Hanging Woman Creek CRM Meeting -- 10 January 2004

Summary
Presentations were made by various parties regarding water rights, typical plans of development for industry, and agency actions. Many audience questions were briefly discussed. The outcome of the daylong meeting was to form a working group to set preliminary goals for a Hanging Woman Development Lay-out and Plan. Some members of the audience did not appear ready to participate in a development plan.

Characterization of Montana Water Rights – Keith Kerbel
If you live east of the Mississippi, water rights fall under the riparian doctrine, that is, if you own the land you have the right to use the water that flows over it. If you live west of the Mississippi control of water fall under the prior appropriation doctrine – whoever uses the water first and can prove it has the right to the water, regardless of who the landowner might be – this is called the "first in time first in right approach." The first person to beneficially use the water is the holder of the right to use the water.

Before 1973, Montana did not have a statutory system to govern and allocate water rights. Before 1973 legal recognition of a water right was created in several ways. One way the right was recognized was by going down and filing it with the County Clerk, which a lot of people did. However, the claimers didn't always claim what they used, but what they wanted to be able to use – so there was inflation of apparent capacity. The second type of use was a decreed water right, which was done judicially in a court of law. Decreed streams were primarily perennial, where water was available all the time. In the eastern part of Montana, there are not a lot of decrees because there is not a lot of perennial water. Disagreements between neighbors were exacerbated during summer drought and less intense in the winter when water was not so critical so recognition of rights via the judicial process was limited.

In Montana, in order to have a water right you must have a beneficial use. There are certain elements that constitute a water right. No matter what is in the courthouse, the water right is held to what you are actually using. The key ingredients for using are the priority date or date of first use. The Montana Water Use Act (Montana Code Ann. Section 85-2-506) gives the date of use your priority or "standing" in order to administer the right. This date must correctly reflect the date of actual first use.

Question from the audience, "How do you prove what your right is for livestock watering?" If you use a pond, you give the capacity of the pond. The state estimates 30 gallons per day per animal as the adjudication number for livestock.

In assessing a water right, the State of Montana requires several characteristics of the water right to be established:

-the capacity of the system
-the **closest measuring point** to the stream is where the water right is assigned. For example, you must measure the flow that is as close as possible to the headgate.
-If a pump is used, the pump capacity determines how the water right is set.
-place of use is where the water is being used and what the water is being used for.
-the **point of diversion** is where the water comes out of the system
-the **period of use** is another parameter. There is a "normal" period of use and "abnormal" period of use. Both must be identified for period of use.

The Montana Water Use Act was, in large part, a result of the drought in the 40's and 50s. Then, in the 60's, it was wetter. After 1962, things got a little wet. Since there was no administrative process for water and there appeared at that time there would be a lot of water, the desire to obtain water rights also increased. Water use and water competition increased. The court system became overfull with water suits. As a result, the 1972 Constitution created the Montana Water Use Act, which is the basis for the water right system in Montana.

Wyoming Water Law

Water law was established constitutionally in Wyoming in the late 1800's. It is different from the Montana system. In Montana you can make an application for a water right, which is reviewed, approved, and assigned a priority date. The ability to obtain a surface water right is based on what is theoretically available. The theoretically available water in a drainage is set by the State Engineer, who administers Wyoming Water law. A demonstration of beneficial use must then be made to adjudicate the right. In the summer, allocation of a limited water resource is set by priority date. Historically, the most senior ones are set at the upper end of a drainage. The lower end of the drainage is usually the junior right. There are ditch riders that enforce the water usage in periods of drought. The SEO is responsible for designating what constitutes "beneficial use" of water in Wyoming.

In Montana, any water use established before 1973 is grandfathered and is considered to have legal status. These rights are sacred and can't be taken away. However, they must be protected through the administrative system. As of 1973, however, any use of water or additional use of water must be applied for. You can change every aspect of your pre-existing use but in accordance with the Montana Water Use Act (WUA), after 1973 you must meet three conditions. The Act set up a permit system, where all water rights are recorded in Helena and are on the database and available on line or in the regional water offices. The Act actually created an adjudication program.

After 1973, ALL WATER RIGHTS must be adjudicated. They must be quantified and identified. In order to fulfill that purpose, Senate Bill 76 set forth the parameters to adjudicate pre-existing water rights. On the Powder River for example, pumps, irrigated fields, and all associated facilities were quantified in the field (actually on the ground as shown via aerial photograph). The process of identifying existing rights was started in 1975 and took about 4.5 years.

