

# Laramie County Control Area Steering Committee

## Meeting Summary

March 2, 2015

Herschler Building, Cheyenne, WY

Draft for Review

Approved

### Participants:

Bill Bonham, *Laramie County Stock Growers*  
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*  
Judy Johnstone, *Small municipalities*  
Rick Kaysen, *City of Cheyenne*  
Jim Lerwick, *Ag/Irrigators*

Brian Lovett, *LC Conservation District*  
Leslie Mead, *South Cheyenne Community Development Association*  
Max Minnick, *Cheyenne Board of Realtors*  
Jim Murphy, *Cheyenne Board of Public Utilities*  
Bonnie Reider, *South Cheyenne Community Development Association*  
Dale Steenberg, *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 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; announcements
2. Review and adoption of 2/16/15 meeting summary
3. Presentation by State Engineer, Pat Tyrrell
4. Discussion on role of the committee
5. Review and discussion of decision points document

### Handouts:

- February 16, 2015 Draft Meeting Summary
- Draft Agenda
- Decision Points
- Laramie County Conservation District Water Plan LCCA Groundwater Plan

### Presentations:

Pat Tyrrell, State Engineer

### Action Items Completed:

- A. Meeting agenda approved
- B. 2/16/2015 Meeting Summary approved with edits
- C. Committee agreed to subdivide the Control area into "management areas" that are hydrogeographically distinct.

Summary:

C= Comment      Q= Question      R= Response

Welcome; Steering Committee member introductions; agenda review and approval; announcements  
Steve Smutko started the meeting and welcomed the committee. Committee members introduced themselves. The agenda was approved.

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

Changes were noted from the e-mailed version to the version handed out reflecting minor changes suggested by Tim Wilson regarding his presentation.  
The meeting summary, as discussed was approved.

**2. Presentation by State Engineer, Pat Tyrrell**

Pat Tyrrell, Wyoming State Engineer, reported on a meeting he had with Jim Lerwick, Greg Gross, and other irrigators, and discussed the future of the Steering Committee as the April 1, 2015 deadline approaches.

He stated that there are three scenarios of what can happen on April 1<sup>st</sup>. First, the committee could reach an agreement that is acceptable to the SEO and meets statutory requirements. Second, if the committee has not completed its work, he could grant an extension of the temporary order currently in place. Or third, if the committee is still working, he could issue a permanent order that can be in place until the steering committee submits a plan and it is approved.

In addition to regulatory approaches, he said the fiscal approach that this group has looked at, in regards to the buy-out idea, is a tool that the State Engineer does not have and is a strategy that is worth looking into.

Questions have been raised about increasing fees for future wells, but the fee is set in statute and all of the fees collected go into the State's general fund. Increasing the fees or using fee revenue for a specific purpose would require a change in state statute.

To the question of 'is this agreement a policy?' The answer is yes and no. Any plan that comes from this committee will have to fit within the general guidelines provided by statute, but there is room to be creative within the guidelines.

If this committee has not developed a plan by the April 1<sup>st</sup> deadline, he does not want the group to quit. He wants to avoid a scenario where the committee works hard and presents a plan that he can't approve because it violates the guidelines set in statute. As a plan is finalized, there might be a time where a draft proposal is presented and then there is an iterative process between the SEO and the committee to refine certain parts to make the plan acceptable as a whole.

He identified three strategies to think about that can help with discussing the issues and decisions to be made: regulating future permits, controlling existing withdrawals through regulation, and retiring uses. The third strategy could be something similar to the AWEP program, but a plan that includes fees would require a quasi-governmental agency to administer the funds and a program that works to retire acres from irrigation.

Since this committee was mentioned in the Governor's Water Strategy there is an opportunity to request money for monitoring programs. State agencies are working on their 2017-2018 budget, so there is the possibility to include any needs or plans into the budget.

Last month, the Board of Control entertained the amended petition to expand the Control Area boundary. The board decided they will consider the petition and scheduled a hearing for September 29<sup>th</sup>, with the location to be determined. He doesn't want to speculate on what the Board of Control will decide, but a recommendation coming from the steering committee, made up of diverse stakeholders would have some

weight in their considerations, if the committee wants to address the petition. The decision to change the size the control area and the decision before this committee are different. Another consideration for this committee to think about is shrinking the Control Area as a way to focus management actions.

