

Laramie County Control Area Steering Committee
Meeting Summary
January 19, 2015
Herschler Building, Cheyenne, WY

Draft for Review

Approved

Participants:

Bill Bonham, *Laramie County Stock Growers*
 Jim Cochran, *LC Conservation District*
 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*
 Brian Lovett, *LC Conservation District*
 Les Mead, *South Cheyenne Community Development Association*

Kate Noble, *EOG Resources*
 Joe Patterson, *Southeast Wyoming Builders Association*
 Bonnie Reider, *South Cheyenne Community Development Association*
 Bill Shain, *Small Municipalities*
 Dale Steenbergen, *Chamber of Commerce*
 Lars Story, *Industry*
 Mike Sullivan, *City of Cheyenne*
 Lisa Tabke, *Cheyenne Board of Realtors*
 Tom Taylor, *Private Property Owner*
 Troy Thomson, *Laramie County Commissioner*
 Tim Wilson, *Cheyenne Board of Public Utilities*
 Scott Zimmerman, *Rocky Mountain Farmers Union*

Facilitators and Consultants:

Steve Smutko, *UW Ruckelshaus Institute*
 Shannon Glendenning, *UW Ruckelshaus Institute*
 Bern Hinckley, *Hinckley Consulting*

Agenda:

1. Welcome; Steering Committee member introductions; Agenda Review and Approval
2. Review and adoption of the 01/05/15 meeting summary
3. Discussion with Pat Tyrrell, State Engineer
4. Review and Assessment of Committee Progress
5. Steering Committee interests
6. Adjourn

Handouts:

- Agenda
- Meeting Summary Draft 1/5/15
- Confluence Magazine, Issue 3

Presentations:

- Pat Tyrrell, State Engineer

Action Items Completed:

1/19/15 Agenda approved
 1/5/15 Meeting summary adopted

Action Items Pending:

1. Steering Committee interests- Read chapter 3 of Getting to Yes, come to next meeting with 3-5 interest statements- a verb and an object.
2. Review Section 7 of AMEC study.

Summary:

1. Welcome; Steering Committee member introductions; Agenda Review and Approval

Steve Smutko opened the meeting, steering committee members introduced themselves. Bern Hinckley was introduced and will be providing technical information for the committee for the remainder of the process. The agenda was reviewed and approved

2. Review and adoption of the 01/05/15 meeting summary

January 5, 2015 meeting summary approved with no discussion.

3. Discussion with Pat Tyrrell, State Engineer

Presentation and discussion was recorded and available on committee website

- Recognize that the work here is not easy, the group doesn't have an example to go by.
- The goal of this committee is to develop a management scheme that deals with future permitting and future use of water.
- This process is set up for the control area. The control area boundaries were developed and defined by the Board of Control for the Control Area. There is currently a petition that has been submitted to the Board of Control to change the boundaries of the control area. The Board of Control meets quarterly, and must decide to hear the petition. There will be a hearing to decide if the boundaries of the control area should be changed.
- The models tell us that there are going to be drawdowns of groundwater levels. We can consider the notion of demand management and reduction of draw on the aquifer. The AWEP program, replaced by the Regional Conservation Partnership Program (RCCP) can be a model for demand management.
- The Agricultural Water Enhancement Program (AWEP), now the RCCP program, can be seen as model for demand management. AWEP reduced irrigated lands by 2,000 acres, about 5% of the use.
- There is potential for developing an AWEP-like program. Specific agencies can serve as the "banker" - can't be the SEO or an individual.
- The authority of the committee does not:
 - Extend to changing the control area boundaries.
 - Extend into dividing the control area into "smaller control areas." There is flexibility in treating parts on the existing control area differently. The district lines, as they are now, are based on political lines- they don't follow hydrogeology features.
 - Extend into changing or adding to application fees for wells. Any incentives would need a totally separate funding mechanism.
 - Authority does extend to any method or scheme of controllable withdrawals, spacing, and proration (in statute).
- A user agreement might look like:
 - Metering of large producers
 - Spacing requirements for newly permitted wells
 - Could be based on priority
 - Must be consistent with the requirements of statutes, specifically that we should be conserving groundwater resources
 - The timing of conservation is open- nothing required in the statutes about this. The question to address is: how can we conserve groundwater in areas where it is being over drawn?
 - You can set a numeric limit (e.g. 1 foot per year until it is gone) or a percentage threshold (e.g. once you get to X% of the aquifer, then stop). Other states have strategies we can look to.
 - Recommendations can be time limited.
 - Appropriators within the control area need to sign the document
- Criteria the SEO will use to evaluate the proposal, based in statute:
 - Agreement must be general
 - Agreement must not be detrimental to the public interest. This includes incomes and jobs generated by agriculture, public interest in county growth and jobs generated by the construction industry. See the "Four Quarters" application for a discussion on Public interest
 - Agreement must not be detrimental to parties not signatory to the agreement.
- City of Cheyenne- the public interest component is why they are here. They should be part of the agreement.
- The schedule that lies before the committee is such: SEO's temporary order, issued in 2012, is set to expire on April 1, 2015. If agreement is in and approved by that date then we'll move forward. If not