In Montana. A new water right request is filed on Form 602 – Notice of Completion of a Water Right

WUA required that existing water rights be identified and quantified. Anything that existed before 1973 (Historical Use of Water) was grandfathered. This was taking so long it resulted in the passage of Senate Bill 76. Under that bill, water rights could be filed for $40. All rights were computerized. The information was filed as "claims", which everyone filed, even government agencies.

A clause on SB76, if the process was not followed to formalize the pre-1976 water right, and the water right was otherwise claimed, this resulted in an abandonment of the pre-76 water rights.

The rights that were filed were processed by computer, which was then followed by a decree. The state was split into 56 hydrologic basins. The field offices went through all the claims, but were limited to examination via photos using 1979 and 1980 photos. The claim was validated with the photos and the water resource survey books. If there was disagreement between the claim and the validation this was noted. The DNR filed objections to claims that contained discrepancies. However, in general, the crux of

the adjudication process was the accuracy of a claim, whether a neighbor complained about his neighbors filing. It was neighbor versus neighbor – the neighbors kept each other honest.

Before 1973, there were no water rights associated with properties.

Stock and domestic wells can be filed without the permitting process, which includes public notice and can include responding to objections. Stock ponds by definition are less than 15 acre-feet in size and can be claimed if you own more than 40 acres and the use is only stock water. No water right permit is needed for stock or domestic use.

To obtain a surface water right – water must be available, existing rights can not be affected, means to divert and use the water must be available, and the use must be beneficial. The applicant for the right must have permission to use the water from the owner of the surface where the water is being used. It is also possible to object to water based on water quality. This has seldom been used.

Historically, Montana has segregated water quality and water rights. This has changed in the last 10 years. They now feel that what good is the water if the quality makes it unusable. Specifically, if additional withdrawal from the stream would deteriorate the quality of the water of the stream, that request for a water right could be denied.

In the next 10 years with their **discharge permits**, DNRC with the **water right permitting** process may need to work hand in hand with the MDEQ to resolve the interaction between water use and water discharge.

CBM and Coal Mine Water Permits

Fidelity water right permits have been challenged based on water quality issues according to a member of the audience. He lists a number of concerns such as downstream water rights, selling the water by the permittee, and application for a water right by someone other than the user. He then asks how this could happen. Some discussion followed, as summarized below.

> As far as ownership of the water goes, normally the person who holds the use has the ownership. However, under Spring Creek (SC) there was a water marketing agreement so the **seller** was the user. This was an interim right in Fidelity's name. According to Mr. Kerbel, this use should probably have been in both the user and the seller's name. This type of use, however, is perceived as a temporary use of water, which is really not a use requiring a right, although it does require a permit. The intent of the interim permit on Spring Creek was only to go to the mine. Industrial use, wildlife and stock water pits were applied for these uses. Spring Creek needed water because Decker mined through the SC water supply and needed water.
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> Permitting, database maintenance, and adjudication is the job of DNR. The owner of the right controls the right to consolidate and use the water. However a determination must be made in a buy-sell-lease transaction that actual user be determined.
>
> An interim permit – is that a decreed water right? No, it is an interim permit. The water rights office is so swamped right now, they have created a number of streamlined processes to just keep things moving.

Once the water reaches the surface it becomes physically available and can then be put to a beneficial use. It is not a water right, it is a water application. Sending the CBM water to the SC mine kept it out of the Tongue. There might be a hearing on this the end of January. However this may be resolved -- no the hearing has only been delayed.

The objectives of the Fidelity/Spring Creek permit primarily deal with the use of ponds. This water has an industrial use. Why this was received in Fidelity's name and not Decker's name is not clear.

The Spring Creek use is expired, the Decker use is still operational.

A representative of the Northern Cheyenne Tribe pointed out that the Tribe has a Yellowstone Compact that allows them to sell water, which is available to be leased. Why wasn't that leased by the mines instead of the CBM water was asked (I think).

CBM water, if discharged under the MPDES program, may or may not become **excess** water – not waste following discharge.

According to an audience member, if water is permitted but is not being used, and is thus being discharged, this is not in conformance with the concept. If the water is not being used is it needed? How can they ask for that water for their use and then let them discharge it is asked by Terry.

