July 1, 2018

Via email: oil-and-gas-study@epa.gov

Jesse W. Pritts  
United States Environmental Protection Agency  
Engineering and Analysis Division  
Office of Water  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Re: Public Comment on the Study of Oil and Gas Extraction: Wastewater Management Under the Clean Water Act

Dear Mr. Pritts,

Western Energy Alliance appreciates EPA’s efforts to seek feedback from the industry impacted most by the regulatory structure for produced water discharges. With ever increasing volumes of water being produced from the industry, it shows a great deal of foresight to begin the process of developing potential changes to the regulations that govern the potential use of this resource. As was communicated with you when your team visited our office last year, this study is an excellent opportunity to look at how treated produced water can be a beneficial use in the hydrologic cycle.

Western Energy Alliance represents over 300 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in the West. Alliance members are independents, the majority of which are small businesses with an average of fourteen employees.

The Alliance fully supports the effort of the agency to better understand the issues faced by the various stakeholders in this important issue. This study provides a great summary of the various viewpoints held by the stakeholders and sets the stage for future regulation changes to allow for the increased use of valuable produced water. We would like to bring your attention to the recently released report from the Groundwater Protection Council which more comprehensively looks at the needs of unconventional oil and natural gas development. The information on the beneficial use of produced water is an especially useful supplement to the study.¹

There are a few points that we request EPA address in the final version of this study. In order to help incentivize re-use and recycling of produced water, a thorough examination of the success of Wyoming’s beneficial use exemption would be appreciated. A similar

approach at the federal level which makes concessions for the lack of water in many oil producing regions around the country would be welcomed.

Another aspect of the study that we hope receives additional attention is the prohibition of surface water discharge East of the 98th meridian. The additional water volumes available in the water features of the East may be better suited to handling the produced water discharges without adversely affecting surface water quality. The study’s stated goal of encouraging water conservation and discharges which replenish the water cycle should not be fully applicable to just half the country.

The prohibition on oil and gas wastewater discharge from 40 CFR Part 435 reflects a lack of understanding of the available compositions of produced water available across the country. The study refers to the “unknown chemistry” of oil and gas wastewater, but there are multiple databases and resources available for permitting agencies to discover the typical water compositions, such as FracFocus or EPA’s hydraulic fracturing study.

Produced water should be treated like any other effluent discharge regulated by the CWA. There are effluent guidelines for almost 60 other industrial categories, but only upstream oil and gas is impacted by a wholesale ban. The permitting process should be consistent so that oil and gas produced waters are treated in a similar manner to other municipal or industrial dischargers.

The other aspect we would like to see is a more in-depth discussion is how National Pollutant Discharge Elimination System (NPDES) permitting rules apply to oil and gas wastewater discharges. The current lengthy permitting timeframes discourage mobile water treatment technologies from rapidly responding to localized drought conditions with surface discharge for wildlife, habitat, or agriculture uses. The fast-paced completion schedule of our operations also makes the typical NPDES permitting timeframe unfeasible, so we would encourage the development of a faster permitting method for oil and gas wastewater discharges. A general permit would give us another tool to better manage produced water based on site-specific economics, infrastructure, quantity, and quality.

Thank you again for the opportunity to share our comments on this paper, we look forward to more constructive meetings between us in the future.

Sincerely,

Stuart Siffring, PE
Regulatory Analyst