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July 18, 2018

Kevin Frederick, Administrator
Department of Environmental Quality
Water Quality Division
Department of Environmental Quality
200 W. 17th St., 4th Floor
Cheyenne, WY 82002

Re: Response to Townsend Creek Petition

Dear Mr. Frederick,

After our phone conversation on July 16, 2018, I went back to review the *Use Attainability Analysis (UAA) Implementation Policy*. Pursuant to the *UAA Implementation Policy*, the process to upgrade Townsend Creek to primary contact recreation must be initiated without further documentation of “flow regime.” Section 7(c)(i) of the *UAA Implementation Policy* states:

“All waters, *regardless of flow regime*, located within federal, state or local parks and recreation areas *will* be designated for primary contact recreation. Federal, state or local parks should not be construed to mean all public lands, but rather specifically developed and/or designated recreational use areas such as campgrounds, picnic grounds, trailheads, greenways, etc.” (emphasis added).

This section establishes criteria independent of “flow regime” that, when met, guarantee a stream will be designated for primary contact recreation. As indicated in my previous letter, Townsend Creek meets these criteria because it is within a specifically developed and designated campground on public land, Frye Lake Campground. As evidence of development, Frye Lake Campground has a maintained parking lot, a bathroom, a sign, and several fire rings. Also, it is on the federal public land, the Shoshone National Forest. Finally, Townsend Creek runs right through this campground and is therefore “within [a] federal...recreation [area].” Townsend Creek must be designated for primary contact recreation to comply with the *UAA Implementation Policy*.

Because Townsend Creek meets the criteria in the *UAA Implementation Policy* that guarantee primary contact recreation “regardless of flow regime,” a UAA demonstrating “flow regime” is an unnecessary barrier to accurate stream classification. By the terms of

the DEQ's own binding policy, Townsend Creek should be designated for primary contact.

I understand that proximity to a recreation area is a primary use factor, and the UAA worksheet says, "if any of the [primary use factors] apply, the water should likely be designated for primary contact recreation." But the worksheet misstates the law. The actual *UAA Implementation Policy*, developed with public input, subject to EPA approval, and referenced in the *Water Quality Rules and Regulations*, is unambiguous. Such waters "will" be designated for primary contact recreation. The DEQ must follow its Surface Water Quality Standards, including the *UAA Implementation Policy*.

Respectfully, I'd also like written confirmation that the DEQ will promptly reject any UAA requesting a downgrade that would force DEQ to violate the *UAA Implementation Policy*. The UAA process does not allow the DEQ to selectively circumvent the *UAA Implementation Policy*. The integrity of buffers around campsites, trailheads, picnic grounds, etc. used in the 2016 UAA must be maintained in order to comply with the *UAA Implementation Policy*.

Thank you for your continued effort refining the 2016 UAA for Recreation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rob Kutchin', written in a cursive style.

Rob Kutchin