Dave McIlnay says hey we are asking that presenter what is the availability of water that is being produced and how can it be used – does it become subject to water rights etc., - we don't want to get sidetracked into arguing about specific situations.

Two sessions ago in the Legislature, dealing with wastewater, created a special statute. What is waste water? Montana does not permit cbm production water as a beneficial water use. The Montana position is that water is a byproduct of energy production. It was the determination of the Montana department that production of energy is not a beneficial use. Once the water hits the surface and then is sent somewhere for use, a permit for beneficial use can be obtained. One of the Montana statutes says that the water, once discharged, must be put to beneficial use.

Fidelity has filed for irrigation and industrial use on some of their produced water. They want a water right for this use. Why issue a right on a temporary use of the water. Water rights are intended to be permanent and issuing a water right gives them a right.

A discussion ensues about points of law, specifically Montana Code 852-311b. But this statute addressed very large quantities of water.

Under a Montana Controlled Groundwater Area (which appears to be very different from the similarly named Groundwater Control Area in Wyoming), there must be an inventory of resources. Has this been done in HWC? Answer no, but monitoring has commenced. The lower Tongue River basin is targeted for adjudication. Right now the Upper Tongue is under adjudication with a lot of interaction with the Cheyenne

tribe. Terry says in the CGA there is a provision that springs and wells that go dry as a result of CBM must be replaced. The replaced water source than receives the priority date.

Also, he asks how would you replace a spring? Keith responds that is the responsibility of the cbm company. Who determines that cbm has caused the well to go dry? In Montana, the Board of Oil and Gas and a "committee" has been formed to make these determinations.

Livestock wells and domestic do not require a water right.

Bill Brown Marathon Operations Chief – Object of their company operations is safe, responsible, and compliant. He is the PRB head and has been there 18 months. It is a fast changing situation. He is talking about the DEQ focus on a drainage-wide basis. They are not yet ready to talk to the group about that. Mr. Brown feels that is a good way to permit water handling. What are industry's needs in planning and permitting. He has brought along several specific plans to use as a demonstration for HWC, but notes that they have no activity in HWC. His hope is by showing how planning occurs it might improve understanding of the needs of the company.

What is needed by industry to make a development work? It boils down to three things: The first is **timeliness**. They must some kind of an idea about how long it will take before development (capital investment) can begin. The longer this stretches out the more erosion of capital occurs. The second is **predictability**. They must know what is needed so information collection and submittal can result in development. This is true both from the permitting process and from the landowner requirements. The third thing is **good working relationships** with the agencies and with the surface owners. These items are needed for profitability. The stakeholders must work together for his operations to be successful – with success defined as profitability.

Marathon uses as a demonstration the Plan of Development for the Sheridan area. This is basically a lay-out of pods, with pods being related groups of wells. Such a lay-out is only realistic for areas that are slated for capital expenditure. The lay-out costs about $25K to develop but it is based on $500,000 worth of data collection. The lay-out shows where wells, roads, pipelines, etc., would go from their perspective as the basis for a discussion document. This type of document only becomes possible at a certain date. Marathon is developing the database, specifically drilling information, to help them assess how development of HWC might proceed. They use their own data and make use of other production data to develop a picture of what might be possible.

They use Prairie Dog as a specific example of the Plan of Development and their sub-pods. Formerly they didn't have such detailed plans to develop. They now believe that such detailed plans are essential to obtain the timeliness, predictability, and good working relationships necessary for successful development (profitable).

An audience question was about how much drilling was part of the costs. Most of the costs associated with development of the information base are drilling costs (estimated in discussion as about 3/5 of the costs, with the remainder in personnel and equipment). He estimates roughly that this Prairie Dog Development was about 6 townships. However, the subsequent discussion clarifies that this does not translate to a per township cost necessarily.

A Nance representative says for their POD about 3.5 million has been spent***. Dave McIlnay, Miles City BLM, points out that his budget requests (that is, the BLM) are two years ahead.*** Mr. Brown says the

goal is to have detailed POD information two years ahead of the planned development. The Nance representative says they just now are developing the POD information for their intended development in 2004.

Marathon has plans for data gathering but not development in 2004. Marathon acreage position is fairly large in HWC according to Mr. Brown.