The idea of the committee dealing with two different time horizons was discussed, with the April 1st deadline and the future of the County into the future as the other horizon.

*C= Comment      Q= Question      R= Response*

C: We are missing an economic analysis that shows the potential impact of decisions being made by this committee.

R: If this group can come to a consensus on what the analysis would cover, include the different user groups, and what decision the study was intended to support, then that is something I could support and can consider putting into a budget.

Q: I understand that the governor is supportive of building reservoirs across the state. Where are those proposed reservoirs?

R: The goal is 10 reservoirs in 10 years, but I don't have the exact list of locations with me.

Q: I'm intrigued in shrinking the Control Area, but I don't want to come back and do this again. Is there a way we can keep from getting into the same problem with the rest of the area?

R: Shrinking the Control Area is only one way of thinking about a solution. What you don't want to do is cause a problem somewhere else. I think the control area as it exists would protect the areas that aren't seeing the extreme drawdown. A major question is how we can prevent drawdown in new areas without hurting economic development. In some Control Areas in the state there is a system of cap and trade. I don't know if this county is in a place to require that, yet.

Q: Would it be acceptable or beneficial if this committee says we can agree to a two year plan, but we want the ability to bring in a new plan in the future?

R: In concept yes, but it depends on the content of the plan. It could be a short term plan. For example, Horse Creek is a 3 year plan.

### **3. Discussion on role of the committee**

Steve Smutko asked the committee to consider the role of the committee. Understanding that 98% of water used in the control area is irrigation, if we take the idea of a buy-out off of the table, is this committee still wanting to continue coming together and make recommendations?

C: I think we need to address the irrigation issue, but we would be remiss if we don't plan on moving forward with some sort of recommendations, preferably for the entire county. We would be failing at what I believe is our task if we don't try for an immediate fix.

C: The committee wasn't formed for just the irrigator's problems. The role of the committee is larger than that.

C: We need to continue on. If we just focus in certain areas, then something else is going to cause us to be in the same spot in the future.

C: We need to continue on, there is a small number of irrigators, despite their high usage. This is more than their problem.

C: We have a great chance at diversifying the economy. The largest private industries in the County are water users: energy and agriculture. We all need to be engaged because it is a huge economic driver, although it isn't a huge number of jobs.

C: Currently we're essentially in a situation of cap and trade since there's a moratorium on high capacity wells, and water rights can be transferred. Is the status quo of the temporary order acceptable? Would that work for everyone?

C: I would hope to see something better out of this committee than saying we're going to fail slowly.

C: The temporary order does not allow high capacity wells out of the Ogallala. There has been some development in the Lance-Foxhills formation and all new high capacity wells have monitoring well requirements and have to go through the Control Area process. There are limits on miscellaneous wells and wells spacing for residential wells. If the committee wants to use the temporary order and make some changes that would be alright.

C: It was asked "what does better than that look like?" What does the shorter term decision look like? And what does a long term plan look like?

C: If we accept that approach of short term and long term planning horizons, then we need more data. Part of the short term recommendation needs to be to get more data maybe with monitoring wells or metering, in addition to a moratorium or whatever that looks like for the short term.

C: We can mine information from the data on power usage to give an idea of how much water has been pumped for the last 20 years.

C: I agree with that, the South Platte Natural Resource District established baseline water use volumes based on crop, allotments of water, and electrical usage with assumptions and inferences built in. And that was their baseline for water usage, then they metered. Then with that metering data they refined the modeled historical data. In our situation, we're at reducing consumption, not acres.

C: There are only 2 irrigators here at the table. I'm wondering if that in the long term can we recommend a structure for local irrigators to make a decision for themselves.

C: As a committee we need flexibility for specific recommendations in certain areas. I think we have it with the long term, but not the short term.

C: We need to remember that in these areas there has been impacts to residential wells from groundwater depletion.

Q: In thinking about transfers, if I have an irrigation well, and want to transfer it to a municipal use, what would that look like?

R: The transfer will depend on the change of volume in consumptive beneficial use, depending on the crop and length of irrigation. It has to be a current use being transferred and is decided by the board. They want to transfer the consumptive beneficial use.

After discussion, a vote was called with committee members expressing their opinion of the current committee continuing on a 1-5 scale, where 1 is strongly agree and 5 is strongly disagree. Most members raised 1's and 2's, indicating they think the committee should continue to meet and work towards developing recommendations.

