

Laramie County Control Area Steering Committee

Meeting Summary

March 30, 2015

Herschler Building, Cheyenne, WY

Draft for Review

Approved

Participants:

Randy Bruns, *Econ Development*
Jim Cochran, *LC Conservation District*
Bill Edwards, *Southeast Wyoming Builders Association*
Dan Frank, *Laramie County Stock Growers*
Greg Gross, *Ag/Irrigators*
Kristi Hansen, *University of Wyoming*
Jim Hastings, *Alternate*
Gary Hickman, *Cheyenne/Laramie County Health*
Scott Horgen, *Industry*
Brenda Johnson, *Alternate*
Judy Johnstone, *Small municipalities*
Rick Kaysen, *City of Cheyenne*
Jim Lerwick, *Ag/Irrigators*
Leslie Mead, *South Cheyenne Community Development Association*

Jim Murphy, *Cheyenne Board of Public Utilities*
Kate Noble, *Industry*
Joe Patterson, *Southeast Wyoming Builders Association*
Bonnie Reider, *South Cheyenne Community Development Association*
Dale Steenbergen, *Econ Development*
Lisa Tabke, *Cheyenne Board of Realtors*
Tom Taylor, *Private Property Owner*
Troy Thompson, *Laramie County Commissioners*
Tim Wilson, *Cheyenne Board of Public Utilities*
Scott Zimmerman, *Rocky Mountain Farmers Union*

Facilitators:

Steve Smutko, *UW Ruckelshaus Institute*
Shannon Glendenning, *UW Ruckelshaus Institute*

Agenda:

1. Welcome; Steering committee member introductions; agenda review and approval; announcements
2. Review and adoption of the 3/16/15 meeting summary
3. Committee recommendations for SEO order: signed or unsigned
4. Committee recommendations for SEO order: review and discussion
5. Break
6. Next steps for Committee discussion: where to go from here
7. Getting information to county residents
8. Future meetings
9. adjourn

Handouts:

3/16/15 draft meeting summary
3/30/15 Agenda
Potential contents of SE Order for the LCAA (with amendments)

Action Items Completed:

Meeting Agenda approves
3/16/15 meeting summary approved
Potential contents of SEO order for the LCCA approved with consensus and major reservations on one point

Action Items Pending:

Process committee will meet and determine future meeting schedule and process

Summary:

1. *Welcome; Steering committee member introductions; agenda review and approval; announcements*

Shannon Glendenning opened the meeting, welcomed everyone. Committee members introduced themselves.

The agenda was approved.

2. *Review and adoption of the 3/16/15 meeting summary*

The 3/16/15 meeting summary was approved with no changes.

3. *Committee recommendations for SEO order: signed or unsigned*

Steve Smutko asked the committee to review the recommendations to the State Engineer that were developed at the March 16, 2015 meeting.

He read Bern Hinckley's email regarding the recommendations from the previous meeting. The email addressed the exclusion of high-capacity wells along the natural streams of the Laramie County Control Area.

Item 1 of the recommendations document received no comments for changes.

Item 2 discussion:

C: The one irrigation supply company in the area doesn't think there is an opportunity to get everyone fitted with meters in that time. They would be doing in the off season.

Q: How many wells are we talking about?

R: 300-350 wells. Depending on the situation, it's a simple project but older wells may need the piping redesigned and that's significant welding and shop time to do that.

C: We could make a footnote saying, although we realize there might be technical problems, so this might not happen. There's a reason he set the date, to get enough data.

Q: What does the company think is a reasonable amount of time?

R: Within another year

C: No one's going to start until the last year, so if that's the route we're going to go, do we phase it in?

Q: Do all irrigators agree with this? I know they don't.

R: No

C: I think the SEO is set on this. He'll add metering to the order regardless.

C: Then this burdens us and a recommendation legitimizing that action without defining the benefits. You're going to get a lot of push back.

C (Lisa): clarifying the concerns of timing, the irrigation year starts April 1 and the water year starts October 1.

C: That won't save any time because the installation needs to be done in the off season.

C: What about a phased approach based on priority date, the more junior would have to be the first to install meters, then give senior appropriators time to plan for this and spread the installation out over a few years?

Q: What's a senior water right?