Bonnie Lovelace (MDEQ) asks, "what kind of information forms the basis for the POD?" Topography is one basis. Roads, pipelines, wells are on the map. What about water management information? Can the company come to the table with water information asks Bonnie. Mr. Brown says the level of uncertainty is so high that this may be difficult. He says this information must be known to go to the DNR for permitting. Water balances (volume-wise) must be calculated so an assessment can be made if the water can be handled economically?

What about water quality she reiterates? Water quality standards must before a discharge permit can be issued. At what point in the water management plan do you know enough about water quality to ensure that the permit requirements can be met? This is what really affects timeliness on the part of the agency. She feels that insufficiently detailed information when the permit application comes in is what affects timeliness. She says that water quality information must be available to move forward. Constituent limits must be met regardless of forecasting of quality. This may cause a change in water handling procedures and so the good working relationship is necessary to adjustment the water management methods.

According to an audience member, HWC subsurface water quality database is good – publicly available data indicate fluoride may be an issue. Non-degradation (15% rule) is key to issuing a permit. It is a math problem. Mixing zones are a management tool for reaching compliance with non-degradation.

Dave McIlnay, Miles City BLM, asks industry as a general request to schedule a pre-application meeting to hit the points necessary to make a complete application and streamline the permitting process.

Bonnie and Bill Brown have a conversation basically between themselves where she says when the company goes to the landowner they must have enough information so they can tell them what they are going to do with the water. Mr. Brown uses the Prairie Dog POD to indicate that water impoundment locations are part of the planning and management process. He points out that information early is essential to a good working relationship with the landowner.

An audience member asks, if the landowner has a plan can they bring this plan to the table when the operator sits down with his plan? Bill Brown says yes.

Now, the floor is turned over to Ron Santi of Nance who says that what Marathon needs and uses is also the same for Nance. He says they have several surface use agreements now, which they would be happy to share, except for confidential information, but would share the form of the agreement. This agreement has been reached with three landowners and has been tailored to their needs. Advance notice, payments, consolidation of facilities, minimization of impacts, scope of plan – all these are themes of the agreement.

Mickey Steward with the local government-oriented **Coalbed Methane Coalition** briefly mentions the development of a Watershed Characterization for Dead Horse Creek (tributary to Powder River in Wyoming) and identifies elements that could be made available via a GIS interface.

Example of Information Available for Watershed Characterization – From Established Sources

- Geology
- Climate – precipitation, wind, temperature, evaporation
- Topography
- Slopes
- Soil
- Viewshed
- Coal thickness
- Surficial geology
- Hydrology – drainage nets, springs, alluvial material
- Water quality isopachs and graphics
- Land Use – fences, waterlines and points, headquarters, irrigation
- Infrastructure – existing roads, reservoirs, powerlines, for example
- Vegetation, carrying capacity, and forage production
- Wetlands
- Cultural resources
- Surface and subsurface ownership
- Soils
- Wildlife habitat and utilization
- Water rights
- Permitted cbm wells
- Permitted discharge points
- Permitted long-term production pits
- Any other permitted points – for example compressors stations and generators

Information for DHC will be interactively available at the Conservation District office and capable of being overlaid in different ways – both drainage basin-wide and by individual properties.

In pilot programs, infiltration ponds have been used – out of drainages. This is the starting point for their plans. They are also considering injection wells, but this doesn't look promising. John Heynemann asks what has been the result of the infiltration studies? Most of the water infiltrates from the ponds and is stockpiled in the shallow sand bodies near the surface. Long distance movement has not yet been seen.

The facilitator asks John what issues were the most important. John says having a plan in place is important, but a detailed plan is impossible because not enough information exists to make a detailed plan – it is an iterative process. Opportunistic use of infrastructure can be important. Pilot projects provide extremely important information in creating the full development plan.

According to Keith K., Tom Richmond (Montana Oil and Gas Conservation Commission) says he just got $600,000, which he will match with his agency funds, to look at infiltration pond construction. He also mentioned that Fidelity has been doing work on their ponds that shows that prevailing wind directions and siltation have an impact on the effectiveness of the infiltration ponds.

Permitting for water rights (DNR), discharge (DEQ), and oil and gas (OGCC) are all working together for permitting.

A speaker points out that “Watershed” terminology is not used in Australia – they use water catchment area. His point is they like to **catch** it, keep it, and use it rather than dispose of it.

Terry says that some of these infiltration ponds might not be appropriate. He says as the number of ponds grow there will be a cumulative effect that has not yet been investigated. He also feels there is an issue with reclamation of the pits.

