



Groundwater Protection and Water Wells Workgroup Meeting

Wednesday August 21, 2013

Hosted by the DEC

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

Attendees in Anchorage: Fred Sorensen (UAF), Charley Palmer (DEC), Kathleen Kastens (Retired DEC; Private Well Owner; Facilitator), Chris Miller (DEC), Rebecca Baril (DEC), Wayne Westberg (WWC), Jeff Ellison (WWC), David Schade (DNR), Jim Munter (Hydrogeologist/Consultant).

Attendees via teleconference line: Pamela Goode (Rep for Dan Brotherton-WWC), James Squyres (with Pamela Goode), John Craven (PWS Owner), Bill Kranich (PE / PWS Owner – Southcentral), Ted Schacle (WWC), Craig Seime (WWC), Milo Pitner (WWC), Michael Smith (Senator Bishop's office), Larry Swihart (WWC), Roy Robertson (DEC), David Bay (WWC).

Absentees: Lee Ice (WWC)

Meeting Minutes

Facilitator: Kathy Kastens (Retired DEC; Private Well Owner)

Introduction

- Kathy started meeting at 6:05 pm. With no objections, minutes from the last meeting were approved. Ground rules of the meetings (during and between) were reviewed. Open communication and discussion is desired in these meetings, but also need to ensure respectful communication. Kathy reviewed expectations of meeting members from the minutes of March 13th, 2013. Play nice and be cooperative.
- Jim Munter proposed an adjustment to our mission statement so that we are addressing new issues that may arise.
- Kathy proposed the 2 options to the group to discuss: Add issues onto the current issues being tackled, or continue with just the issues decided upon from the October meetings.
- Larry Swihart mentioned that in reference to the review of ground rules it is important that we take any criticism in stride. Be "thick-skinned". He also agreed with Jim Munter as having a good point and that as new issues arise we should address them.
- Jim added that somethings may be able to be attached to another issue, while some may be a whole new issue.
- Kathy asked what the group consensus was on adding new issues to the document, and in hearing no objections, the idea was agreed upon. New issues that arise will now be added to the

list of issues and concerns to be addressed once the issues from October are addressed (unless they are relevant to a current issue).

Review and Report of Action Items

- **Guidelines for institutions and realtors.**
 - Chris Miller: Still working on this and is starting to put together documents.
- **Educational Materials**
 - Kathy: Everyone has had enough time to evaluate the educational matrix. We need to start the website to put out educational material. The DEC volunteered to house one of the websites and will talk further about including UAF. DEC will take the lead and send out publications for review one at a time before posting the material. Needs to be started now, otherwise it will not happen.
- **DEC to provide an update on National Ground Water Association (NGWA) collaboration with states**
 - Charley Palmer summarized: Two meetings ago the topic of talking with Kathy Butcher from NGWA was discussed in response to the all states survey that was sent out. Charley handled discussing with Kathy and having some questions answered dealing with how states utilize the NGWA. Kathy mentioned that there are 16 states and one county that uses NGWA. Charley will post the document with the summary of his conversation for all to review.
 - Charley : Can you work on a drill rig without a contractors license as long as the company has a contractors license?
 - Wayne Westberg: Yes. In some states there are additional operators licenses on top of contractors licenses. Such as, Nevada, which is “hodge podge” and suggests that be avoided.
- **DEC to provide an update on borough and local government standards or regulations regarding domestic wells**
 - Rebecca discussed briefly her conversations with borough contacts throughout the state. In general, there are no regulations, standards, oversight for any of the local governments. There is a summary spreadsheet of the conversations that Rebecca will post for workgroup members to review.
 - Wayne wanted to ensure that the point was enforced that many boroughs and local government entities are unaware that the DEC has no regulation covering private water wells.
- **Best way to distribute information to the public:** Kathy posed the question to the group to discuss:
 - Jim Munter replied that the best tool is the internet. It is a good central place to direct them. Having a google search directing them is a powerful tool. Also said that professional societies can be a good resource to use for distribution.
 - Bill Kranich: In the private well arena, the point man for dealing with issues for new well construction is the driller. If we can impress on the water well association that they need to take a little more professional approach for general information. Not under the

impression that there is much of a problem with private wells. Commercial wells are different because quantity is an issue, but DEC is a gatekeeper on that.

