDEQ/WQD appreciates the opportunity to coordinate with BLM and looks forward to future collaboration on this and other carbon capture and sequestration projects. Should you have any questions regarding our comments or need additional information regarding Wyoming’s Class VI regulations, please contact Tyler Harris at tyler.harris@wyo.gov or 307-777-7608.

Sincerely,



Jennifer Zygmunt
Water Quality Division Administrator

cc: Keith Guille, WDEQ Outreach Manager
Ross Breedlove, WDEQ Policy/NEPA Coordinator
Lily Barkau, P.G., WDEQ/WQD Groundwater Section Manager

Tyler Harris, P.G., Underground Injection Control Program

Tori Nye, WDEQ/WQD NEPA Coordinator

Lindsay Patterson, WDEQ/WQD Watershed Protection Surface Water Quality Standards
Coordinator