

Laramie County Control Area Steering Committee
Meeting Summary
May 4, 2015
Herschler Building, Cheyenne, WY

Draft for Review

Approved

Participants:

Bill Bonham, *Laramie County Stock Growers*
 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*
 Scott Horgen, *Industry*
 Judy Johnstone, *Small municipalities*

Jim Lerwick, *Ag/Irrigators*
 Brian Lovett, *LC Conservation District*
 Jim Murphy, *Cheyenne Board of Public Utilities*
 Joe Patterson, *Southeast Wyoming Builders Association*
 Bonnie Reider, *South Cheyenne Community Development Association*
 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; Review and adoption of 3/30 Meeting Summary
2. Review of State Engineer's April 1 Order
3. Discussion of decision document
4. Next Steps: future meeting agenda items; meeting dates

Handouts:

Agenda
 March 30, 2015 Draft Meeting Summary
 Decision Points Document V2

Action Items Completed:

Agenda approved
 Meeting summary approved
 Next meeting set for May 18, 2015

Summary:

C= Comment Q= Question R= Response

1. *Welcome; Steering Committee member introductions; agenda review and approval; announcements; Review and adoption of 3/30 Meeting Summary*

Steve Smutko opened the meeting. Committee members introduced themselves.

Steve described that the agenda came from discussions from the Process sub-committee and that they saw a need to go through the State Engineer's April 1 Order. The decision document provided is a way to go through the Order and other ideas that the committee has discussed at past meetings. The document is not designed to start a discussion on each topic, but as a way to decide what will be discussed in the future.

Announcements:

Jim Lerwick announced that the County received 5 inches of rain in the last month and has raised the aquifer levels.

Adoption of the meeting summary was deferred

2. *Review of the State Engineer's April 1 Order*

It was asked, how many people have read the Order, and most committee members raised their hands. Steve summarized the Order.

Q: Within the Conservation Area, some of the restrictions are based on acreage and some are based on water use, does that mean you can do some of both?

R (Lisa Lindeman): For stock and domestic wells less than 5 acre-feet per year, it's 1 well per legally subdivided lot, or one well per 10 acres. Once you get to wells that produce 5-40 acre-feet annually, then there is the possibility of a monitoring well for new permits. Once someone reaches that 20% of saturated thickness, then they are shut off. It would benefit you to drill your well as deep as economically possible within the formation you're permitted for. We understand it's going to get really complicated.

Q: In terms of the draw down, is that while pumping, instantaneous, static water level?

R (Lisa Lindeman): The reporting is static water levels, these are reported annually in the spring. Monitoring wells is a separate issue. I would imagine that those would have constant monitoring equipment installed.

Steve: Another way to think about this is, what are your reactions to the Order? Does it do the job you think it's supposed to do? What are the implications of the Order for the tasks this committee is tasked with?

C: From the way I read it, I think it has possibilities to do what we think we want to do. I don't see anything about monitoring wells, or metering as far as knowing on an ongoing basis, how much or little draw down there was in particular areas.

R (Lisa Lindeman): Metering is required for all existing and future wells, and for specific types of permits in management areas they will require people to install monitoring wells. The agency is trying to get more money to put in monitoring wells where we are lacking data. From the meters and the monitoring wells we'll get a lot of data.

C: I think we're covered in Burns, but I want to make sure that we are.

R (Lisa Lindeman): We realize that there are people who don't know about it. The Control Board meets next week, if the State Engineer attains the approval for metering then he will reach out to the appropriators about the metering and adjudication. There's an expenditure with this Order and we want to make sure that people are aware and prepared for this. There are 167 that will have to be adjudicated, and 600 wells that will have to get meters.

C: The Order doesn't do anything to correct the problem in the drawdown area, which is something we've been struggling with as a group, in regards to existing wells.

C: I thought the State Engineer did as good a job as they could with the tools they have. I feel the letter was as significant as the Order. I hope we don't lose momentum. There's an opportunity to address the issue from an economic impact angle. One thing, the SEO has at his disposal is to put meters on, because that gives him the ability to shut down prior appropriators. There are far better solutions than the Order. I hope the committee has the patience to understand that and to understand how this impacts the control area, the county, and the whole state, whether it will impact us in Wyoming or benefit those in Nebraska or Colorado. I think we should let those user groups speak for themselves.