- Kathy then tied in the topic from further ahead in the agenda under “Review of Issues and Concerns” of where and how to house the information.
- David Schade mentioned that the DNR is currently revamping and redoing fact sheets. They currently use the Public Information Center that has a pretty robust information system that successfully utilizes links.
- Kathy: DNR, DEC, and UAF all have lots of information. Need to tie all these together and ensure they stay up to date.
- Fred brought up the concern that sometimes the biggest problem with links is hunting through the information if you are directed to a general page rather than a specific webpage. This could be a good tool to ensure public doesn't have to hunt through pages.
- John Craven: Need to make sure the information is user friendly so anyone from the public with a question shouldn't have to hunt through a million pages.
- **Well Drillers: Reasons for not submitting well logs.**
 - Kathy opened the floor for discussion
 - Jim asked about how much a problem this is?
 - Kathy responded that that would be discussed in our next issue, currently we want to know why they aren't submitted so we can identify the problems and possibly solve them. So everyone can get what they want.
 - Jim has only heard the reason of the logs being proprietary information.
 - Bill: The customer has bought and paid for that information. The driller doesn't feel it's their place to turn in the logs for public information.
 - Wayne responded that that is a legal problem and a misconception of the law.
 - Kathy said that the current reasons are not constitutional. Water coming from a well is a state resource.
 - Jim clarified that it is reserved for the people for common use. That is why a system using less than 500 gallons per day is not required to file for water rights. There is a presumptive use of that much.
 - Fred: What is the proprietary information? What is the motivation? Why is it competitive?
 - Wayne: Some believe it's a technique, but well logs don't show technique.
 - Jim: Some places are drilled in geological formations that can collapse.
 - David: We are talking about the resource, and he doesn't buy the argument that it gives driller a benefit. It is part of the statutory framework: first in right, first in time.
 - Jim added that the clause is that those who have an existing well have public interest.
 - David added that DNR has the right to collect information about resources to manage the system. In the past it didn't matter, but now they are running into spots where they don't have enough of the resource. We don't have information and have a poor reporting percentage, but doesn't really know that because he doesn't have it.

- Wayne: About 10 years ago, the agency was unable to handle the amount of water rights coming in, so the small (500 gal or less) were put under a sort of “automatic reserve”, but it seems now we have gone back to the need for private systems to file for water rights.
- Kathy asked how they would document the first one there?
- Jim responded that it is “first in right, first in time”, but they also have to protect public interest and have not been known to say “too bad” because someone didn’t have a water right.
- James Squyres asked what the statutory authority was that compels drillers to turn in well logs.
- Charley clarified that in some cases well logs were turned into DEC or MOA because they are required to, but the log may not have been submitted to DNR. There may have been confusion by the well driller of who all to submit the well log to. Charley mentioned that he voluntarily forwards well logs found in DEC files, and not in WELTS, to DNR. Charley also added that if drillers are turning well logs into DEC, and not to DNR, that the concern of proprietary information does not hold in this case, because they know that once with DEC it is public information.
- Wayne agreed that there are some well logs he has turned into DEC for plan review process but did not turn into DNR.
- Jim added that DNR requires the driller to send to DNR.
- Kathy asked the drillers that if it is proprietary information, is there any legal backing we can give to prevent them from being a part of the Freedom of Information Act (FOIA) and becoming public record?
- Bill clarified that the law says it’s public information.
- David also clarified that under the geotechnical portion of title 38, an applicant can ask to have it confidential. If it were a legitimate reason, you can ask under the statute for them to do that. That’s what he is using for the larger sensitive projects he is working on. David also said that they are planning on revising their existing regulations within the next year or two and input from drillers regarding confidentiality would be helpful and could be considered.
- Kathy: Ok, we have received a couple reasons. Can we get any details on what would “proprietary” information on the well log?
- Jeff Ellison described the situation of areas near him that he likes to drill anywhere from 40-400’. He knows what’s in the ground and the good and bad areas. He mentioned that making these well logs public gives his competition in nearby towns like Soldotna information to use to come drill in his area.
- Kathy then proposed the possibility of removing the WELTS application and having to request by phone.
- Jim: WELTS hasn’t always been there and this has always been an issue. If it’s not public info, you have to keep a lock on it and that can be clumsy.
- Jeff added that if the public wants more information they can get it from their local well driller.

