

Wednesday October 22, 2014

Hosted by the DEC

1st floor conference room 555 Cordova St. Anchorage with teleconference

Attendees in Anchorage: Charley Palmer (DEC), Chris Miller (DEC), Rebecca Baril (DEC), Jeff Warner (DEC), Jim Munter (Hydrogeologist/Consultant), Wayne Westberg (WWC), Bill Kranich (WWC), David Schade (DNR), Pamela Goode (Private Citizen)

Attendees via teleconference line: James Squyres (Private Citizen), John Craven (Public Water System owner), Lee Ice (WWC), Chuck Ice (WWC), Roy Robertson (DEC), Jessica Winnestaffer (Chickaloon), Craig Seime (WWC), Ted Schacle (WWC)

Meeting Minutes

Facilitator: Jeff Warner

Introduction

- Roll Call
- Review of minutes
 - Decommissioning BMPS
 - James Squyres proposed that the letter being sent to agencies with the Decommissioning Best Management Practices (BMP's) contain another attachment for signatures of non-consent.
 - Charley Palmer added that the letter is for 3 options as to how to implement the BMPs. They would then be sent to the DEC Management (and DNR) for them to decide how they will be implemented.
 - Lee Ice: Is there a differentiation for public or private?
 - Charley: The decommissioning BMP's would be for all wells.
 - Charley: If you don't agree to what we currently have written, what would we need to do to make them acceptable?
 - James: I would like to take the proposed BMP and compare it to the current regulation so I can understand what I'm signing.
 - David: I am going to be asking for input on my entire regulatory package which will then lead to a proposed number of changes. The following year I will be completing a regulatory review. The new House Bill (HB140) makes the public input process a little more difficult, where I have to respond to all public comment. We take the public comment and post our answers publicly for everyone.
 - Jim suggested we attach a signature of abstention for those who cannot provide input.
 - Chris: so would the DNR regulatory review include a packet for regulating private wells?
 - David: Possibly, since we currently point to DEC. It's important to get this issue out for public comment. I want to see that after this much work, we move it forward.

- James: I appreciate the comments. Some have suggestions for changing regulations, but we should also consider having a good BMP that the people will self-impose.
 - Charley agreed but also added that allowing for good faith can cause the bidding issues that were brought up in early meetings in which the low-bidder could be chosen and may not be to the BMP standard.
 - Wayne: Motion to move the process along. The copyrighted standards that are currently in regulation, either don't apply, or are flat out wrong for Alaska.
 - Bill Kranich – second
 - Hearing no oppositions
 - Rebecca: How should we handle collecting signatures?
 - Charley: Are physical signatures needed?
 - James: It would be good to have physical signatures since this is the first large document that the group is sending and we should show our support.
 - John: Perhaps we could let those who oppose provide statements as to why they oppose.
 - David:: Each person will have the ability to explain their vote on their signature page.
 - Jim: Propose a deadline around November 7th?
 - No objections.
- Quickly review/clarify the original goals of these meetings
 - Jeff reviewed why the group was started and the “Issues and Concerns” document that was collected for this workgroup.
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- Action Items
 - Private Water Wells website
 - David: Problem. The paragraph on water rights where it states that not having water rights “may impact future real estate transactions”. It does not because they are not required.
 - Wayne: Does a homeowner automatically have water rights?
 - David: Only if they apply for them.
 - Wayne: What about if it's less than 500 gallons per day (gpd)?
 - David: It's first in right, first in time. We recommend water rights, but do not require them. And they are not automatic for those below 500 gpd.
 - Chris: The reason we added that line in the website is because we have had many questions from realtors and financial institutions.
 - David: If a financial institution says it's required, I have had to write letters to formally inform them that it is not.
 - Wayne: Is there anything written in plain English for realtors and financial institutions about water rights?
 - David: There is the Water Rights fact sheet, but considering writing a memo for the “Why should I apply section” about the 500 gallons per day misconception.
 - Roy: I have had to deal with financial institutions that don't want to give a loan on a house because there is no certification of water or are asking how much water the house has.