Mike Bowen Document – Surface Use Agreement Points

At the last meeting, the group agreed to review the proposed document and offer comments on it. So Mike Bowen says, really, until we look at the document we are kind of just throwing stuff up in the air. The document only says what the surface owner would like to see. He says the mission is to find common ground as it relates to the Hanging Woman Basin. Ron Santi says each landowner has different requirements and says the draft document does not fit their special needs and special requirements.

The facilitator asks Bill Brown (Marathon) what his opinion of the document is. He points out that the proposed surface use agreement is a non-starter for them. He feels that there are too many specifics in that plan to make it workable.

In response to Ron’s comment, Denise says the BLM had asked landowners and operators to come together to work together and she thought she heard Ron as the Nance representative say they would prefer to deal with landowners one-on-one.

Mike Bowen says that many Sheridan lawyers are using the contents of the proposed document. Mike Bowen says we try and put in everything that they want. He points out that the POD plan shown by Marathon for Prairie Dog actually contains most of the information being requested in the draft development plan. Mike Bowen says he believes the landowners would like to be treated as a unit – in the oil and gas sense of the word - to keep landowners from working against each others best interests. He says it is not a surface use agreement, it is a plan of development based on BLM requirements. He believes that for HWC the landowners do want to be unified.

A representative of landowners from the lower end of the drainage feels that they might have different needs than the upper end of the basin. They feel they need an EIS type watershed analysis, most importantly a cumulative impact analysis based on cumulative development. He does not want to see the development implemented, analyzed, and assessed piecemeal. ***Dave McIlnay, Miles City BLM, says that specific impact cannot be assessed because specific information is not yet available for the watershed and that these meetings are exactly what is needed to scope the assessment. He also feels that the interactions and communications within the group so far have been helpful to the BLM, and can serve as the basis for the EAs that will be produced. These EAs include a cumulative impact section.***

An audience member points out that the projected information in the EIS indicates sufficient infiltration to shallow groundwater that this could have a negative impact on HWC.

Another audience member feels the presentation made by industry was not a sufficient basis for decision making. Another audience member feels the requisite specific baseline information has not yet been collected for decision making and that the government agencies responsible for this collection have not yet gathered in the information.

Mike Bowen says it is in the best interest for the stakeholders, that is the landowner and the developer, to generate this information. An audience member says we MUST have baseline information prior to initiation of development. This was reiterated by another audience member, who also pointed out that insufficiency of that information.

It was clarified that Nance was going to drill this year. It was clarified that the type of baseline information desired specific to HWC was not available. A discussion ensued about what was necessary and sufficient for EIS and EAs. One audience member suggested that such a baseline was essential to the CRM process.

Dave McIlnay, Miles City BLM, states that EAs are based on a site-specific plan of development so that an EA cannot be created until development is anticipated.

John Wheaton has been getting springs and wells information for southeast Montana. So it should be available somewhere

Note: HWC is about 400 square miles.

Mike Bowen reiterates that utility of the intent of the draft document. He also mentions that there is a lot of information from when an assessment was made of HWC for strip mining.

Terry talks about data collection, which, in his opinion, must occur **before** development not as development is occurring.

Paul Beels says that Jim and Mike have created something to serve as a basis for planning that needs more analysis. Paul says deal with the information the best way you can and not wait for the ultimately good information. He says that the participants in the CRM process should be able reach common ground on what information could be assembled and incorporate new information as it comes along.

Denise says we are not getting anywhere in today's meeting. She says each landowner should do their own baseline inventory. She says we (the landowners) need to collect our own data. Another audience member (John Chase) says no, we **are** getting somewhere and he sees the CRM is not supposed to generate a surface use agreement, but instead a common set of goals, not every single detail, which is what occurs in the individuals surface use agreements. He says the CRM group still has not characterized our long-term goals and needs but they must be defined and formalized.

The moderator says that LOTS of time is needed to reach resolution and that three days ain't nothin' (so to speak).

With respect to data gaps, landowners should ask for data specifics – for example air quality monitors if they want it.

Another audience member says Tribal issues need to be put on the table.

