

DRAFT MINUTES

Jonah Interagency Mitigation and Reclamation Office (JIO)

JIO Agency Managers Committee Meeting

Held at the Bureau of Land Management (BLM), Pinedale Field Office

1625 West Pine Street, Pinedale, Wyoming 82941

Rendezvous Conference Room

Monday, March 15, 2010, 9:00 AM to 12:30 PM

(This event was a Public Meeting)

(Please contact Jim Lucas, JIO Coordinator, 307-367-5361, for additional information)

9:00 AM: Welcome and Agenda Review

JIO Committee Members and Others present: Chairman John Corra, Director, Wyoming Department of Environmental Quality, Steve Ferrell, Director, Wyoming Game and Fish Department, Don Simpson, Director, Wyoming State Bureau of Land Management (BLM), and Jason Fearneyhough, Director, Wyoming Department of Agriculture, as well as Jim Lucas, BLM JIO Coordinator, John Ruhs, BLM High Desert District Manager, Brian Davis, Acting BLM Pinedale Field Manager, and Joel Bousman, Sublette County Commissioner and Member of the Pinedale Anticline Project Office (PAPO) Mitigation Management Board.

Meeting called to order at 9:08 AM.

Introductions were made throughout the entire conference room. Please refer to sign-in list for other staff members and public.

Comments/updates on the agenda: none.

Review of JIO Committee meeting minutes from 9/29/2009 and 1/20/2010: 9/29 minutes: Motion to approve minutes by Jason Fearneyhough; seconded by Don Simpson.

Amend the January 20th minutes to say that the next meeting, scheduled for April 21, 2010, will be in Pinedale.

Amend the January 20th minutes to say "Pinedale on April 21<sup>st</sup>" in the last line on the page. On the top of the page on first "Attending" paragraph, the last sentence, the last line "High Plains District" should be changed to "High Desert District."

Jason Fearneyhough motions for approval of minutes, and Don Simpson seconds, as amended. Minutes approved. Vote was unanimous, Motion passed.

JIO Budget Summary, January 2010 Financial Statement from Wyoming Wildlife & Natural Resource Trust (WWNRT) (JIO Escrow Agent), Project Status Table, and Recommended Procedures for Financial Administration (including legal opinion from Levi Martin, Senior Assistant Attorney General, Water &:

Natural Resources Division, State of Wyoming): presentation by Sheila Keating, BLM Budget Analyst, and Jim Lucas, JIO/PAPO Coordinator:

Refer to your Committee Packet: January financial statement from the WWNRT. JIO Budget Spreadsheet prepared by Sheila Keating is more “real time” and the WWNRT Statement is 2 to 3 months behind. New Budget Spreadsheet template is the same for both JIO and PAPO. Checkbook part is inserted in the upper right. Budget Spreadsheet is current as of March 1, 2010. Minor correction on bottom of page under Administrative Costs, the blank line should read WDEQ on the bottom line. The Tibbals reservoir project was cancelled -- \$4,682.23 disbursed for testing to see if a well could be drilled (found to be unfeasible). DERA project \$250,000.00 approved previously. Don Simpson likes the layout of the spreadsheet. Thanks to Sheila and staff for putting it all together. Let them know if improvements can be made.

It was determined that a List of Disbursements by quarter should also be presented at each Committee Meeting along with the new format Budget Spreadsheet. Jim Lucas brought up the topic of miscellaneous expenditures and the need for a mechanism to pay for them. Steve Ferrell stated that everything should be budgeted for. Maintenance costs related to Cooperative Agreements could be budgeted for as well. It was discussed that a miscellaneous account could be set up in each agency's annual budget to be approved by the Committee each year.

On the agenda, there is public comment at 11:00; but if there are other comments, they can be made before the next agenda item. There have been questions on transparency, and this Budget Spreadsheet format is much better. The only thing missing from this table in the checkbook area is the disbursements current to date (3/1/2010). WWNRP statement as of January is in the packets. Operators still have to chip in 5 million per the Jonah Infield ROD for one more year. There are no issues with getting the money. April will be when the next request goes out. Jim Lucas asked about the earned interest in the JIO account, over 1 million dollars – should that be deducted from the last contributions made by the operators, or is it JIO's earned interest? The Committee stated that it is our money. The deal was that they were to contribute \$24.5 million, regardless of the interest earned. Escrow agents provide statements monthly, but they are about 2 to 3 months behind. Don Simpson stated that the Committee should discuss in the future a strategy for spending the remaining funds including the earned interest.

