

HB 1161 “Applicable” Amendment would substantively weaken ground water protections

The proposed amendment to require compliance with only the “applicable” statewide ground water quality table would substantively weaken HB 1161’s ground water protections. The bill is premised on the policy that an in situ leach uranium mine should be able to clean up the ground water contamination it causes, as the industry publicly promises it will do. As a result, the primary standard in HB 1161 requires that an in situ leach uranium mine operator restore the ground water back to baseline water quality. In response to industry concerns, the current language referencing the statewide ground water standards was added to provide flexibility and balance for the industry while still ensuring no serious permanent contamination of the aquifers would occur.

The current “applicable” amendment being offered eliminates this careful balance and injects considerable uncertainty into the bill’s ground water protections by changing the language to establish the equivalent of a “use-based” standard for ground water restoration. This is because the statewide ground water quality tables are designated according to uses. This “use-based” standard is the same standard that has been applied in other states such as Wyoming and Texas, and has regularly resulted in permanent radioactive and toxic heavy metal contamination in the mined-out ground water.

A “use-based” standard, which has already been rejected by the bill’s sponsors, allows a company to permanently contaminate the aquifer to the lowest water quality allowable for a particular use. This standard thus allows for permanent contamination of ground water to the lowest allowable quality, including for those chemicals that were only in very low concentrations in the original ground water. Worse, if a company claims that the ground water in their mining area is not currently being used as a drinking or agricultural water source, as the industry regularly claims is the case, none of the “use-based” tables apply. Such a standard also fails to consider any possible future uses of the groundwater, relying instead solely on whether or how that portion of the aquifer is currently being put to use.

The result of the proposed changes is to create situations where there may be no “applicable” ground water quality tables, inviting serious permanent ground water contamination. This weakened and ambiguous standard could therefore preclude beneficial use of the aquifer in the future as the areas around these proposed operations grow and require additional ground water sources for agricultural and residential economic growth.

As a result, the proposed amendment would severely weaken the bill and upset the balance and compromise that has been struck on this issue through extensive negotiation by the sponsors, the opponents and proponents, and the Departments of Public Health and Natural Resources.