C: Why don't we meter the red areas on the map first?

Q: Where did the money come from when Nebraska did this?

R: The NRD's (Natural Resource Districts) paid for it.

Q: Would the NRCS consider this?

R: I don't have anything for sure, but there are possibilities

C: That merits discussion. In Nebraska, they already had a vehicle to do that, and we don't have that here. We'll have to cobble something together, but it seems appropriate.

Q: What's the price tag for this?

R: 300 wells times \$3,000 apiece.

Q: Does that include the cost of the meters?

C: In Nebraska it ranged from \$1,200 to \$3,800 a well, depending on the operation and the set up.

C: I think that we need to add to this a defined plan of the intent of the use of that tool. Define the purpose and then clearly say that the people most affected have a strong voice on how the tools is used. Whose voice has a say of that happens?

C: Are you suggesting the committee define the purpose?

C: If we're going to make a recommendation we need to give a signal that the water users want a definition of how that information is used. The SEO needs to define that purpose.

Q: The wells you monitor in the Goshen triangle, is there a standard for meters?

R(Lisa): it's at the discretion of the superintendent .

Q: is deminimus a defined term?

R: Stock or domestic wells that are below 25gpm.

Q: For the wells that are currently metered, where are the records of that use and what information are they used for?

R (Lisa): The records are in the Cheyenne office, also in the superintendent's office. That information, combined with monitoring wells give us an idea of the resource. It's public information. Older permits don't have a condition that requires meters, but anything in the last 10 years have the condition of metering. There has been little compliance work from the SEO office at this point.

C: The purpose of metering, when we met last time, monitoring wells are useful for model runs and observing drawdowns, so metering could be related to that.

C: I thought we had a consensus?

C: I think the discussion was, are we suggesting to the SEO what we like and what we want changed from the points he shared with us at the last meeting.

C: I believe the consensus from the subcommittee was that we would not sign this. It would go as a recommendation to the SEO, it is not in a sign-able form.

C: On the call, I thought the big point was we were going to ask the SEO if this order was *the* order, or was it an order that would allow us another six months to define that.

C: We can make these recommendations, but we need to go back and work for six months or two years.

C: The SEO is expecting a signed plan in the future, but he will have to give an order on April 1. Any agreement that comes from this group needs to go through the Advisory Committee and then to Pat to evaluate it based on the statutes.

C: We're eventually going to have a plan we're going to agree to and sign. This is an outline that the SEO has defined, and we have provided comments for him to consider. I don't think it is something we need to sign. We're just figuring out some details, like changing a date.

C(Steve): so the question becomes, do we need to include any new information, and should we continue?

C: I didn't feel like we had good consensus on #2 and #4b.

C: I was under the assumption this is a recommendation. I think Scott's points can be made a footnote. We can share that we're aware of the potential problem.

C: Let's just add a footnote, keeping it all the same.

Q: What happens if you do not have a flow meter installed by that date?

C: I would imagine it is similar to the Horse Creek Order where they have the ability to lock the wells.

C: If irrigators get together as a group and go to a number of companies and get collective bids, then it can be done cheaper. If each irrigator calls the same person, you don't have enough time. The free market will take care of itself if the irrigators plan ahead.

Vote: Add a footnote that it will be very hard to get the meters installed by that date.
Majority 3 and above, two 4's.

C: Can we do another footnote where we address what the meters are for?

C: A proposal for another footnote asking for a statement of the purpose of the meters

C: Proposal for a third footnote stating the SEO should define the intent of the tool's use and how the information will be used.

Vote: Footnote on the amount of time needed to meter all wells may not be possible
Consensus, all 3's or better.

Vote: Footnote 2: the SEO should define the purpose of installing meters

Consensus, all 3's or better.

Vote: footnote 3: the State Engineer must define how meters will be used to meet the purpose of the meters.

Majority 3's and better, one 4.

C: That's the work that has to be done. We're putting him in a box. That's the elephant in the room, once we know how much water is being pumped, then they'll want to control it. We need to get a handle on the aquifer drawdown. The suspicion is that there will be a tax, or someone will limit how much water is coming out of the ground. That's an obvious answer. Proposed footnote 3 is out future work in the coming months.