Refer to your packet for the Project Status Tables (this is a new template). Completed projects: Cottonwood Ranches Conservation Project 1, 2, and 3, and a separate comprehensive Cottonwood Conservation Plan that ties them all together. Cottonwood 1 and 2 complete; #3 recently approved. Will there be a Cottonwood Ranches 4, 5, etc.? Cottonwood 3 should be closing this spring. Cottonwood 4 has about 5000 acres of private land left, and Bob Budd recommended to Freddie Botur that it could go under easement also, but we do not have a proposal as of yet. Conservation plan is a 20 year plan and exceeds the probable life of the JIO. As far as monitoring that plan, Freddie Botur is the landowner and JIO will be meeting with the landowner to work out the final details. Dan Stroud comments that with all of these conservation plans, it is written into them that JIO will meet with the landowners annually. For long-term monitoring needs, both BLM and G&F are tied into the easement

and plan in case JIO is not around in the future. Mitigation team and staff are to meet next week to discuss five separate conservation plans. Part of that meeting is to determine if we need additional funds. Don Simpson asks/comments that we should have an annual maintenance plan? Five years out might be a good reminder, and a good, annual tune up. Dan Stroud states that we have a working plan in progress but we can make it more official. Jim Lucas states that our goal is to have an at-a-glance table to work with. Don's concern is to stay in contact with the easement holder. Jim states that it is definitely part of our monitoring plan. Some easements are held by organizations -- examples are Wyoming Stockgrowers and Green River Valley Land Trust. Diamond H easement is held by the Game & Fish. Cross Lazy 2 is Green River Valley Land Trust. Chairman Corra states that at some point in time, this Committee may be absolved, and the work needs to carry on. Steve Ferrell states we could expand this chart (Project Status Table) to include this maintenance and monitoring information.

**ACTION ITEM:** Add a column to expand this table to include annual maintenance processes or agreements, holder of easement, term of plan, which agency, etc.

Page 2 of table: John Carney: easement closed, Phase 1 in December 2009 -- important milestone because it was the funnel bottleneck for the antelope migration route to and from Teton Park.

Page 6 Sommers-Grindstone Conservation Project -- Update letter in the packet: JIO earmark of \$5 million dollars good through the end of the 2010.

All of the air quality projects are on page 8 of 13, Jennifer Frazier to update us on air quality.

Pages 10 – 13: cultural, then livestock. Wasn't there an original earmark of \$1 million for livestock, but the committee changed it to \$0.5 million with the option of increasing the amount at a later time. Lisa Reinhart figured out what it would cost to replace the AUMs in the Jonah field. What is in the chart, for instance: \$67.6 for Don Rogers is a five year replacement per Lisa Reinhart.

Page 13 is a recreation project: East Fork - New Fork confluence boat ramp for river access. This project is now in the NEPA process.

Don Simpson asks how will this be portrayed on the website, and that is the next agenda item.

Chairman Corra: There are questions on the previous agenda item regarding Financial Administration. Sheila & Jim: See the financial administration procedures in the PAPO section of the packet under the Financial Administration tab – and refer to the supplemental handout.

March 1<sup>st</sup> version of the financial procedures in PAPO section of packets under F.A. tab. Fairly similar to John Emmerich's original draft. Mostly clarification of a couple of areas. Page 1, item #1: re-worded, added a line. Payroll: Trying to capture overhead costs and identify what the costs actually are. What is needed to take care of the expenses for the staff and this will help us forecast these costs. Differences between federal and state is the beginnings of the fiscal years. This is a process to help this happen. Jason Fearneyhough comments/questions: is there a way that we can reword this as "agencies"? Steve Ferrell refers to his staff, Kathy Frank's comment: Are we confusing admin costs and project proposal

costs? Admin costs need to come in and be treated as a project proposal in order for us to track them. Some of the payroll related expenses tie to projects as well.

Category two: an addition would be the approved project title, outlined deliverables, identify the grand total, amount funded, agency to administer grant, and point of contact.

Third one, top of page 2 of new document, new paragraph, there may be circumstances warranting expediting approval outside of the board meetings. We are trying to institute/clarify the process so we can turn these around in a 30 day timeframe. Some of the payments take 90 days to get done because we are waiting for a quarterly meeting. We are hoping for a 30 day turnaround. Steve Ferrell comments that we hope to avoid these emergencies at all costs, and we do not want to make this a standard practice. We try to schedule meeting towards end of each quarter and to avoid the email type of communication on these 'emergencies'. There may be unusual circumstances beyond the control of the staff's planning efforts. Steve Ferrell and Don Simpson agree – they do not want it to become standard practice. Use "unusual" for the circumstances. John Ruhs wants to make prompt payments to help the grant process and on-the-ground activities with the contractors involved, for instance. Are we talking approval of projects? Or expediting approval of payments? The issue is to make prompt payments. Joel Bousman: Once we approve a project, then if it's a simple matter of a contractor getting paid for a project, e-mail communications are okay. Steve Ferrell comments that once we approve a project, why do we need to approve each payment, unless it's an overrun? Don Simpson suggests that we could take the word Project and make it Payment. Chairman Corra comments that, for what it's worth, there was an evaluation performed by the financial wizards from the G&F, DEQ and AG department. They developed some recommendations: grant process, empower office manager to negotiate them, then project manager authorized to handle invoices and performance reports. Audit was good and we are happy with it. There may be unusual circumstances warranting expedited approval could be better wording. We have a dim view of the last minute projects. Those need to be discussed in full board meetings. Disbursement procedure later in in document. Add "Unusual" to paragraph at top of Page 2.