- David: Water rights doesn't impact whether or not they have water. I've never had to tell someone to turn their water off.
- Charley: Is there ever an instance where ownership of water rights would *positively* impact a real estate transaction? [Intent: The word "impact" does not have to mean negatively].
 - David: No, but I always recommend they have them.
- Pamela: If someone gets a receipt saying they have a well drilled. Just because they don't have water rights, they have the right because we have proof the well was drilled.
 - Bill: No, you have to have the certificate saying you have the right to the water.
 - Jim: When you have a well drilled, you're essentially only paying for the hole in the ground and the steel casing.
- David: The constitution says water is a public resource. The prior appropriation doctrine requires that you have to apply for first in right first in time. If water goes away, then it's just too bad. It is not illegal to tap water, but you can't claim rights if something goes wrong.
- Jim: It's somewhat analogous to mineral staking. You can stake a mineral claim then file for it, but until you stake that claim, someone else can come along and claim it.
- David: Suggest changing the wording to "water rights can affect YOUR future water USE".
- Pamela: Other than contamination of the aquifer, what is the point?
 - Wayne: It allows them to run through the list of users (with rights) and restrict usage in order, until water returns to the aquifer.
 - David: The priority of your water right is in a queue. The DNR determines the sustainability of the aquifer, then looks at the list and determines who has rights to the aquifer first.
 - Wayne: They can also determine who is using more and tell them to reduce their usage until capability is returned.
 - Jim: Gives the user rights in court.
- James: If there are 100 private wells and 1 public well, does the public well supersede the private wells?
 - David: In my definition of a public water supply, I'm considering a large scale municipal supply. They could supersede the private systems if they are willing to pay for it; e.g. hooking the private wells up to the system.
- Ted: I have only seen one instance where water rights have helped. Others have had them removed because it only adds more bureaucracy.
- General agreement to remove sentence about real estate transactions in the water rights section on the webpage.
- Bill: So does DNR have a different definition of public water system than the RCA and DEC?
 - David: From my consultations with the attorneys, yes. We only consider large municipal systems to be public water systems. This is given by a constitutional priority right.
- **How to keep the website updated?**

- Charley: How do we want to handle updates of the website in the future?
- Different ideas were discussed, but it was agreed to hold the discussion for when the group was looking at stopping meetings.
- Charley: Had a positive experience meeting someone who runs private water well trainings (online) in the lower 48 and will be directing future people asking about Alaska to the website.

Issues and Concerns

- Decommissioning BMPs
 - Charley: There were some definitions that were still in question after email discussions: aquifer and abandoned water wells. I think it was agreed to strike economic from aquifer. The next definition proposal was for abandoned water well.
 - Jim: The abandoned water well definition needs some work. The maintenance criteria was an issue.
 - David: The issue was that the well maintenance referred back to the public water system requirements.
 - Jim: the 10 feet of grouting was excessive. Maybe we can craft language to keep wells from being such disrepair to cause damage.
 - Charley: So what do we consider to be disrepair?
 - Jim: Water pooled around the well casing.
 - James: Everyone wants to protect their water supply, but there becomes a concern for a neighbor who is waiting until one year and one minute that their neighbor has been gone from maintaining their well, who will then try to usurp their rights.
 - Jim: We want to include the sanitary seal (secured at wellhead), and we want to make sure there is no water pooling up or flowing down the casing. The only other consideration is obvious concerns for contamination.
 - David: We just need to define maintenance: wellhead and proper mounding.
 - Jeff: So maybe we use the public water system definition but leave out the points of issue.
 - David: From 18 AAC 80.015 they talk about wellhead, grout, adequately protected from flooding and mounding. So if we agree with all except the grouting then we should just say that.
 - Agreement to remove the grout requirement from the maintenance regulation.
- Well Construction BMPs
 - Replace definitions with aquifer and abandoned well from previous discussion on decommissioning BMP.
 - Wayne: Did we add the ANSI and ASTM definitions?
 - Charley: Those were decided in the last meeting to define.
 - Wayne proposed striking the alternate definition for water well.
 - Charley: We have to be careful with that definition, since there are multiple different definitions.
 - David: We have to be careful with multiple agencies collaborating on different definitions.
 - Jim: Maybe we should look back to the background and purpose of the document. Definitions don't make sense until you put them into their context. This could be a

chance to back up and look at what we are talking about. We are looking at a BMP. The problem with working with this document is who is going to enforce this?

- Wayne: The intent right now is to set up best practices not necessarily standards. This is a base document that gives everybody the practices accepted in Alaska. If subsequently they want to take it into law then they can work out the wording.
- Charley: In reference to the document, the yellow highlights are definitions that are also in the decommissioning BMP. Green highlights are in Municipality of Anchorage (MOA) standards. In our last meeting we were past the definitions
 - Rebecca: We left off at 6(c)(5)
- Charley: The topic was the 40' in bedrock.
- Ted: We talked about casing to 40', but we have lots of wells shorter than 40 feet. There are some wells with no water below 19 feet. Some wells have salt water below a certain level, or may have 22' to sandstone then into brackish water.
- Rebecca: Our last meeting we discussed having wording suggested for this as well as adding a permafrost section here.

Wrap-up and next Meeting

- - Jeff: Everyone look at this portion and consider some suggestions to provide. Meeting wrap-up and scheduling.
 - Charley: November 19?
 - No objections

Action Items:

- [Update private water well website with revised wording on water rights.](#)
- Decommissioning BMPs
 - Charley to edit Decommissioning BMPs and letter
 - Charley will send the Decommissioning BMPs and letter to the group
 - Everyone sign and return (approve, oppose, abstain) their signature. Comments may be added to the signature page. Signature page due back by November 7th.
- Well Construction BMPs
 - Everyone look into Section 6(c)(5) of the Well Construction document and come up with suggested requirements and wording.
- **Next Meeting is November 19 2014 6:00-8:00pm**