

PINEDALE ANTICLINE WORKING GROUP (PAWG)

LOVATT ROOM, SUBLETTE COUNTY PUBLIC LIBRARY AT PINEDALE, WY

January 5, 2005

9:00AM – 5:30PM

PAWG Decision and Action Items

Decisions

- TG monitoring plan report content requirements (see **Content Decisions** section of minutes)
- TG monitoring plan report format requirements (see **Format Decisions** section of minutes)
- TG monitoring plan report funding discussion requirements
- Neither the PAWG nor its TGs will be responsible for managing monitoring or mitigation funds
- How the recommendation process will be completed after 2/18/05
- The 12/6/04 FACA and DOI Advisory Committee Protocol development meeting was a legal meeting without notification in the *Federal Register*
- **8.d.** of PAWG/TG Charter does not apply to the Task Groups
- The Socio-economic, Air Quality, and Wildlife TGs should coordinate on addressing the light pollution issue
- PAWG will write a letter to the BLM asking them to get and stay current with the annual NOx tracking reports
- PAWG will write a letter approaching the BLM for \$32,000 funding for air quality related value monitoring for FY05
- All PAWG members would like to be included in future State of Wyoming discussions regarding monitoring and mitigation fund management options
- Arranging coordination among TGs to gain efficiencies by combining monitoring efforts will be left to the TGs
- The next PAWG meeting will be March 2-3, 2005, beginning at 9:00am in the Lovatt Room of the Sublette Public Library in Pinedale, WY

Action Items

- Robin Smith will arrange a meeting between the PAPA oil and gas operators and the PAWG to discuss drilling plans for the 2005 drilling season
- The PAWG co-chairs will combine all TG draft reports submitted on 2/18/05 and send the combined report to each TG and PAWG member within a week
- The PAWG will forward monitoring and mitigation requirements to the BLM by mid-March, 2005
- TG chairs/liasons will get updated membership and contact information to the PAWG and BLM so the websites can be updated
- The PAWG and BLM will develop a “procedures manual” with guidelines for TG membership, TG report content and format, FACA and DOI advisory committee protocol, etc.
- The PAWG and BLM will find date for a BLM minerals rights and regulations specialist to meet with the PAWG and TGs for a Q&A session
- The PAWG will write a letter to BLM regarding the NOx tracking report
- The PAWG will write a letter to the BLM regarding AQRV monitoring funding for FY05
- The PAWG will ask the BLM Recreation Planner to list the aspects of recreation and visual resources that the PAWG needs to be sure are being addressed
- The BLM will purchase a conference phone for the PAWG from PAWG support funds

PINEDALE ANTICLINE WORKING GROUP (PAWG)

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Meeting Minutes

PAWG Members Present:

Robert Barrett, Public-at-Large
Paul Hagenstein, Livestock Operators Bordering/Within PAPA
Susan Kramer, Landowners Bordering/Within PAPA (left at afternoon break)
Linda Baker, Environmental Community and co-chair
Robert Reese, Sublette County Commission and co-chair
Robin Smith, PAPA Oil and Gas Operators (via phone)
Mary Flanderka, State of Wyoming (via phone except between 2pm and 4pm)

PAWG Members Absent:

Nylla Kunard, Town of Pinedale
Kirby Hedrick, Public-at-Large

Task Groups (TGs) Represented:

Wildlife
Water Resources
Reclamation
Air Quality
Cultural and Historic
Transportation
Socio-economic

Meeting Facilitated By:

Robert Reese & Linda Baker, co-chairs

Meeting Recorded by:

Carol Kruse, BLM-Pinedale

Call to Order – 9:20am, Bob Reese, co-chair

Minutes of November 4, 2004, meeting approved as amended

Discussion on Monitoring Plan Reports

- Content
 - type of monitoring (what)
 - frequency of monitoring (when)
 - priority of monitoring (high, or just nice to have)
- Format
- Funding
- Who will complete

Feb. 18, 2005, is the date draft monitoring plan reports are due from the TGs to the PAWG, so PAWG members can have two weeks to review them prior to the March 2-3, 2005, PAWG meeting.