#### **4. Review and discussion of decision points document**

Steve Smutko introduced a "decision points" document to be used as a starting point for discussion on what decisions need to be made by this committee. A draft map was shown as a starting point for discussion.

The first decision point: Do you want to divide the control area into 'management areas'?

C: I think we are considering the wrong question first. I think we need to know the target first.

C: I think each area will need different objectives for different areas.

C: As drawn on the map currently, area 1 is fine, area 2 has to respect the uses that effect the eastern edge. It has to be shaped like a tadpole. Area 4 is fine with the changes made to 2. Area 3 has to go past Cheyenne. And then in those areas you deal with different decisions.

C: So you're picking up the different drainages?

Q: Why doesn't lodge pole creek run anymore?

R: New irrigation wells along the creek have kept it from being a flowing creek

C- Bern Hinckley: The conclusion of the modeling is that on the time scale we're dealing with, 40-50 years, and what the geology is telling us is 'no, it does not matter to Pine Bluffs what happens in Lodgepole Creek." Area 2 is not connected at a relevant time scale to the area to the west part of the county.  
C: Lodgepole creek runs to Burns perennially. We see changes in the water level during a flood event.  
C- Bern Hinkley: This discussion about the exact shapes is not something we have to decide today. The key question to answer now is whether to designate management areas.

Q: What does the Control Area Advisory Board actually do with respect to managing use in the control area?

R- Pat Tyrrell: They increase the requirements for anyone applying for permits. They have also reduced the number of permits given in the control area. The Advisory Board has helped to provide additional context for applications and provide feedback to our office regarding new permits. It hasn't stopped permitting entirely. We didn't get a lot of applications before the control area was created. There are some permits on hold right now.

C: Would you agree with the need to shrink the control area?

R- Pat Tyrrell: If you shrink the area, you lose a management tool. We don't want to reflect one draw down onto another area. Shrinking it helps focus the user groups and the issues. It is an idea the committee can talk about.

C: What I see when I look at the map is that we have some areas that I would define as crisis areas. Let's deal with those crisis areas first, and then address the other parts of the Control Area. We can have a short term plan for the crisis areas, and then step into a long term for the whole county.

C: In general, the last two years have been better than the past ten. We're not really in a crisis right now.

C: Let's deal with those issues now in the yellow and red, then deal with the rest later.

C: I would hope that the smaller areas would not be seen as another layer of bureaucracy, but an opportunity for those in the areas to make decisions like we are doing here on a larger scale.

C: The high drawdown areas can be a way of prioritizing data needs

C: For the management areas and for this group working right now, the law does not allow for the expansion of the control area. As we talked about at the last meeting, BOPU has shown that the City of Cheyenne has been able to manage our use so I'm not sure about another level of control. We're not in favor of making another management area that includes Cheyenne.

C: The way I see it, Cheyenne already has another level of control with the BOPU.

C- Steve Smutko: The first meeting you all said, that we can't manage the whole area the same. That's why I drew the management areas

C: Does the Control Area Advisory Board need to be as big as it is? What does it do?

C: The Control Area Advisory Board makes recommendations in an advisory capacity, and submits them to the State Engineer who makes the final decision.

C: We need to remember that we're here for the red box that has already been drawn, defining the control area.

C: The SEO's order is for the entire control area, and that is what we are talking about here. We aren't talking about creating new control areas. By dividing the control area into management areas, we can make specific recommendations that are appropriate to each geographic area. By dividing the control area into management areas you are not adding extra layers of control, you are enabling this committee to provide specific guidelines and management flexibility as appropriate.

C: If you apply a different strategy to area 2 than area 4, then someone can drill right at the border.

C: Would that make it so we can only address irrigator buyout in these certain areas?

C: I think we can only recommend voluntary measures. If we suggest something regulatory and mandatory, then there would be damage to someone not at this table. That's why I like the idea of setting up local advisory groups that can then make those regulatory decisions.

Q: Can we use the hydrogeologic lines to make a distinction for the boundaries?

R: This model is coarse so it can look at the county scale. I wouldn't know where to draw these lines. The concept is that there are areas that are distinct and do not interact on a timescale

A vote was conducted on the question: On 1-5 should you define management areas within the control area, in principle. Using this decision as a basis for future discussions and decisions. All committee members voted 1, 2, or 3, indicating agreement in developing and defining management areas within the Control Area.

