

Powder River Basin Interagency Working Group
Initial Organizing Meeting
Sheridan, Wyoming, June 10-11, 2003

DAY I: June 10, 2003

Agenda:

1. Welcome
2. Introductions, Agenda Review, Meeting Guidelines
3. Management Direction: BLM/Wyoming, BLM/Montana, Buffalo Field Office, Mile City Field Office, Wyoming DEQ, Montana DEQ
4. Overview of Record of Decision (ROD) for Powder River Basin Oil and Gas Projects
5. Concerns/Expectations of Other Agencies
6. Overall Goals and Objectives for the Process
7. Proposed Working Group Structure
8. Task Group Meetings

Welcome: Bob Bennett, BLM Wyoming State Director, welcomed the group and emphasized the need for collaborative action to continue in the process of interagency cooperation that started during the EIS process.

Purposes of the Meeting: The meeting is designed to coordinate issues between Montana and Wyoming, establish organization and goals, obtain input from participating agencies—in order to implement the portions of the RODs that established the interagency working groups. This is not a decision-making meeting regarding any specific oil and gas development proposals.

Management Direction: The group heard brief statements from Bob Bennett (BLM/Wyoming), Tom Lonnie (BLM/Montana), Dennis Stenger (BLM/Buffalo Field Office), David McIlroy (BLM/Mile City Field Office), Jan Sensibaugh (Montana DEQ) and Gary Beach (Wyoming DEQ). Each outlined his/her hopes for the interagency process as described in the RODs and identified key issues that it will be important for the group to address.

Overview of RODs for Powder River Basin Oil and Gas Projects: Paul Beels (BLM Wyoming) and Scott Haight (BLM Montana) reviewed the requirements contained in the Records of Decision, especially the provisions for interagency cooperation during implementation. The two project managers noted that the RODs are slightly different in approach.

Concerns/Expectations of Other Agencies: Following the presentations by BLM regarding the RODs and the provisions for interagency cooperation, the participants from other agencies offered their comments, questions, concerns and expectations. In summary, the following points were made:

Comments/Concerns

- Agencies are working on streamlined ESA Section 7 consultations in Wyoming—how can that kind of process be incorporated in this effort?
- Agencies have limited personnel resources—how can we make sure that each agency’s contributions are used well and not overstretched?
- Due to resource constraints, we would prefer one group on each major issue such as water and air, rather than separate state groups.
- We would expect to participate in the design of the monitoring process.
- We need to maximize communication and integration of programs.
- We need to minimize duplication of efforts, to save energy and money.
- Other states that are in the airshed, such as South Dakota, should be engaged, particularly for impact to Class 1 airshed areas.
- This coalbed methane development process is highly visible, and somewhat a test case and model for other areas. We need to learn from it and pass those lessons along to colleagues in other development areas.
- We need to understand how data will be collected and analyzed—based on agreed methods and protocols. Some agencies have technical resources to offer as well.
- It is difficult to figure out where funding will come from for specific efforts, since there are so many industry representatives.
- If produced water reservoirs are built, how will water resources be managed—to resolve potential conflicts among requirements of the Clean Water Act, state DEQs and state engineer?
- We need to build cooperation to identify data gaps and research needs.
- We need a way to get information to county leadership and to the public about what is going on—especially about local water quality effects.
- There is a lot of uncertainty in the science—we need to be careful about potential damage to tribal resources.
- We need to attend to assimilative capacity—related to TMDL processes underway by the states. What is the process and timing?

Questions

What are the triggers for corrective action? A: This will need to be addressed for specific resources (air, water) by the task groups we are about to establish.

How will assimilative capacity be determined? A: The TMDL process will address this. Coalbed methane process must feed information into that effort.

How does this process relate to the Rocky Mountain Energy Council and other efforts, like the Section 7 streamlining? A: We will strive to avoid duplication of efforts.

How does this process communicate with industry? A: Industry people can be engaged in specific task groups by providing information where requested and they will be apprised of the actions of the working groups because the products and proceedings of the IWG and Task Groups will be made available to the public.. The Petroleum Association of Wyoming is also an avenue for communication and information.

When will applications for permit to drill (APDs) be considered/approved? A: These meetings are to discuss organization for mitigation/monitoring efforts; no use authorizations are part of this process. The handouts provided list pending APDs for each State.

How will a full incremental consumption analysis be performed? A: This is a potential topic for the Task Group on Air Quality to address.