- Fred: Addressing the issue of wells being viewed as proprietary, a person could talk to neighbors and find out who is a good driller vs. a bad driller. It's the same with roofers, people don't necessarily want a fly by night operation. Same with a ford dealer, why go out of your way when there is a ford dealer nearby in town. It is more based on reputation from public perspective than proprietorship.
- Kathy mentioned that when she was having issues with her well, she was able to look up her well log and who drilled it and they were able to come out and help her fix the issues.
- Jim added that well drilling is a competitive business and they are trying to win a bid. If they are in an area where the driller is familiar, the person evaluating is going to make a judgement based on that.
- David: In the meantime – the [issue of not complying with] regulations [to turn in well logs] are going to get to a point where they are enforced. Proposals have been submitted to give DNR enforcement opportunities. Currently, doesn't like the two choices of *please* or *criminal action*. In the past DNR hasn't wanted to be the regulatory group. In areas where they are finding limits to the resources, it's not going to work anymore. The group is going to have to make a case otherwise.
- Jim added that DNR has been historically underfunded, and in the past it was all based on priority. There could be a body of regulation for critical water management areas and a requirement to get more information for what's going on. DNR put a moratorium on wells being drilled in one area because salt water was coming in.
- Charley: A lot of issues are more localized than management areas. People are concerned about gravel pits nearby and how can they tell if there is no information available?
- Jim responded that there is always information and isn't sure that well logs will improve analysis.
- Charley: It can be greatly based on scale. If there is a fuel oil spill, it's not enough for a critical management area, but still need well logs to make determinations about the nearby area to do things like determine cleanup procedures.
- Kathy then directed the conversation from "why well drillers aren't turning in logs" to "why do we need well logs".
- Fred mentioned that planners or city/municipal decision makers need info to make decisions that deal with community as a whole not individuals. If they need info they go to DNR or DEC.
- Kathy corrected that they go to DNR for info.
- David answered that they need everything. With limited information comes limited data. One of the first effective sources is the well log. We need to be proactive. Information from the logs gives a good start to identifying the resource.
- Charley: Well logs help agencies to make decisions and plan.
- Kathy added that another issues that we don't know what's in a majority of the state. USGS has spent lots of money trying to map aquifers in local areas, but there is still no

way currently to tell what could happen. There are plenty of individuals without rights, and unfortunately they are out of luck.

- Jim: When there is development, the government goes to the developer, the developer goes to an analyst, and the analyst goes to the well logs.
- John Craven asked about his particular well that does not have a log on file. He has a copy of the log that is from 1971. He was wondering what was valuable from the well log. He also asked about changes in his well such as flow that has changed over the years.
- Bill clarified that if the water level is different he may want to have a well driller look at it and figure out what has changed.
- John also asked about earthquakes in Alaska and how they can affect water wells.
- Wayne responded that although it doesn't happen very often, when it does we should have the well log that provides a baseline.
- David: Over time we have an increase in knowledge, the more logs (information) the better.
- Chris added that the Drinking Water Protection Program (DWPP) uses the well logs to determine the sensitivity of the aquifer. These determinations can change the sampling requirements, or the monitoring waivers for the system.
- Charley also added that Contaminated Sites (CS) uses the well logs to determine the potential of a spill to cause issues in nearby aquifers and to identify the existence of nearby wells.
- John asked if there were any requirements for late wells that have no well log submitted.
- Chris and Kathy commented that if there were a change (such as pressure) or modification to the well, there would be a new review process necessary.
- Jim, Charley, and Roy then clarified that by modifications, can include: deepening, extending or shortening well casing, or perforating the well.
- Jim asked whether there was any regulatory structure set up to gently persuade the submittal of well logs.
- David: The law is there.
- Jim: Enforcement is just the issue.
- David added that the DNR is being forced into enforcement action.
- Jeff asked if that was strictly for public water systems?
- Jim clarified that the public water systems well logs are not the concern because they are needed for plan review for the DEC.
- Bill: In some areas with problems, there was not enough scientific consideration of the area, with DEC not asking enough questions. The DEC gets the plans for the water system but doesn't have enough info to come down on one side or another. There is a enough blame to go around.
- Pam Goode asked for the exact regulation reference for requiring well logs.
- David stated that it was 11 AAC 93.140.

- Pam Goode asked how well owners are made aware that their well logs are being provided for public information. And she pointed out that she felt the 30-day public comment period for regulations changes did not give the public enough time to become aware of it and be able to comment.
- **No final decision made on how to address issue.** Upcoming regulations changes by DNR may be the solution because comments from the public, including workgroup members can be taken at that time. Also, later discussions of Issues and Concerns regarding standards may bring well logs back up.

Wrap-up and next Meeting

- A common consensus was made to hold the next meeting Wednesday October 16th from 6-8pm

Action Items:

- DEC to post results of applicable action items from previous meetings.
 - NGWA-State summary.
 - Boroughs' domestic well requirements summary.
- DEC to continue work on informational materials for institutions and realtors.
- DEC to work on providing a website of educational materials for the public.
 - Will be sending out educational material one by one for the group to approve for posting.

September 10th is National Protect Your Ground Water Day!

Next Meeting is Wednesday October 16th, 2013 from 6-8pm