***The second decision point: should there be different groundwater conservation goals within each management area? There are generally three goals: stabilize to a current level, recover water levels to a point in the past, or manage the decline of groundwater levels.***

C: Our immediate action could be 'do not lift the moratorium' then get data to see if we can level things off, and then our children can decide in 2055 what they want to do in the future. We could use a phased approach.

C: Since we do not know what it is going to take to get to these goals we can start stabilizing now, and then evaluate it along the way.

C: We should think about it with time horizons. Short, medium, and long term.

C: The time horizons make sense because we'll need a running average to see if we're actually making a difference.

C: I think we should have different goal and expectation for each area, but the phased approach makes sense everywhere.

C: We need to tie decisions to expectations in certain areas. This committee needs to solicit management strategies from people in those areas and ask what they want to do with the water in their area. The tools and ideas the SEO needs are for the areas that are facing future development because the areas of high decline. The areas with sever depletion are regulating themselves.

Q: Are you saying the discussion of target levels in proposed 1, 2, and 3 is not needed? And only needed in 4?

C: People in the areas 1, 2, and 3 and 4 should have a say in what their goals for levels and water use are for themselves.

C: Let's not constrain ourselves to thinking that we have to 'cut a finger off' to reach a particular conservation goal. We need to think outside of the box. We impact everyone in this region. We need to be thinking about ways we can achieve our goals without sacrificing our ability to benefit from the water we do have.

C: Consider the users in each area to determine those management controls or targets, if the committee does, then the SEO will do it.

C: I think we're trying to get at some goals. We can look at the time horizons, then look at controls.

The committee generally agreed that a phased approach to management goals could be effective and amenable.

Steve Smutko discussed the idea of stabilization and the implication of that on irrigation in those areas. The AMEC report contains the outcomes of a modeling run for a stabilization scenario within the Control Area. The model looked at the amount of reduction of groundwater withdrawals that would be required in each of the five Control Area Districts to stabilize groundwater levels to 2010 levels. The following reductions were estimated to achieve consistent stabilization across all districts:

- District 1 (Pine Bluffs) - 30%;
- District 2 (Carpenter area) - 35%;
- District 3 (Central County) - 0%;
- District 4 (Northwest control area)- 0%;
- District 5 (Albin)- 90%.

C: This is for a reduction in current use to hold the water level steady. Stabilization does not mean the status quo. It means backing up the train.

Q: Is a reduction of 30% realistic in Pine Bluffs?

R: That would be a tough deal if it was a flat out reduction. It wouldn't work, farms would go up for sale and property values would drop. We could do 30% reduction in 20 years, maybe.

Q: Where are you right now? Are you managing decline now?

R: The management of the water will be tied to the longevity of the industry. The wells that are showing decline are hurting themselves, not others near them. A reduction of 90% would kill an entire area.

C: The impact of small additional water use adjudication in the Albin area has created a pork production system generating 100 jobs next to a town of 125 people. The gross sales of the system are about \$35,000,000 or 15% of the county's agricultural output and 30 to 40% of the students in the school at Albin. Regulating the water use unwisely from less than informed parties puts the entire area at risk.

A similar model in Carpenter was the permitting of deep water drawn for use in a dairy enterprise which then supplements or replaces more shallow drawn water permitted for irrigation. Job creation was 50, milk sales of \$15,000,000, local trucking \$480,000, Fuel purchases \$200,000, electricity \$500,000 property tax \$75,000, Property insurance premiums \$75,000, significant impact on school at Carpenter.

The Agriculture gross revenues for the entire county without these two enterprises is \$190,000,000 with a high percentage of it depending on the irrigation sector.

Regulation of water withdrawal of the areas at the Colorado and Nebraska state lines should respect the economic impact of any such plan remembering that both states meter and restrict use adjacent to Laramie County ONLY on Lodgepole Creek where Nebraska has defined an interconnection of ground and surface flows, other areas use well recording and adjudication and no new development.

At the next meeting the discussion will continue, knowing that there is a proposal on the table from the Laramie County Conservation District. Also for the next meeting the committee should think about what you want to achieve by the April 1<sup>st</sup> date.

Meeting adjourned

Next Meeting

Date: March 16, 2015 5:30-8:30

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