Presentation by Northern Cheyenne:

- The tribal reservation areas lie along the Tongue and Rosebud Rivers, downstream from Crow lands and from likely CBM development in Wyoming.
- The tribe is concerned about impacts to groundwater levels and water quality of streams entering the reservation. These, in turn, may impact tribal resources, including riparian plants and springs that are important cultural resources.
- The tribe is also concerned about illegal taking of methane that belongs to the tribe.
- Past experience shows that development will have negative effects on tribal social and economic life.
- The tribe has felt the need for a forum for inter-governmental cooperation between the states, federal agencies and tribes.
- There needs to be a dispute resolution process, in order to solve issues collaboratively and avoid the expense of litigation.

Overall Goals and Objectives for the Process: Based on the RODs, goals implied in earlier comments (see above), and as amended by group discussion the following overall goals were identified:

1. Coordinate implementation of the two RODs.
2. Ensure compliance with applicable laws/regulations, air and water quality standards.
3. Minimize duplication of efforts.
4. Maximize resources for monitoring, data collection and analysis.
5. Ensure appropriate action.
6. Provide a mechanism for addressing concerns/issues from any participating agency or other interest groups.
7. Share data across jurisdictions.
8. Share technical resources (personnel, funds...).
9. Link local, state, tribal and federal governments.
10. Provide a forum for increased communication among all parties—and with the public.
11. Identify and share best management practices.
12. Provide a clearinghouse for information and research.
13. As possible, speak with one voice across states and agencies, (or at least from a common knowledge base) while maintaining the mandates and missions of each entity. Articulate differences when appropriate.
14. Keep it simple.

Proposed Working Group Structure: Scott Haight and Paul Beels presented a tentative proposed structure for the interagency working groups, showing both structures for collaboration within states and combined efforts across states.

In discussion, a number of concerns were raised, as follows:

- It appears that the only place for cross-jurisdiction communication would be joint meetings of task groups—is that enough?
- Several agencies do not have the personnel resources to attend multiple meetings—would prefer joint meetings MT/WY.

- In the proposed structure, a potentially-affected entity might get lost as states pass the buck to each other
- Upstream/downstream and upwind/downwind interactions must be accounted for—have to deal with combined effects.
- We need multi-state groups, but also a way to address issues for a single state—to be sorted out by ICC (referred to single state or joint action).
- Make sure that non-air/water issues get attention.
- The nature of the issue should drive the composition of technical groups (with a clear assignment, resources, time schedule)
- Communication in all directions (and externally) will be key to success of the structures
- TMDL example: CBM process would provide monitoring data for consideration by states in developing TMDL plan. CBM process would also identify implementation activities required to comply.
- Organize task groups around the work that needs to get done, not around control. Build in flexibility.

Meetings of Task Groups: For the last hour of the day, the full group divided into three task groups, addressing water, air, and wildlife/habitat. In addition, a group of managers discussed the overall structures, drawing on the immediately preceding discussion.

DAY II: June 11, 2003

Agenda:

1. Report of Wyoming Governor's Meeting on June 10, 2003
2. Reports from Task Group Meetings
3. Task Group Meetings to Prioritize Tasks
4. Report from Managers Group on Overall Structures
5. Next Steps for Joint Process
6. State Working Group Organizing Meetings

Report of Wyoming Governor's Meeting on June 10, 2003

John Corra, Director of Wyoming DEQ, reported on a public town meeting held by Wyoming Governor Dave Freudenthal on coalbed methane issues the previous day in Sheridan. It was a three-hour meeting with about 200 people in attendance. Some of the issues raised by participants included:

- People see this as a zero sum game in terms of surface rights vs. mineral/gas rights
- Mineral estate has dominance over surface estate—so landowners are defensive from start
- A County Commissioner noted that leadership makes a difference, and that Commissioners are on the front line, receiving about twenty calls/day, regarding dust, road maintenance, noise, dumping on side of road.
- Neighboring lands where CBM development is not taking place are getting CBM water flow—lawsuits are likely.
- Some see a decrease in property values in Sheridan area. Different appraisal values if CBM on land. Split estate issues effect price.
- Communications: lots of miscommunications, misinformation. Sometimes thinks its cover up. So this group (IWG) should be thinking about communicating with one voice and providing a clearinghouse for information.
- One local man with technical background broke through ice last winter and found water bubbling. Got methane meter and sampled. He noted that there are more coal fires and wells going dry. Draining water out of coal seams is leading to fires and methane migration. He talked with drilling companies in their language, got some things resolved. Most people don't have his background/training. How can we provide some kind of advocacy function with technical competency?
- Lots of comments about late notification, leases about to expire, or under suspension.
- People have lots of stories from their experience. Some feel they have been treated well by industry. Our group (IWG) will be faced with the negative stories.
- There is not much coordination among the many operators/companies. People would like them to cooperate more, to combine utility paths, ROWs, gas compression lines, marking of lines, planning, etc.
- People see a lack of full disclosure and honest communications; lack of leadership—unclear who is in charge, and coordinating effort; not monitoring/enforcing as we should.
- There are multiple groups addressing CBM issues: Western Governor's Association, CBM Coordinating Group, this effort, etc. They need to know about each other and avoid duplication of efforts.