John Arum, attorney representing Northern Cheyenne Tribe REMARKS
The tribe is not philosophically opposed to cbm development, but wants to protect natural resources, economy, culture, and way of life. This is similar to philosophies expressed by HWC landowners. They are in negotiation about some concerns that were addressed deficiently in the EIS. The Cheyenne are in the

position of landowners in the lower part of the creek. However, they are concerned about spillover effects and what will happen as development gets closer to the reservation. The tribe has sovereign authority to enact water right standards, which they intend to enforce. A critical concern is that development in HWC does not adversely affect these standards. They have already protested Fidelity discharges, which were remanded. Water quantity is also a concern. According to Mr. Erham, any discharged produced water is **excess water** (legal definition) that belongs to the tribe that cannot be utilized without their permission.

Air quality is another important issue to the tribes. Baseline air quality has already been established for the reservation. What is actually needed is an increment consumption analysis because the tribe intends to preserves their air quality and was to prevent significant deterioration of the air resource.

Social and economic concerns are long-standing regarding energy development in general. Population influx, housing, reservation social services, environmental impacts. Tribal members lack access to jobs, experience impact without offsetting revenue. Qualified individuals are not given equal opportunity to hiring in the energy industry.

Cultural resources – particularly in the Tongue River Valley and Hanging Woman Creek – which were homesteaded by the tribe prior to the creation of the reservation -- are many. Under the National Historic Preservation Act, consultation on development is required. Tribes have not been given the opportunity for consultation that is their right at any stage of the cbm development that has so far occurred. This right to consultation is not limited to reservation lands but anywhere that the tribes used to occupy. The Native American Graves Repatriation Act also provides for certain protections that are not being implemented. The speaker supported the concept of a drainage-specific EIS.

Jason reinforces that importance of the excess water definition and their right to control its use. He points out they have funding for surface and groundwater monitoring but that funding is very limited and they can't properly administer the monitoring program that should be implemented. The tribe's storage allocation in the Tongue River Reservoir gives them the capacity for water marketing and they don't want that water being degraded by discharges of CBM water into the TRR. One example is leasing water to the State of Montana for fisheries (in stream flow I think). Another example is to TMDL mitigation.

Keith Kerbel's agency sent a letter to the Northern Cheyenne over which they are not in agreement. This dialogue of disagreement is in progress.

How to fail in CRM as summarized by the facilitator

- Remain positional instead of identifying needs
- Have hidden agendas
- Engage in power plays
- Lack of trust
- Focus on win-lose situations
- Create obstructions not solutions
- Lack of shared vision (key failure)
- No organization structure
- Lack accountability

LIST OF ATTENDEES

Bonnie Lovelace	Helena	DEQ
Gwen Erickson	Sheridan	Remington Creek
Randy Nordsven	Miles City	BLM
Forrest Mars	Big Horn	Diamond Cross
LJ Wright	Big Horn	Diamond Cross Ranch
Bobbi Jo Lorengo	Helena	DNRC
Bryce Christensen	Miles City	Montana FWP
Jae Notti	Otter	ET Ranch
Kelly Pokharel	Billings	Northern Plains Resource Council
David Milligan	Lame Deer	Northern Cheyenne Tribe
John Arum	Seattle	Northern Cheyenne Tribe Attorney
Gilbert Bradgsi	Lame Deer	Northern Cheyenne
Jack Bailey	Forsythe	RAC
Bill Browne	Gillette	Marathon Oil
Jerry Lunde	Decker	Big Horn CD
Paul Beels	Buffalo	BLM
John Chase	Sheridan	Buffalo Creek Land and Cattle Co.
John Heynemann	Dayton	Padlock Ranch Co.
Jason Whiteman	Lame Deer	Northern Cheyenne Tribe
Phil Wood	Birney	Diamond Cross Ranch
Larry O'Toole	Plentywood	Diamond Cross Ranch
Denise S. Wood	Birney	Diamond Cross
Art Hayes, Jr	Birney	Brown Cattle Company
Terry Punt	Birney	Bone Bros. Ranch
David Searle	Sheridan	Marathon
Ron Santi	Billings	Nance Petroleum
Duane Zimmerman	Billings	Nance Petroleum
J.W. Guercio	Boulder, Colorado	OW Ranch
David McIlnay	Miles City	BLM
Andy Lemann	Sheridan	Bones Bros. Ranch
Tom Zelka	Hardin	Big Horn
Keith Kerbel	Billings	DNRC – Water Rights
Sharon Moore	Billings	DNRC – State Lands
Jim Rogers	Colstrip	Rosebud Conservation District
Tim Lohof	Birney	Eyebrow Squirrelly V Ranch
Bill and Anne McKinney	Birney	V-C Cattle
Bruce Porter	Decker	
Alan and Jan Lloyd	Otter	