approved then there would be an extension that would be in place until the committee comes to an agreement. If an agreement is approved, it will supplant any SEO order. Want to find the conditions discussed above. Review would take a few weeks, so a plan needs to be submitted by mid-March to meet April 1 deadline.

The SEO opened up the floor to questions from the committee.

Q= Question

C=Comment

R= Response

Q: You stated that the AWEP program retired about 5% of the irrigated land, or 3,000 acre feet over four years. How did you determine how much consumption was going to be reduced?

R: The basis for the buy-out was 17.5 inches per acre.

Q: Does it make sense to use watershed boundaries for dividing the Control Area for management purposes?

R: Watersheds don't necessarily line up with hydrogeological boundaries. The Control Area boundaries and District boundaries can't be changed, but a new scheme for managing different parts of the Control Area differently can be developed by the Committee.

Q: How do we measure use?

R: Water out of the well is measured by a meter. For agriculture we use conventional irrigation requirements since we don't meter ag wells.

R: Some irrigation wells are metered that we use for baseline information.

R: For temporary transfer from agriculture to energy development, we used 12 inches per acre, a conservative estimate.

Q: can you give us more information on the proposal to expand the control area. What is the procedure and timeline in relation to us?

R: Petition goes to the Board of Control, then the board decides to hear it. Statute then gives a 90 day timeline (W.S. 41-3-912(d)). Won't see anything from the board until May of August. The petition is available as a public document. A petition requires 5 land owners within the control area to propose a change.

Q: Permit fees cannot be used to fund a program?

R: Permit fees are set in statute. The committee could develop new permit fees for new permits or apply it to all users in the control area. RCPP needs matching funds. Need to create a program specific to the control area. Need an entity of some sort to be the "banker" it could be an irrigation district, conservation district, has to be a quasi-governmental agency that has taxing authority.

Q: What was the dollar amount AWEP had?

R: The amount used for agricultural buy-outs in the control area totaled \$5 million by the end of the program.

Q: Do other programs in other states employ metering?

R: Measurement of use is important. The best way to defend your use is to measure. I will defer to staff and get some answers for you.

Q: How does your temporary order, or a future plan address unadjudicated wells?

R: In your agreement you should require that all unadjudicated wells must be adjudicated by a certain date. Adjudication makes your water right a permanent right.

Q: Is flow measured in that adjudication?

R: Yes, the flow rate must be measured in adjudication.

Q: What would it cost to measure irrigators?

R: We have it as \$3,000/ well without installation costs

Q: Do we have enough test wells in place to verify the effects of conservation or other measures?

R: There are places in the control area where we are lacking good data. The Governor's water strategy goes to this point- that we are in need of enhancing our data in the control area.

Q: If the water level is receding in a current well, does the owner need a permit to drill a deeper well?

R: Wells are permitted for a particular source of supply or aquifer. If you stay within the horizon that you are permitted for, then you may drill without a permit, but we still would like to know that that was done. You may also relocate a well in the same source if needed within 100' of your current well, anything beyond that needs to be resurveyed.

Q: Do you have an estimate of amount of use in temporary use agreements for oil and gas?

R: I don't have the numbers with me, but in the biggest year in selling those permits was about 400 acre feet (most of that went to Colorado). There is low demand.

Q: Would a petition forwarded by this group to change the control area carry more weight than the existing petition?

R: Anybody may testify to the Board regarding the existing petition. If the group wanted to bring testimony to the board to consider, that may be the way to do it.

Q: How would you see interplay between control area and a watershed improvement district, or a water conservancy that was formed within the Control Area? How do those things play together?

R: The district described would qualify for water development partnerships. You could make a district the same size as the Control Area? The creation of a conservancy district would eliminate the control area. The control area has to go away on its own.

Q: You're guiding us to go off of 4139 acts and that would be the conservation principles, so that means we're moving towards sustainable development. Without statistics of water metering, and growth of the community, how are we going to achieve this? Do we have pointed goals that we can aim towards?