I know Pine Bluffs is concerned with any reduction in irrigation that is not voluntary, same with Albin. Burns is different. I think we need to develop a water plan for this county that has vision and focus, and buy in from everybody. I think we knew we couldn't get there by April 1. There's a lot of education that still needs to happen.

C: I agree. We need to look to the future because there are a lot of us that won't be here in 50 years, but the water issues will be here.

Steve: That's what we'll do tonight. We'll chart a path so we can get started.

C: My suggestion is that we make a list of the things to discuss, and we discuss them in order, and then we vote if we're happy, then to save time, to build continuity, we don't go back until we get to something down the line that effectively changes what we decided before.

Q: The Engineer's Office, do they have an idea where they want to address, what was left out? What needs to be addressed?

R (Lisa Lindeman): The Order is what the Order is. If you come up with a voluntary plan that meets the criteria in the statute, that could replace the Order. I think the one issues that you have discussed before, is the buying out of irrigated acres, getting rid of the demand. That's something my office can't do, if that's something you want to work on. We think the Order is fairly complete, we've spent a lot of time on it.

C: What's been going through my head from the last 4 or 5 meetings, is the idea the SEO has a limited amount of tools to use to address the problem, many aren't palatable to the irrigators. The buyout idea is great, I think that needs to be off on its own. It's something the irrigators can put together: plans, timing of water, what crops to plant. Different groups may be amenable to certain solutions. I would like to get those groups formed and start tackling those issues. Those solutions don't have to be part of the plan. They create a way for the SEO to not implement part of the Order. It's something they do on their own. There could be a deadline to see results to prevent the Order from being implemented in those areas.

3. Discussion of decision document

Steve: If you're ready to go through the decision document, it's a frame for what is open to discuss. Discussion on this isn't a discussion to answer the question, but a discussion of should this item be on the table for future discussion for this committee or not. We took the Order and the work you did prior to the Order. We'll go through these and have a discussion.

C: I hate to go back. I feel half the wind's out of the sail. The SEO has written an Order that I feel was an Order he felt he needed to make on that date. Overall with the tools he had and the insight we have given, it's a good report based on everything put together. Moving forward I don't feel a groundswell to move forward. Are we still here doing a job?

R (Lisa Lindeman): In our discussions with Pat, his feedback from outside of the committee, opening up his Order and reviewing certain points, he's cautious of that. The order is only 3-4 pages long. The first 25 pages is all supporting evidence to support those few pages.

Q: Does the SEO want help in moving forward in areas he can't work towards?

R (Lisa Lindeman): A voluntary agreement from appropriators is always preferred.

C: We need a discussion about different users in this group. How does the order fit you for 30 years?

C: The State Engineer's letter says "This may be the first step in several years, or a foreseeable future, of increased groundwater scrutiny, awareness, and management in the LCCA. Please continue your work on the financial incentives for removing demand from the High Plains Aquifer. That is the single largest piece of unfinished business we have remaining in the LCCA, and a piece for which I have limited tools."

C: I think we have to have the user groups settled out. I don't feel like irrigators that need to deal with water around Cheyenne. Developers in and around Cheyenne shouldn't be dealing with irrigators in the eastern part of the county. When it comes time to take care of these specific issues we need to be dealt with by them.

C: Of the 10 questions, #7 is something we can deal with. It would be helpful to me to get input from people in those areas. What do they feel needs to happen?

C: What percentage of the irrigation in the Control area is in the draw down area?

C: I came up with 85%. Based on where I know where irrigation exists in acres.

C: Is it possible that we need two different committees, one comprised of everyone in the draw down area that has something worthwhile to say? You're the most affected so you should make the decisions for that area, and then the larger committee can work towards making suggestions on how to find buyouts. I think there is a place for the rest of us who are not in the draw down area, to find funding. But based on this order and moving forward in a wise way of moving, you'll have to be the ones that have the most input.