At the March 2-3 meeting, the PAWG will review the TG recommendations, compile all resource recommendations into one report, and forward those recommendations to BLM for BLM review, in time to allow for implementation this field season (2005) of the monitoring plans that are approved and can be implemented that quickly. The PAWG may ask a TG to modify their recommendations following deliberation at the March 2-3 PAWG meeting.

Entire TGs should attend the March 2-3 PAWG meeting during their allotted time, but the chair and BLM liaison are required to attend during their TG's scheduled time. Any TG members are welcome at any of the PAWG meeting. The PAWG co-chairs will develop an agenda for the March 2-3 meeting as quickly as they can, for announcement in the *Federal Register* and so the TGs will know when their allotted time is scheduled. The PAWG will also meet April 21, 2005, and May 19, 2005, to receive BLM's decisions and assist the TGs with implementation of approved monitoring efforts.

While the TGs need to get something to the PAWG by 2/18/05, they don't have to stop their deliberations there. If they want to continue refining their recommended monitoring plan or protocol, try to identify performance and funding sources, etc., they can.

Content Discussion

Questions/Comments from TGs:

Is it a good idea to work in terms of short-term and long-term monitoring needs?

That could be useful, but also keep in mind there are three types of monitoring:

IMPLEMENTATION monitoring – is the mitigation being done?

EFFECTIVENESS monitoring – is the mitigation working?

VALIDATION monitoring – were the assumptions driving the mitigation correct?

Does management need to be changed?

There will be some monitoring that's already happening; some new monitoring that can begin this field season; and some new monitoring that may not be arranged for a year or two. Those should be

noted in the TG reports. Some TGs may need to start for now with just Implementation Monitoring, and simultaneously begin collecting Effectiveness data.

Is it okay to develop general monitoring objectives but leave the exact monitoring protocol details up to whomever does the monitoring, or provides the funding?

There are established protocols in many cases, but there should be 3 steps incorporated into any monitoring plan and protocol:

1. Establish the baseline
2. Identify additional monitoring that can be done over the longer term (i.e., collar additional animals)
3. Identify how is the data going to be used by the decision-maker(s) and present the data accordingly

Some TGs are trying to evaluate current data, which in some cases is a huge task because of the volume of data available and/or it not being "sorted" or presented in an effective format.

Are we only to monitor disturbance? What about monitoring areas that aren't being disturbed? Just what should we be monitoring?

BLM noted that all direct, indirect, and cumulative impacts of development on the Anticline are supposed to be monitored. Others noted that monitoring undisturbed areas can be an essential part of monitoring disturbed areas, to determine what is different between the two types of areas.

General Discussion:

When the PAPA ROD (Pinedale Anticline Project Area Record of Decision) was signed, the BLM expectations were that:

- the PAPA oil & gas operators would present their upcoming drilling season plans to the PAWG annually in January or February, so the PAWG could integrate the drilling plans and TG monitoring plan recommendations before making their recommendation to the BLM

The PAWG should request those drilling plans for 2005

- the TGs would provide commitments from appropriate parties to implement and fund their recommended monitoring, along with their monitoring recommendations, to the PAWG

The PAWG may determine it is not feasible for the TGs to obtain those performance and funding commitments at least by Feb. 18, 2005, or even this year

The PAPA oil and gas operators believe the TGs and PAWG should identify and recommend implementation of monitoring that will address the effectiveness of mitigation prescribed by the PAPA ROD (i.e., current mitigation).

Other PAWG members believe the monitoring plans should start there, then see what other monitoring needs are not being met.

It was noted that BLM should already know some of the drilling plans, because of APDs (Applications for Permits to Drill) that have already been approved.

BLM noted that not all approved APDs are drilled immediately – some not for a year or more, or ever – so APDs are not necessarily an indicator of a company’s field-wide drilling plans for the upcoming year.

When asked, Robin Smith said he is the liaison to help arrange a PAWG meeting with the PAPA oil and gas operators, to discuss drilling plans, funding, who is paying for what now, what additional monitoring would they be willing to pay for, etc. Robin and the BLM agreed that the oil and gas operators will respond to requests from the PAWG because of wording in the PAPA Decision.