R: There are parts of the county where conservation means recovering water levels, where they can't pump all summer as it is now. If we continue on, and don't issue any more permits we're still digging a deeper hole. If you want to look at sustainable, ask the people, is it running out of water in July, or is it prorating it over the summer, rotation with your neighbors. Can we get the aquifer to the point where we don't have to worry about people running out of water in 2040 or 2050. It envisions a smaller universe of uses. So the yield of the aquifer is more in line with what we're taking out.

Q: Do we have the latitude to deal with issues of recharge, storage, in ways of slowing down the runoff of the county. If we could slow down the water from last year's spring thaw in areas of deep gravels we could have achieved recharge. Can we deal with suggestions or requirements of in different drainages to assist in that recharge without impacting the flows at the County and State lines?

R: if you increase recharge in that way, it can't be done without impacting those flows. We don't have a compact with Colorado for Crow Creek. You'd have to permit storage for a beneficial use. We have not been issuing permits for artificial recharge, yet. That helps on one side. Would storage help the areas in need. Those are worth consideration, but don't want the focus to be taken away from groundwater right now. Moving water to the eastern side of the county has been looked at before. If you're going to recharge, what's the sustainable source of that water? Towns have rights to use up return flows. The safe thing to do is look at the resource we have, and see other sources as a bonus. The recharge is primarily rain and snow.

C: With recharge, if we can put dams in or slow water down, it will save the county a great deal of money from fixing roads that get washed out. If we pond that water up in areas that aren't used very much, then that water will eventually soak in and help to recharge the aquifer. The long term impact would help a lot of different areas.

R: there's nothing stopping people from permitting small dams. We don't have a lot of surface diversions out of Crow Creek. So what that would mean is investing in a large structure for an uncertain water supply. You can put more direct flow diversions in, and use that to irrigate, and then what doesn't go back into the creek would percolate. A large dam would have a tough argument for the economics of it. Not that you shouldn't look at it.

C: In closing, the SEO will have someone present and available to answer questions. Bern will be available to answer technical questions.

The SEO has given us an opportunity to decide how to deal with the issues at hand.

4. Review and Assessment of Committee Progress

Steve Smutko noted that the Committee members had received copies of the latest issue of *Western Confluence* magazine, produced by the Ruckelshaus Institute. This issue focuses on water issues in the west and contains an article on aquifer recharge.

He announced that the Ruckelshaus Institute will be making binders for those interested with meeting materials.

Smutko presented the Process Map he developed for the committee:

1. understand your decision space
2. specify desired future conditions
3. state your interests (read chapter 3 of *Getting to Yes*).
3. identify what and where you will manage
4. generate options for achieving your desired future conditions
5. evaluate options
6. make tradeoffs

The Committee briefly discussed the calendar for future meetings. There was a suggestion to move the target date for having draft recommendations to the State Engineer to mid-March rather than April 1. It was suggest that the Committee consider meeting weekly through February and March in order to make their deadline. Another suggestion was made to lengthen the meeting times. The Committee will discuss changes to their calendar at their next meeting.

One Committee member asked whether the proposal the irrigator representatives had submitted to the State Engineer was going to be among the options to be considered by the Committee and whether and when it was going to be discussed. The irrigator representatives agreed to circulate their proposal to the Committee prior to the next meeting. Jim Lerwick pointed out that their proposal is not to be considered a final proposal, but more of a starting off point for the Committee.

A Committee member expressed concern that they had insufficient direction from the State Engineer regarding the goal that he would consider acceptable, that is, whether to stabilize groundwater levels, recover groundwater levels, or allow them to continue to decline. It was noted that the State Engineer had left this open to the Committee, and that the only directive in the statutes is that groundwater is to be "conserved." It was also noted that the Committee needs to appreciate that it can work within the statutes and provide more options for water conservation than State Engineer has. One Committee member noted that from tonight's presentation, it seems that the State Engineer's thought process is evolving as the work

goes on. He's now becoming more of a partner than a judge.

Smutko noted that at the next meeting the Committee will spend an hour discussing interests and the second hour discussing options without evaluating them. The Ruckelshaus Institute will set up a page on the Committee website for options and proposals.

In conclusion, Steve wrapped up the meeting with tasks for committee members to do before the next meeting

- Come with 3 to 5 interest statements- verb and an object for example "maintain X" or "decrease Y"—
These statements are what is important to you and your constituents.
- Read Getting to Yes Chapter 3
- Review Section 7 of AMEC study

Meeting Adjourned

Next Meeting

Date: February 2, 2015

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