And the communities in the draw down area too.

C: It's not just the people with the permits, it's the communities. The irrigators need to look at those 3 areas, and ask 'how do you want to manage it?' It could be as a mining operation as long as you don't harm anyone else, but that's a fine line to not harm anyone else. The policy needs to respect the economic and current and future desires of those area. We should break down those areas and suggest members of this committee attend those meetings. People are saying we need think about the future, but we need to find out what is real is what's on the ground, what their experience says. The model is alright, but we'll learn how they are dealing with the issues out there now. It will be a far better education than the model will ever give us.

C: The draw down area is the most affected. I can see plenty of things for the committee to do, finding funding. But a lot of the new rules or restrictions or guidelines will have to come from those who are in the draw down area.

C: I think the picture is a lot larger. Ultimately, the effect is a lot bigger. There's not much interaction from Albin to the rest of the county, but Carpenter is totally interdependent on Cheyenne. Carpenter has to have a discussion about how much water will come down Crow Creek. There is an interlocking influence of everyone. How immediate and desperate that interaction is, that's the largest issue.

Steve: So that goes to question 6: "do you want to discuss and develop areas of special treatment in specific drainages within the Control Area?"

C: I like what everyone is saying, but I like the idea of 'you get your group together' and then the rest of us can learn a lot about. Then I'll feel more useful. It's a starting point.

C: We've talked in circles for too long.

C: Do you address regulatory requirements in any of these meetings? What gets discussed in these meetings?

C: A lot of people don't know what is happening so sharing the Order and the process, and also ask if they have ideas to do more good for more people. We have to have a starting point. The community needs to know why we're bringing them together.

C: There's a lot of confusions out there.

C: Exactly what we're talking about is irrigators in the draw down area. Kristi talked about other irrigators in other areas. The term 'self-regulating' comes to mind. In a few years, what kind of group that has a voice in the draw down area will exist to keep the irrigators issues forward? If you look at the Control Area Steering Committee, we can start crossing some people off. We're not going to expand the Control Area so that takes BOPU out of this. The Order is the end point for the developers. That leaves industrial with deep wells and monitoring wells. The Order did a good job, but I don't think that discussion is very deep. Then we need to come back to the draw down area. From my perspective, we're looking for self-regulation and we need to talk to those affected.

C: I like the idea of focusing on the area. An economic analysis, looking at what if the SEO enforces prior appropriation, what does that look like? Is that where we want to be compared to the voluntary retirement of acres?

C: It will help everyone in the County to know where we're at as far as highest and best use. By the time it gets funded it could be 24 months before we have a document in hand. But that's alright. We should get that started.

C: I agree with that. Looking at this from an economic stand point, there's going to be a break-even point for communities. If you buy out all irrigation, what does that do to a community? That's one of the first things to be done. Then we need to put pen to paper. At some point someone needs to hire a lawyer and write something to put it together, to find a funding source, otherwise we'll keep talking in circles.

C: When you talk about plans, there is a lot of good history with groups with how they self-regulate. I'd

rather self-regulation than have someone else do it.

C: Focus on user groups, we need to get irrigators in Albin and Pine Bluffs together to get feedback on the Order?

C: No, not feedback on the order, we need a 50 year plan to manage water.

C: I like Jim's idea, since irrigators are the major water users. He sets up a meeting, we listen and learn.

C: For a location you're welcome to use the Burns Complex at any time. We can put a few hundred in the gym.

C: We have a lawyer hired, and the consultants, and have spent \$25,000.

Steve: Thinking about basin interactions, Lodgepole Creek and Crow Creek, does that deserve special attention? If you go there, if you're going to talk about basin interactions, then you have to go outside of the Control Area.

C: We have to be aware that the area expansion will be considered in September. I think it's important.

C: We may want to give advice to Colorado and Nebraska.

C Steve: This is question 6, 7 and 9. Do I hear anyone saying, we need to look at the regulations in the Order?