Robin clarified that he doesn’t have decision-making authority for the oil and gas operators and that just because he agrees with other PAWG members on some decision (e.g., funding recommendations) it doesn’t mean the oil and gas operators are going to agree with the PAWG.

Inclusion of cost estimates was discussed, to meet disclosure requirements and to help inform the PAWG, BLM, and potential funding source decision-making processes. Cost estimates wouldn’t be used to prioritize the recommendations, but could affect how quickly they can be implemented.

It was noted that there could be efficiencies in combining the monitoring efforts of two or more TGs. Coordination of communication and/or meetings between combined TGs, and the combination of their respective monitoring recommendations, will be left to the TGs.

A question was raised on the need for monitoring, since the APD approval process includes site-specific analysis that should disclose what will be the effects of that action. The BLM responded that each APD action can be different because each site is different, that the NEPA process associated with those actions only estimates effects, and that monitoring is necessary to determine if those estimates were accurate and if the mitigation required as a result of those estimates is effective or even needed. It was also pointed out that conditions in a particular area can change over time, so not all APDs approved in a particular area will necessarily have the same mitigation requirements attached to them.

Content Decisions

The TG monitoring plan reports should include:

1. Identification of what data is already available to the TG (if none, note that)
2. Identification of what monitoring is already being done (if none, note that); in particular, note any monitoring required by the PAPA ROD that is not being done
3. Identification of what critical monitoring is not being done, or of what critical data is missing, and the basis for those "gaps" being considered critical (it's required in the PAPA ROD and isn't being done, or due to resource concerns resulting from Anticline gas development [please be specific regarding resource concerns], etc.)
4. Recommendations for monitoring to be conducted in the future, with the rationale for each recommendation (what requirement will the monitoring fulfill, what mitigation does the monitoring identify as being done or not, of what mitigation does it monitor the effectiveness, etc.); be sure to include monitoring that may not be implemented for several years due to funding issues, etc.

5. Prioritization of those recommendations and the rationale for that priority; prioritize all monitoring recommendations, even if implementation may be delayed
6. Suggestions, if possible, for who could potentially do the monitoring and who could potentially fund the monitoring (TGs are not expected to have already contacted or made arrangements for either, by Feb. 18, 2005)
7. Recommendations for mitigation modifications (add, modify, eliminate current mitigation requirements) with the rationale for each recommendation; these could actually become rationale for monitoring that is being done or needs to be done
8. The reports do not need to, but can, include the detailed monitoring plans and protocol or methodology
9. Cost estimates do not need to be included

15-MINUTE BREAK

Format Decisions

Specifications for submitting the draft reports:

1. Software = Word
2. Font = Times New Roman, 10-pitch
3. Margins = 1 inch on top, bottom, and left; ½ inch on right
4. Submission = electronic via email to: linda@uppergreen.org and brreese@wyoming.com
5. Date due = close of business on Friday, February 18, 2005

The final reports will be posted on the BLM-Pinedale website under the PAWG link. They will probably also be posted on the federal FIDO website (www.fido.gov, the website for all committees chartered under the Federal Advisory Committee Act [FACA]). If TGs are interested in seeing other similar reports, check www.wy.blm.gov/bfo/prbgroup/minutes.htm. That is the website for the Wyoming BLM's Powder River Basin interagency advisory group, though that is not a FACA-chartered committee because it only involves governmental agencies.

Funding Discussion

Discussion related to monitoring funding in the PAPA ROD was reviewed.

The BLM advised the PAWG they are not a Resource Advisory Council and therefore not subject to Dept. of Interior Advisory Committee regulations from 43 CFR 1784.6 forward.

Views were expressed that everyone should be part of paying because everyone benefits.

It was noted that volunteering time is a form of funding.

Views were expressed that BLM is “passing the buck” to the PAWG and TGs and other volunteers; in other words, the PAWG is an unfunded mandate.