LIST OF NEEDS

BLM	***General Group Master Plan for Infrastructure and Resource Protection in Drainage***
Diamond Cross Ranch	Basin-wide EIS; Operators/Producers Provide a General but Comprehensive Water Management Plan; Assist in and Fund the Collection of Baseline Data in HWC; Responsible for maintaining the sanctity of the existing lifestyle

Northern Cheyenne	Must acknowledge the fundamental legitimacy of each other's goals and work toward their achievement; must have compliance with the laws on the books
Mike Bowen	Basic elements of a common generalized agreement
John Chase	Identify Business, Production, Lifestyle, Landscape and Ecological Goals
Bill Browne	Understand the needs of development through providing a strategic plan of development; Recognize there will be impact on all resources and that there will be a restriction on unbounded fulfillment of needs
Mike Bowen	Smaller working groups are needed to move forward towards resolution

Need to strike a balance between resource needs; leave a functional post-development environment

Points of Common Ground

- Learning a little more about what is important to each other
- Beginning to understand there is a mutuality of interest between the stakeholders
- Improvement of understanding of each other's challenges and basic
- The participants have a common geographic and well-defined base and desire to preserve
- Stakeholders all desire quality resources – product, environment, lifestyle
- Post development legacy
- Optimization of water management
- We all want what is best for ourselves
- High level of interest
- Rules and regulations; existing criteria to which all are subject
- Desire for a concrete outcome; tangible product from participating in the crm
- The gift of the fish and wildlife resource
- Search for sustainable solution
- Sound data
- We all need a plan
- We all want our perspectives legitimized – we want to convert others to our way of thinking
- There is as wide a diversity in the industry perspective as there is in the landowner perspective; we all have the commonality of dealing with the diversity of our allies as well as our opponents
- Information must be rapidly grasped and easily accessed to be useful
- All participants in the process are responsible for some aspect of resource management
- The future environment as well as the present is important
- We are all providing each other with something of benefit
- The development of one resource should not occur at the expense of another – the smallest possible imprint from one on another
- Excellence in endeavors; responsibility and accountability
- Adequate compensation for damages
- Use of natural resources whether it is gas or grass
- Exercise property rights
- Protect cultural heritage
- Defining each other's rights
- Knowledge is power

- All stakeholders are going to be impacted in one way or the other we need to have that as an asset not a liability
- Finding solutions
- No resolution without confrontation
- Damage and impacts will occur
- Change is always negative until benefit can be gained from it
- Accurate and specific baseline information
- All the stakeholders are producers – they share the commonality of producing something
- All of use are resource users and want to protect them

There was interest expressed in forming smaller working groups. Paul Beels suggests that this smaller group take a good look at the proposed surface use agreement and use that as the base for identifying further group topics.

The tribe is a sovereign government equivalent to Montana, Wyoming, and the Federal Government.

A long discussion ensues about what do we do now? Do we need more identification of goals. What is it that we want? After the discussion the following mission appeared to reflect the discussion:

Proposed Mission: Protect Resources and Optimize Their Utilization within the Constraints of Government and Lifestyle

A different mission was then formulated by John Chase, which was:
Revised Proposed Mission: Form a general master plan for Hanging Woman Watershed that allows development to proceed in an orderly fashion that protects people and lifestyles, business, the environment, and socio-cultural resources

Generally discussed elements of the mission would be to:

- Describe the existing environment with the detail that is available – assign someone to do that ASAP
- List the resources and means to utilize and protect them – work off the Bowen proposal and the Chase summary (see attached) to create this present it in the next meeting and create breakout groups to assess them. The main one would be water management.
- Develop a conceptual development model for the watershed and fill it in with concrete details as they become available – use the Nance agreement as the first phase of the concrete plan – make a map that looks like what you want – the main things would be roads, access points, power and utility corridors, and generally well locations

Not all participants in the meeting were agreed upon the need for all the elements discussed. The meeting ended with the formation of a small working group to draft a Development Plan. There was not complete agreement on the formation of such a group, its members, or its objectives, but the small working group was defined and planned to meet in the near future.

The members of that working sub-group included a Nance representative, a Marathon representative, Mike Bowen, Denise Wood, and a BLM representative.