C: The Order was a great effort. The effect was 1-2 million dollars of maybe unnecessary cost to irrigators. It also put new development at risk. Now you're going to enrich the lawyers. We need a vision that we can do something better as users. That's huge. The law gave him the right to regulate, and it's based on prior appropriation. We need to look beyond the now, and look into the future. We can talk about how to bring in water. We have a model in Cheyenne. There are things we can do that aren't within the area the SEO can work with regulation authority. Are we interested in going there? Are we interested in the future of the county that is based in water. We can do better in the plan.

Q: Do you think you can get irrigators to self-regulate, without buyouts?

C: The irrigators are prepared to work for their sins, if you want to call it that since it was promoted and subsidized.

Q: When I talk about the developers, you say the Order takes care of the irrigators, do you believe that developing on 5 acre lots is the best?

R: There are discussions to be had, but based on the science, we're good to go forward. We've had discussions about open space and clustering. The basics of well spacing and subdivisions, there's a lot of question taken out with this order. But you are correct, there is a vision for a better plan.

C: Developers need to have a discussion, because every year you put in a lot of houses, 145 a year which is the same as $\frac{3}{4}$ of a center pivot in water usage. IN 20 years it's the same as putting in 20 center pivots in Cheyenne.

C: In the drainage in north of Cheyenne all of those homes in the area have septic. If we collect water from those septic systems and build a small collection and treatment facility and then send it down the creek that can increase available water and recharge. If Cheyenne goes and gets more water and releases more, does it have to go in Crow Creek, instead of Lodgepole Creek.

Steve: We're looking at either a water plan, or responding to the Order? What do you want to work on? If you're going as far as a groundwater plan that might have a lot of voluntary approaches, and not many regulatory approaches.

C: I think we have to develop a plan.

Steve: That is different than what the SEO has done or will do?

C: That would fall within the purview of the Water Development Commission. The State Engineer is more regulatory. Ann had some experience, was there any discussion on any statewide groundwater plan when you served on the Water Development Commission?

C: (Anne MacKinnon): They are trying to do more analysis. The commission made a groundwater decision tool for Laramie County. A lot of the Governor's strategic plan is aimed at the Water Development Commission. I think it's possible that the Water Development Commission could help with planning. It seems thinking about what crops to plant and timing, but what you're talking about is land use and water use. The Water Development Commission might be able to help with part of that. But it sounds to me, what you're thinking about is a combination of those things. The Development Commission hasn't gone for that in the past, but it is possible. I think you could think creatively about funding, but it might not be the solution for this committee. You don't want to hand it over to them, you want to ask for money.

C: Phil: The water develop commission is holding a meeting and you can approach them at that meeting about water augmentation and other things.

Steve: Do you want to be looking at user groups?

C: I came into this thinking we were going to develop a water plan and my views were down the road. We've gotten through the first step, the temporary order. Now we need to do all the steps left. One big question is, is the County going to help and fund us?

C (Troy): The County is willing to look and work towards a water development plan. We have Steve until the Fall.

C: I think this committee's work has slowed down, and now it's the irrigator's job, but there's not going to be much to decide for 6 months. The conservation district has expertise with funding models. We're a support role for what the irrigators.

C (Troy): I think the irrigators have done that, they have a plan. I think it's our job to make that plan work. I go back to the letter. I think its clear the direction he wants to group to take. I think the irrigators have done a good job in saying 'this is what we think will work.' There are parts that might not be easy to make work, but that's the role of the committee. But I don't want to put my thought into this since it is the committee's work.

C: Are all the irrigators signed onto that plan? Are the towns of Pine Bluffs, Albin, and Burns signed onto this?

R: We have an adjudicator's water user agreement. We have time since the order works for everybody. Yes, the irrigators and the municipalities were at these meetings. Given the information that the SEO has to work with and what his alternatives are, there's 85% buy in. It doesn't mean everyone understands it, but yes, it has the support of the irrigators.

C: Do we even need to have the irrigator meetings if they already agreed to a framework of a plan?

C: If there was 100 % buy in in this group about who would pay for the proposal, but since it's not clear who would pay, then we need to think about other options at the same time.