BLM noted that area residents were heavily involved in the design of the adaptive management process throughout the PAPA EIS and ROD processes. The public approved of the structure, roles, and responsibilities as laid out in the PAPA ROD. If that has changed, the PAWG will need to make recommendations to the BLM regarding those changed expectations.

Views were expressed that BLM is interpreting the PAPA ROD as being binding relative to PAWG and TG roles and responsibilities, but that the BLM is not willing to bind itself to the ROD by requiring the oil and gas operators to fund monitoring efforts as specified in the ROD.

Some TGs reported that some to most of their upcoming monitoring recommendations are already being funded and implemented, so funding is not an issue for them.

Some TGs reported that they are reviewing what can be done now by the oil and gas operators, and what will need to be funded in the future by grants. It was noted that a full-time grant-writer could be needed.

Bob Reese noted that neither the PAWG nor its TGs will be responsible for managing monitoring funding, be it in the form of grants or direct billings to the operators, agencies, or other providers.

Views were expressed that BLM should have the responsibility of managing the funds. The BLM noted that if they accept donations or outside funds, those monies go directly to the BLM General Fund in Washington; there is no mechanism for keeping those funds in the Field Office.

Mary Flanderka then reported on a meeting in Cheyenne, WY, on December 15, 2004, among several State of Wyoming agencies to discuss fund management for PAWG- and compensatory mitigation-type efforts. The PAWG co-chairs were invited as a courtesy. Wyoming BLM has included \$1 million in its 2006 budget request, ½ for implementing monitoring in the Powder River Basin and ½ for implementing monitoring in the Pinedale Field Office. That could be used as seed money to attract other funds. Whether or not that budget request will be approved is unknown. Other fund management ideas were discussed: management by a 3rd party (perhaps a 501(c)(3) non-profit group); direct billings to fund providers; and use of volunteers. Wyoming BLM is working to identify a legal way to retain funds in the Field or State Office.

Robin stated he has asked for information from the oil and gas operators on what they are funding now, and how much; he is just beginning to get that information. His personal experience is that the operators are willing to discuss paying for monitoring if it is fair and equitable.

It was noted that the oil and gas operators are currently spending \$250,000 or more per year to fund on-going water quality and wildlife monitoring efforts. One oil and gas company representative present at the meeting indicated that not all operators agree to fund monitoring. In one instance, six companies – not all of the companies affected – split monitoring costs equally, each paying 1/6th of the total cost. They are billed directly by the consultants doing the monitoring.

Views were expressed that the TGs do have a responsibility regarding funding of monitoring, through their responsibilities to ensure implementation of the monitoring.

Funding Decisions

If the TGs have funding source suggestions, those should be included in the draft reports due 2/18/05, but the PAWG will not require the TGs to include funding recommendations and contacts in those reports.

PAWG members want to be included in future funding discussions being hosted by the State of Wyoming. These meetings will not have to be announced in the *Federal Register* if: the State convenes and facilitates the meetings; and if there are no PAWG decisions made at those meetings; and if decisions, which are based on those State meetings' discussions but are made at future PAWG meetings, follow a recap those State meeting discussions, so the minutes of the PAWG meeting reflect the deliberative process leading to the PAWG decision.

75-MINUTE LUNCH BREAK

Who Will Complete – Discussion

The PAWG co-chairs will assemble all the TG draft reports after 2/18/05 and get copies out to each TG chair and all PAWG members. Any observed overlaps between TG recommendations can then be resolved by coordination among the TGs. The PAWG will meet March 2 & 3 with each of the TGs to compile and finalize the PAWG recommendations to the BLM. The PAWG intends to have those recommendations to the BLM by March 11, 2005, so the BLM has time to review, make their decisions, and inform the PAWG of their decision(s) by the end of March, 2005. That will provide time to implement any monitoring that can be done during the 2005 field season.

General Meeting Discussion

Should the 12/6/04 PAWG/TG Protocol for FACA and DOI Advisory Committee meeting have been announced in the Federal Register to be a legal meeting? The BLM and PAWG agreed that it was not an official meeting that had to be announced. It concerned operating procedures, or protocol; was called by the BLM; included only the TG chairs/liasons and the PAWG co-chair/liasons; and no TG or PAWG decisions were made at the meeting. The PAWG-TG Protocol for FACA and DOI Advisory Committees that will be developed as a result of that meeting will stand as the minutes for that meeting.