C: The issue is, only 10% of our borders with Colorado and Nebraska are metered. If we meter and reduce usage at the county and state lines, they will use whatever irrigation water that my ground in Wyoming is not using.

C: If an order is issued that would like some definition. We're not getting in the weeds tonight.

4. Break

5. Return to discussion on proposal

C: In the original statement three needs to be a mechanism, as areas drop to the 25% saturated thickness then are included in these restrictions.

Vote: Change the language to in item 4 to "where the current scenario 4 or future model runs..."

vote: 1's and 2's, not 3's

Steve: Should we revisit or discussion Bern's comments regarding the creeks and the setbacks?

C: For now, that should be Pat's decision and then we can work on it with better data.

C: I agree with Bern, I don't remember a reason that's in there.

C: Based on anecdotal that there is a connection. I don't know if that'd be good as a footnote, that he should consider it, but at this time we can't make a distinction.

C: I would think the reason to have that is to prevent large wells drawing out of those streams. Should we limit it to the alluvium of those streams?

C: The words 'no' and '1 mile' are very limiting

C: I disagree with Bern, water flows faster on top of the ground than it does in the aquifer. Anything coming down the creek will get to Pine Bluffs if it's in the creek. If the SEO allows high capacity wells close to the creeks, that well is sucking that water from the surface.

C: This only pertains to the upper aquifers.

C: How about a footnote regarding distance from creeks?

C: I believe the way this is structured is potentially a breach of Wyoming water law of first in time and first in right. If you allow new wells, you've created a way. I don't believe there should be any new wells until we have a plan. I'm opposed to the language of 4, it needs to come out. Then figure out a way to figure out what a good distance is based on science.

C: My reservation was the high capacity well in high plains aquifer, which is our charge.

C: In today's world, are there people asking for high capacity wells? What's the likelihood of someone requesting to drill a high capacity well in these areas?

R (Lisa): Since the formation of the control area, we've seen a little over a dozen high capacity well permits, some were enlargements on existing rights.

Q: Can you expand on 4b "informed by surface recharge rates"?

R (Lisa): Spacing requirements would be tied to area or radius on what the surface recharge is.

Proposal: Inside existing control area the first paragraph out, no b, only item a. "Inside the existing control area, no more high capacity..."

C: I'm thinking part b in 4 is referring to the SEO when he said that he didn't want to cut off the potential for some economic development and if the area can

C: If we're writing a rule we shouldn't have an arbitrary number. I would need to talk to water engineers to see what the impacts are to us.

C: I disagree with Bern's statement. I believe that near those creeks if we put in high capacity wells upstream the water will be impacted downstream.

C: There's a common thread about this meeting. If the comments made today are meaningful. Should we approve this and move on.

C: We may come up with a plan in 6 months, there are legislative issues where it won't be approved. In that interim we want to leave some protections in until we can develop more specific recommendations.

C: I asked the SEO if there was a potential for a rush of development. I want to be careful of that window.

Q: You have been selective, when I put in a permit, I think when I go the original document from the SEO, that's what they were saying, each well looked at case by case

C: We're formulating our future work.

C: Proposal: first paragraph out, no b, only item a. "Inside the existing control area, no more high capacity high plain aquifer wells..."

C: Are smaller lots for residential lots protected.

C: The SEO can only control the 10 acre average in non-subdivided areas. Once subdivided it is the County Commissioners. This is in non-subdivided areas.

C: The county commission will look at this and try to have it apply. I'm uncomfortable with that size. Subdivisions are based on the AMEC report and where it is located.

C: As long as you recognize that someone in 1950 has a 2 acre lot, does he have a right to put a house on that lot? From the time this goes forward, it started when this passed, or you have to grandfather everything in. We have lot sizes for waste water.

Proposal: language that says "All lots currently platted are exempt"?

C: I'm not okay outside of the control area, but within the control area I'm okay with the 10 acre average.

Vote: Strike Paragraph 1 in number 4. Inside existing control area no more high capacity ...10 acre average spacing..."all lots currently platted are exempt from the 10 acre average spacing requirement"

Majority 3's and better, one 4

C: The modeling and stuff I don't have a problem with that. Once they drop to 25%. I like the whole thing and think we should stay away from the creeks.

C: I don't like that we're setting the precedent with 1 mile. We need science to show how much distance is necessary.