C: Based on Troy's comment, do we need to go on the listening tour, or just take the plan and modify it?

C: I think there were meetings where we spent the whole time talking about the proposal, and there was a disagreement on the science. There was a majority against the plan. Or is my memory bad? I think we talked about the Lidstone plan and large parts were not acceptable to the majority.

C (Troy): Did we dismiss the Lidstone plan, or the buyout? The irrigators got together and said they like the Lidstone plan. This committee didn't like the plan, but they didn't dismiss a buyout plan. Then you have a letter from the SEO.

C: Are we going to sit here and say we don't like the specifics of the plan.

C: I agree with what you said. I think the important thing is the concept of a buyout. We agreed on the conceptual buyout, not the funding. The larger pool, municipal, domestic wells to fund that buy out, not just logistic, but also legal. I felt as a group we were behind a conceptual buyout. But that wouldn't be the only part. We need a threshold on who is going to be targeted for funding. The highest priority as a group, we need to come up with an alternative cost share to fund those meters. That's a big hit to those individuals. We need to go to the NRCS, but I think there are some options. If we can have those regional meetings, and the plug is to have a cost share for meters, then we'll have people attend.

Steve: If you're going to have a plan you need objectives. For example, developing methods to allocate water to higher or better uses, involving people who are affected by and can affect a plan. If you have plan, what are your objectives, who will do that? It changes the tenor of where you want to go. This group was working hard to make recommendations to the SEO, now that's gone. So the question is how you proceed beyond that point. With respect to the groundwater plan, you are involving other authorities who may help you carry that out. There's the SEO, and who else can help you implement this? There's the idea of the Water Development Board, and the County Commission as an audience of this plan. By thinking about who the authorities are who can help, it has to be beyond the State Engineer. Then who decides? Is it this committee, how are you going to subdivide this, so there's a question about decision structure? Do we have subcommittees of users that feed information to this group? To develop a plan collaboratively you have to have all of the parties that matter but then you need to go find other parties to solve problems.

C: The other thing is we need to know what questions to ask. Are we going to ask specific funding questions.

C: We need to add the legislature.

C: The irrigators need to go back to individual groups and think about forming a special improvement district to tax themselves and provide funds. The Water Development Commission doesn't deal with individuals.

C: This plan has to include the new users that come on-line. Part of the backlash of the plan was the irrigators were getting free money. I think it's fair to say we're willing to take care of ourselves. But any new user has to have skin in the game. Any new well has to be part of it.

C: I've driven around the county, seeing pivots not spinning, and something happened economically, there were buyouts, or the economics didn't work out for those pivots. Stock Growers get involved with irrigation, and it seems that every ranch that fails turns into a subdivision. From a performing perspective, how much more net return do you get out of irrigated vs dry cropland? What happens if you want to run water one year, you can buy someone else's adjacent water who doesn't want to irrigate that year? Is there is a mechanism to fund temporary retirements? You have to start somewhere. There could be an internal mechanism.

R: We keep going to the irrigators. Funding is important, but to me, the more valuable thing is time and every one of these issues and items has different timing.

C: Do we or do we not want to pursue a buyout?

C: I think the main concern is who is going to pay for it.

C (Troy): I want a direction.

Vote: Are you interested in pursuing a buyout of some sort? *Majority yes.*

C: Making that decision gives us a direction.

C: Does the money come internally or from another sources, or a mix? I see it as being a mix.

C: The first thing I think of is a willing buyer, and a willing seller.

C: The goal is to get the best bang for your buck.

C: Those details were missing in the proposed plan.

C: The SEO has given us that tool. He's put the meters on the wells. Now we can do it based on the amount that is pumped.

C: He's defined the areas, so you're going to do a buyout in those area.

Steve: Are there other approaches on which you want to spend your time? A buy out is a way to reduce demand, but there are other ways.

C: I was intrigued by the short term issues. Opportunities of rotating with a neighbor and cropping that will reduce consumption, those need to stay on the table.

C: That's not in the SEO's arsenal of tools, but it might be something we take to him in a year, as part of a

general plan.