Membership and contact information updates: The co-chairs asked all TG chairs/liasons to get updated membership and contact info in to BLM so the web sites can be updated.

Question regarding some Federal agencies' participation in the process: A question had been raised regarding the role of the US Fish & Wildlife Service, the Environmental Protection Agency, the US Forest Service/Bridger-Teton National Forest (FS/B-TNF), and the US Army Corps of Engineers in general, and of the FS/B-TNF representative's service as co-chair of the Air Quality Task Group in particular, because of **8.d.** in the PAWG/TG charter. Views were expressed that, because of their expertise and because of the roles those agencies should play in the PAPA adaptive management process according to the PAPA ROD, those agencies should be included in the adaptive management/PAWG/TG process, rather than excluded. The BLM stated that **8.d.** only

precludes those agencies from sitting as voting members on the PAWG itself, that clause **8.d.** does not apply to the Task Groups. The BLM agreed that those agencies should be included as full members in the “technical task groups.” The PAWG then agreed that it is appropriate for the FS/B-TNF representative to serve as a full voting member and co-chair of the Air Quality Task Group.

Request for guidelines regarding TG membership, etc.: At the request of several TG members, the PAWG and BLM agreed to develop a “procedures manual” with guidelines for TG membership, TG report content and format, etc.

Why does FACA apply to BLM? Why doesn't all of 40 CFR 1784 apply to the PAWG/TGs? The BLM explained that the 2000 lawsuit was based, among other points, on the fact that the original PAWG was in violation of FACA because non-governmental entities were represented on the PAWG. Although the Federal judge ultimately dismissed the case for lack of standing, the DOI solicitors had already agreed that the original PAWG was in violation because it was not chartered under FACA and affirmed that PAWG-related adaptive management efforts would not continue until a FACA charter was obtained. A FACA charter was obtained in August of 2002, members were appointed by the Secretary of the Interior in May of 2004, so the group is now legal. The charter and memberships must be renewed every 2 years; the charter was renewed in August of 2004, membership doesn't need to be renewed until May of 2006.

The BLM also explained that parts 1784.0-1 through 1784.5-3 apply to the PAWG and its TGs, but that parts 1784.6-0 through 1784.6-2 apply only to Resource Advisory Councils (RACs). RACs are specific committees established by the Secretary of the Interior and a State's Governor, and currently Wyoming does not have a RAC.

Mitigation recommendation issues: Questions arose regarding the PAWG/TGs roles and responsibilities vis-à-vis mitigation recommendations to the BLM. Mitigation was defined as “an action employed to reduce effects to a non-significant level.” It fits into the PAWG/TG responsibilities because monitoring is needed to detect impacts, then mitigation should be recommended to BLM that will address the detected impacts. It was agreed that if TGs know impacts are occurring already, they should recommend mitigation as part of their draft reports.

The question was raised of whether or not the PAWG/TGs could consider and recommend off-site (compensatory) mitigation. The BLM responded that compensatory mitigation (CM) could be recommended, but the PAWG/TGs should be aware that under the current interpretation of regulations, the BLM cannot require CM – it must be voluntary on the part of the oil and gas operator. Compounding the confusion, there is currently no clear definition of what “off-site” means (Off that particular lease? Off any lease held by that same operator – in that field, in any field? Outside the gas field? Etc.) The PAWG directed the TGs to recommend whatever mitigation they felt was appropriate (with supporting rationale) and not worry about whether it would be on-site or compensatory.

The PAWG asked the BLM to find a date when a BLM person with extensive knowledge of mineral rights issues and regulations could engage in a Q&A session with the PAWG and any interested TGs. The PAWG BLM liaison agreed to get 2 potential dates to the PAWG co-chairs.

Which TG(s) should deal with light pollution? Socio-economic, Air Quality, and Wildlife TGs should coordinate on that issue.