Reports from Task Group Meetings

Air Issues

Tasks

1. Assess existing monitoring –where and for what. (PM¹⁰, PM^{2.5}, NO_x, ozone, aerosols). Establish thresholds/triggers and response actions.
2. What gaps/needs exist?
3. Plan for additional monitoring
4. Establish baseline for PSD increment analysis/AQRVs
5. Develop a strategy for addressing cumulative impacts in Class I areas.
6. Identify existing models in use and develop a protocol for use.
7. Ongoing assessment of BACT for both states

Priorities:

There are short term and long term dimensions.

Top priority is to do 1-3 in list above in short term and right away—common goal for both states. WY is already doing a lot of monitoring.

Second short-term would be assessment of BACT from both states.

Longer term would comprise 4-6 from above list: baseline for PSD, cumulative impacts, models. It takes time to do those. Also common to both states, make sure doing it in the same way.

Water Issues

Tasks:

Monitoring Issues

1. Develop surface water and groundwater monitoring plans per watershed, per aquifer, or site specifically (Use WY-BLM document of 5/03 as template)
 - Surface water quality
 - Groundwater drawdown
 - Site Specific monitoring depending on water management methods
2. Address needs identified in RODs
3. CBM Development within Regulatory constraints
4. Evaluate Groundwater Fate and Transport
 - Infiltration Basins
 - Groundwater Models
3. Need to differentiate between monitoring for compliance/site specific monitoring depending on water management methods used, and monitoring for effectiveness of mitigation/evaluating adequacy of assumptions/impacts disclosed. Also need to differentiate between localized monitoring, watershed scale monitoring, and regional monitoring.
4. Need to have baseline water quality information in order to predict future water quality:
 - Permitting (DEQs)
 - Analysis of Effects from proposed actions (BLMs)
5. How much funding is available and who will provide it?
 - Industry vs. Academia vs. Government
6. Who will do the work?
 - Industry vs. Academia vs. Government
7. What procedures will be used to collect data?
8. What procedures will be uses to assess/analyze/interpret the data collected.
9. What aquatic monitoring will be done?
 - Fish & Macro invertebrates
 - Effects during low flows

10. What monitoring will be done to address specific water management methods
 - Land Application
 - Impoundments
11. What monitoring will be done to address tribal concerns

TMDL Issues

1. Need to look at the balance between monitoring, permitting, identification of adverse impacts, trigger points and TMDLs.
 - Future permitting will depend on monitoring to identify adverse impacts the identification of adverse impacts will depend upon trigger points, and the trigger points will be determined based upon TMDLs
2. How is permitting going to occur Pre-TMDL development, if at all?
3. How much assimilative capacity is there, and how will it be allocated?

Priority Tasks

1. Develop/Revise Surface water and Groundwater Monitoring Plans by Watershed or Aquifer
 - GAP Analysis of available surface water data
 - Identify what we have & Evaluate its utility
 - Identify what we need
 - Develop the Plan to address the gaps
 - Site Specific Monitoring needed based upon the type of water management practices
 - Groundwater Fate and Transport
2. TMDL Issues
 - Assimilative Capacity
 - Allocation of Assimilative Capacity

Structures

1. For Watersheds or Aquifers that *cross state or tribal lines* the development of the surface water/groundwater monitoring plan should be a Inter-State/Tribal activity
2. For watersheds/aquifers that are in a *single jurisdiction*, the appropriate agencies (BLM, DEQ, Tribes) will develop the plan
3. For TMDL Issues in watersheds that *cross state or tribal lines* the development of the TMDL, assimilative capacity and allocation should be a Inter-State/Tribal activity
4. For TMDL Issues watersheds that are in a *single jurisdiction*, the appropriate agencies (BLM, DEQ, Tribes) will develop the plan
5. In general, the groups that will be affected by an action should be involved in the development of plans, while it is not necessary for unaffected groups to be involved.

Wildlife Issues

Tasks

1. Develop monitoring plan with all usual ingredients: Establish baseline. Identify gaps. What is monitored (which species), where, by whom, when?
2. Evaluate whether trigger reached → response, new mitigation plan. If no trigger reached, continue with mitigation plan as in ROD.
3. Assess reclamation of habitat—success in restoration.
4. It is BLM's function to ensure compliance/performance with mitigation plans.
5. Get proactive—get collaborative funding, including industry contributions for larger studies on regional basis.