C: There are other options as well. If there are other options that can go along with a buyout. There are other groups that have done other plans and strategies. Research of those groups that might be similar.

C: When we talked to Nephi Cole in the Governor's Office, he said they wanted to see a more comprehensive tool.

C: I want to disagree that we're only dealing with the draw down area. In the plan, we wanted to buy out at a certain ratio, but it depends on the area. If we want to convert an irrigation well to fracking or municipal, we need to say that there is water to use. It's not a hydrologic connection, it's an economic connection because we're talking about the total amount of water in the County.

C: We're thinking about different time frames when this comes up.

C: Then we're talking about inside money vs. outside money.

Steve: An objective is 'reducing withdrawals' or it could be allocating water to better and higher uses with no net change in water use.

C: We could see a benefit if water was taken out of a high draw down area and more use in a low draw down area.

C: In doing so you have developed an economic benefit.

C: Current state law doesn't let transfers happen

Steve: This plan should reduce water withdrawals, it could possibly change uses, it should include other people. Cost sharing for metering is something different than a plan.

C: Metering cost sharing is something we should deal with now.

Q: Could irrigators get access to water development funds?

R: It has to be an entity with taxing authority. I'm thinking NRCS.

R: They can't share just on meters. It has to be a management practice.

R: So there has to be a plan before they cost share the meters.

Steve: What can this committee do to find cost shares for metering?

C: I think we should have meetings where we don't talk about irrigators.

Steve: What's next? If we think about, I can work to lay out a process where you will have a discussion around developing a water plan. I can help design a process to get you going down a pathway. I can offer you that.

C: An objective to add, is a land use approach to water conservation or reduction, clustering or limit sod areas. It would have to come from a regulatory point.

C: How closely can the Laramie County Land Use Plan work to use a water use plan?

C: I think we need to be thinking broad stroke on how we encourage conservation for the entire county.

Steve: Buy-outs, land use changes, water conservation, other approaches are options for reducing withdrawals. This question of a cost share of metering, what can you do as a committee to move this along?

R: There are a lot of other areas that have faced the same thing. What have other areas done? Where do they go? Fox Springs, Niobrara County, part of Goshen. in the triangle between the canals is regulated like we are talking about

C: Costs are \$1,200 to over \$3,000 if you have to tie into an existing pipeline. But it depends on the situation for metering.

C: If it's something we are going to propose that is required, then we should be able to suggest possible funding assistance.

C: Why don't we look into what it will take to get cost share from the NRCS

C: We could look at the Wyoming water development commission, though it's not something they normally

do, but this is in the governor's water strategy.

C: Tim Wilson will look into the Water Development Commission as a funding source.

4. Action Plan

C: So we need to investigate the alternative sources of funding.

Steve: I can put together an approach, a straw man, to have these discussions around. It will identify things that this committee can and should discuss to get to some objectives of a water plan, what you'd want to accomplish by developing a water plan. I will develop a way to get to those objectives. I can also play around with how you might want to involve other communities in a more focused way, since I keep hearing it. Who do you involve in those discussions and how.

C: We will talk to the community. When my name was in the paper a woman called me and she ripped on me for a while about the irrigator's plan and the funding source, and she said 'I don't give a dam what any of you say, I'm not paying a fee.' I think we need a method of knowing that some people are breaking the rules and using their water for different purposes. I'm not sure how to address those situations.

C (Kristi): I'd like to offer to scope out what I think an economic assessment would look like. Ways to fund an economic assessment. The Wyoming Water Development Commission and then the possibility of putting out an RFP for a consultant. The money would come available next February through May. I'll provide an idea of what they may look like. What a buyout might look like, and then voluntary regulating and a county wide land use approach focus on other water uses as well.

C: Do we meet in 2 weeks?

C: The next meeting May 18th.

C: A few of those programs discussed at previous meetings had buyout plans, did they have guidelines? In the Nebraska plans?

C: Yeah, it's Pumpkin Creek.

C: Would that be similar to the Pike's plan?

C: Yes.

Meeting adjourned 8pm

Next Meeting

Date: May 18, 2015 5:30-8:30pm

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