C: What 4 says, is we'll take the light green areas and all of these rules will apply. What is being proposed is these rules in the entire control area. The AMEC memo says that 5 acre spacing in some acres is fine.

C (Steve): Should we reconsider the vote?

C: Whatever we move forward, whatever the SEO thinks is in the best interest. It's still subject to lots of changes.

C: I think the SEO is going to do what he is going to do. We're all talking around the bush about this we'll talk about in the next 6 months. We should get back to the agenda.

C: Should we keep anything prior to this

C: We should keep the footnotes

Vote: Should we abandon the discussion and changes made to 4, keep the previous changes as is and move forward?

Several 5's.

C: I think we need to express that it needs to be more restrictive than what he's putting in there. Jim's proposal.

C: I don't like the mile setback.

C: Once this comes out, he will not issue a water well to any subdivision that doesn't have a well already. That might be a shock to someone.

C: we could exempt existing subdivisions?

C: the current Order says wells can be placed in 10 acre lots or legally subdivided lots.

C: I think 4, in its entirety allows the SEO some flexibility.

C: On high capacity wells, if we're limiting use down the road but then allowing new wells, I think that is wrong.

C: We shouldn't be separating the different users. Most of my concern was high capacity wells.

C: I'm not comfortable with the 10 acres in the entire control area.

Vote: "...where current scenario 4 or future model runs...." 4b- "...outside that area, stock and domestic wells and miscellaneous wells designated for domestic use, spacing requirements may be more liberal." "c. No new high capacity wells in the high plains aquifer in the control area."

Majority 3's and better, one 4 (will submit statement as provided in the charter).

Steve What do we do with this? Do we sign it, yes or no?

C: I don't think it's anything we need to sign.

C: I don't see this replacing the SEO's order.

C: I think there needs to be a letter that. These are recommendations we've done our work. This is consensus with some points of disagreement.

Q: If we sign it we force the SEO into the process of all the things that occur

R: You're providing recommendations. what he's waiting for is a signed agreement

C: So we'll have no signatures, but it goes with a cover piece explaining this.

6. Next steps for Committee discussion: where to go from here

Steve: It's been discussed that you're going to continue work, but what's the timeframe?

C: It's going to take 3 months, I hope it won't take longer than 6.

C: I think it will take a long time to get this done. We're talking about the meters, we have responsibility to find cost share, that's in the next legislature sessions. It will be a long term commitment.

C: The way the law reads, is what we send to the SEO, if we can't define injury to a non-signatory, he must accept it.

C: Any information that you can include in the plan that supports that is non-injurious, etc. would be very useful.

Q: How long and his group be funded.

R: I'm on board to have this go on for a while

Q: What is a non-signator mean?

C: There is a part in the "four quarters" about that

C: I remember discussing the need to talk to irrigators in the four areas. I would argue for 3 years. And then what about an economic assessment, that's something we should talk more about?

C: I think the county could make a proposal to the Wyoming water office.

Steve: What happens at the next meeting? Do we want to meet again and define what you want to do?

C: We need to figure out what to do before we put a timeline together

C (Steve): does the process committee want to put together a plan for the next meeting or do we want to start fresh

C: We should meet in person.

C: The process committee can define the goals for a framework.

C: We need to look at the makeup of the committee. This was an attempt to be broad based and that was important up to this point. As the focus narrows, we need to be clear, who would sign and weigh in from this point forward.

C: The process committee meets and then decides when to meet next and then from that meeting, move forward.

C: I think in these next steps we should use an attorney as offered by the State Engineer to know what we really can do and make the SEO's review earlier.

C: There needs to be some discussion about the makeup of the committee. There needs to be people with standing.

C: There's no industry representative on the process committee, it needs to have an approval by the whole committee to change the make-up.

Vote: Add a representative to the Process committee, Kate Noble as representative of oil and gas development.

All 1's.

C: If we're going to go after legislative funding, the Joint Interim Ag committee is meeting May 13th and 14th. We need to give them an update so we can be on their agenda at their fall meeting. We need to give them an update that it may be coming.

Meeting Adjourned.

Next Meeting

Date: TBD

Location: Herschler Building, Room B63, 122 West 25th Street, Cheyenne, WY