[Discussion: Are we monitoring for compliance or for effectiveness of mitigation? Some want to study adverse effects or broader cumulative analysis, which is not required of operator for permit. Who pays for it?]

Priority Tasks:

Most tasks are in common.

First priority is to develop the monitoring plan.

Then develop site specific triggers/response.

Structure: some multi-state/tribal coordination, primarily to make sure both states are monitoring the same way and to share data. Ensure that we are consistent in responses where not meeting mitigation goals. Need technical approaches, not management decisions.

BLM will take initial lead in developing monitoring plan for comment from others. Montana's Wildlife Monitoring Plan is already developed and contained in their ROD. Wyoming discussed developing a similar Plan. Plans would have some overlaps, some differences. Large studies are going on for sage grouse that are inter-state.

Clearinghouse for Studies and other Efforts Underway

In discussion, it was noted that we need a process for collecting data from multiple sources. USGS is proposing to develop a mechanism for a comprehensive monitoring strategy at big picture level. Meeting last week to discuss that, with attendees from all the groups participating here that will include data storage, long term analysis across the region. Additional funds needed with some EPA money initially. Soil chemistry study also underway with EPA funding (UCal Riverside). Lots of stuff going on—we need to know who is doing what and where—as clearinghouse for information sharing. Each Task Group needs to know existing efforts underway—inventory of studies, etc.

Report from Managers Group on Overall Structures

Issues: Some considerations relative to the IWGs.

- Review monitoring data
- Establish monitoring plans
- Establish monitoring protocols
- Develop triggers
- Federal vs. state
- Charter technical groups: funding, personnel, key questions/tasks
- Flexible membership

Chart of Structures

Task Groups (Level 1): The Task Groups will be comprised of technical staff that do the day-to-day work, getting help from higher levels as needed. There will be an interactive process among these technical groups. Some teams will be organized on a state basis and report to the state IWG. Others will be joint action groups and report to the joint IWG. Each Task Group will determine its own leadership.

Interagency Working Groups (Level 2): One IWG per state, with leadership from the BLM Field Offices. To include field managers and other agency managers overseeing and managing work of Task Groups: BLM, FWS, EPA, DEQs, counties, USGS, COE, tribes, G&F, BIA, and other interested agencies. Field Managers will take leadership/chair.

Tasks:

- Staff the Task Groups
- Develop technical group charters (with input from the Task Groups themselves)
- Assign/oversee/review work
- Assure that TGs operate within parameters of charter and budget
- Develop Best Management Practices
- Encourage data sharing/gap identification
- Encourage communication and provide coordination
- Arrange for a public input process

Interagency Coordinating Committee (Level 3): Should be comprised of only a handful of people: 2 BLM State Directors, state DEQ chiefs, and EPA (a senior manager).

Tasks:

- Set high level priority/direction
- Establish principles/beliefs
- Put boundaries/expectations on work
- Encourage communication
- Resolve inter-agency conflicts (brought from lower levels)
- Decision maker within jurisdiction—collectively make decisions for good of all

Following discussion, the group *approved* this structure as a place to start, recognizing that experience may suggest the need to change/adapt along the way.

Next Steps for Joint Process

Interagency Working Groups (IAWGs): Dennis Stenger (Field Manager, Buffalo Field Office) and Dave McIlroy (Field Manager, Mile City Field Office) will take responsibility for calling the next meeting of the joint IWG, aiming for September. They will also draft charters for the two IWGs and share those via e-mail for concurrence of participating organizations. Once the charters for the IWGs have been approved, agencies will be asked to designate an official representative to each state IWG and to the proposed initial Task Groups for air, water and wildlife. Scott Haight and Bill Daniels were assigned to draft a Charter for the Interagency Coordinating Committee.

Task Group Charters: Charters for air, water, and wildlife Task Groups will also be drafted. The following people will take responsibility for producing drafts:

Air: Dave Klemp

Water: Andy Bobst

Wildlife: Jim Sparks

Members of the group designated points of contact from their agencies to review the draft charters.

TMDL Issues: The State DEQs are already working on TMDL issues. Art Compton from Montana and Gary Beach from Wyoming will coordinate inter-state consultation, particularly where watersheds cross state boundaries. This process is already underway and will not wait for other developments.

State Working Group Organizing Meetings

At the end of the meeting, the group broke into subgroups to address the organizing needs and next steps for each Wyoming and Montana.