What does the PAWG expect or recommend the TGs “go” after Feb. 18 and the March 2 & 3 meeting? The TGs can meet whenever they need to; they may need or want to continue refining their recommended monitoring plan or protocol after Feb. 18 and the March 2-3 PAWG meeting, or they may want to begin identifying implementation and funding sources, or they may need to organize implementation plans if their monitoring recommendation is approved by the BLM. TGs can submit recommendations for monitoring or mitigation to the PAWG at any time – they are not restricted to just the Feb. 18/March 2-3 deadlines.

Can the TGs recommend that a monitoring management team be established to manage monitoring funds and either do the monitoring themselves, or contract it out? If the TGs have recommendations regarding fund management, include those in your recommendations.

The Air Quality TG asked if the PAWG would please encourage the BLM to get the promised NOx track reports done for the past 3 years, and then keep them current. Linda Baker agreed to draft a letter from the PAWG to the BLM, for review by the entire PAWG before sending it.

The Air Quality TG asked if the PAWG would please approach the BLM for \$32,000 of short-term funding of air quality related value monitoring that has been ongoing for nearly 30 years, but is in danger of running out of funds by summer of 2005. The \$32,000 would fund the monitoring through the end of the Federal fiscal year (9/30/05). The funding assistance is necessary because, for the past 20 years, the monitoring has been funded with WDEQ permitting fees collected from two companies (Simplot Phosphates and Exxon Mobil). Those two companies indicated to WDEQ that they should not be bearing the entire burden of this monitoring; WDEQ agreed, but cannot increase their permit fees to other permittees for 2 years. The FS/B-TNF, which has conducted the monitoring all these years, has raised \$100,000 from other sources, but would like BLM to provide the remaining \$32,000 for FY05. The FS/B-TNF is pursuing long-term funding that may be in place by the beginning of FY06 (10/1/05). It was noted that the Riley Ridge ROD states that all oil and gas operators will contribute to the study, so perhaps BLM could require all those operators to provide the \$32,000. Linda Baker agreed to draft a letter from the PAWG to the BLM, for review by the entire PAWG before sending it.

15-MINUTE BREAK

Do we need another PAWG/TG meeting prior to Feb. 18 to address TG questions regarding their draft reports? No

Isn't the Questar Year-round Drilling Proposal (QYDP) another layer of monitoring/reporting that needs to be done? It's over and above the PAPA ROD. No, the QYDP Decision Record (DR) amends the PAPA ROD. Some monitoring within the Questar leasehold to which that Decision applies may be different from monitoring on the rest of the Anticline, but it shouldn't be held separate from other monitoring – just include those different monitoring needs in the TG recommendations and note that they apply only to the Questar leasehold.

Who is dealing with recreation and visual issues? If it's parceled out to various TGs, the “big picture” impacts may never be identified or addressed because of the “piecemeal-ing” affect.

Views were expressed that there are different ways of viewing, or perceiving, what is recreation or a visual issue, and that those differences make it most appropriate that those two issues be addressed by each of the TGs (e.g., hunting would best be addressed by the wildlife TG). Others indicated the TGs don't have the expertise or the time to consider all the possible visual and recreation aspects of their resource. It was noted that visual issues hit the news media, so are an especially important issue for the PAWG/TG process to address. The BLM liaison was asked to ask the BLM Recreation Planner for a list of the aspects of recreation and visual issues that should be being addressed by monitoring plans. The PAWG and TGs will then work together with the Recreation Planner to determine which aspects the various TGs are already addressing, which TGs could most effectively address remaining aspects, or if that strategy is not adequate.

The PAWG requested the BLM use PAWG support funds to purchase a conference phone for the committee. The PAWG also indicated that there may be times when conference call sponsors will need to be reimbursed for conference call costs from PAWG support funds.

Mary Flanderka thanked all the people volunteering their time and energy on the PAWG and TGs, and said Governor Freudenthal has been notified of the extensive volunteer efforts.

Public questions and comments were accepted throughout the meeting.

Meeting Adjourned – 4:20pm, Bob Reese, co-chair

Certified as Accurate:

Linda Baker, co-chair

Date

Robert Reese, co-chair

Date