Paragraph #5 on Page 3, we added line to clarify disbursements. Under the funds disbursement process, added statement after #4, new #5 talking about prompt payment of vendors including review time by the board. May have to revise that paragraph if the board does not have to approve invoices, except overruns, etc. Still an open item is a \$ amount to be spent for cost overruns, 10% in the beginning. This was to be revisited. This was taken away, and all expenditures were to be brought to the committee. It would be desirable for the JIO to have an account so they can spend minor amounts on equipment, seed, etc., that staff shouldn't be bothering the Committee with these minor costs. Are we talking day to day administration, or cost overruns? In September, the proposed cost overrun policy (20%) was rejected, because of the concern on a large project costs. Steve Ferrell has a lot of concern about that. Should be budgeted up front, and the budget adhered to. Jason Fearneyhough agrees, but sees some confusion, the board doesn't need to approve every \$5 for a tape dispenser, etc. Don Simpson would agree with admin costs with annual approval, and stay within the budget. Brian Davis states that there are some costs such as vandalism that are hard to budget for. John Ruhs adds that in the Southern Nevada Public Lands Management Act, one of the things they did: for instance, if the project proposal

came in for \$2 million, they added a 10% contingency on to deal with these things. They ended up automatically giving them the 10%, so it hurt them. Better to have people come back and justify why they need the extra dollars. Don Simpson states that the Board has four meetings a year, and these things can be dealt with as they come up. Chairman Corra comments that the board encourages each agency to develop a budget, and that will be reviewed/approved: labor, materials, line item for misc.; the board would probably not get fussy about unplanned items. If something occurs and it appears that you will overrun your planned budget, then the board wants to hear that. How to handle the what-if's in life, the board doesn't want to hear that. Put together a budget, and if it appears that you are going to exceed it, bring it to the Committee's attention. Projects are projects, and budgets are projects, and overruns – talk with the Committee. Joel Bousman suggests that it would be reasonable to have in a budget, an amount of funds to cover replacements of solar panels, etc.; a contingency fund. Could be six different projects, and contingency applied as needed. Jason Fearneyhough questions, JIO and PAPO, are we responsible for maintenance of these projects in perpetuity? This should be included in the project description. There are cooperative agreements and they outline who the structures belong to and who maintains them. Steve Ferrell recommends putting in the annual budget the responsibilities of the JIO for these. Sheila – administrative – on the sheet, it shows amounts for each agency. Do we have an opportunity to update this per year, or what? Don Simpson suggests doing an annual budget for each agency, then the JIO staff can take a look at an out year estimate, or something. Need to look at committed dollars in the operating plans, and reevaluate.

The last item: reporting process: we haven't seen the disbursement sheet? This will show where we are in the budget and it will show any impending issues. Is the amount planned for each of these agencies enough? Sheet shows that we have \$4.5 million in uncommitted funds. Is there an exercise worth doing to take a look at what was allocated and what is left, and figure out what to do next? Right now we don't have an obligation for any of the maintenance. Agencies may, but JIO/PAPO does not. Don Simpson comments that we might want to start looking at an out-year strategy for monitoring and offsite mitigation. John Ruhs comments that when we met in January and discussed budget, Sheila's checkbook is just a summary. The review group provided a template that Sheila has, so the ability to track this is there. Don Simpson asks if we really want to look at all of these pages, or have Sheila summarize for us. Chairman Corra states that the question for the board to decide today, so that the board knows that this 'ledger' is available -- should a line item be added that reviews the disbursements since the last time the board met? Start with next meeting with a summary of what has been spent. Jim Lucas says that we can provide a one-pager on calendar quarter. Discussion on what constitutes a quarter. **In April, there should be a complete list of payments since December.**

Chairman Corra stated that the public should be pleased with this discussion and the outcome. The PAPO meeting this afternoon will go much faster. This was a good discussion.

Interest earned (one million) – which side of the budget should that go to? Wildlife? Don Simpson comments that over the coming months, we should table this question – the big question in how we move between the two, JIO and PAPO. We can wait on this answer for a master plan.

**10:50 AM: JIO/PAPO Combined website and JIO/PAPO Staff Outreach Efforts: a presentation by Jim Lucas, JIO/PAPO Coordinator.**

There is an e-mail from Roger Alexander with website address in your packets. Thanks to Roger Alexander, the web team, and our staff for all of their work. Click on either section. The project location map is a new item, it shows the entire Green River Basin; PAPO side and the links for it, plus the popular well spud count report with a one-year's total. We need a second tally from the beginning of time. Don Simpson recommends having another tab with a running total. Monitoring data is still in process of getting the pieces in place. In the next few months, there will also be links for final reports for '08. '09 will be available this summer if not before. Will enhance the site to add videos, meeting agendas, and possibly financials and contract information. People ask how these contracts get selected. **ADD this to the website.**

Don Simpson suggests that the 21 most commonly asked questions (with answers) be put on the website. The new website is part of our overall outreach efforts. The booklet that was published in April of last year is being redone for this year. Don Simpson comments/asks if should we have an annual report? Summarize in 6 pages or less. Expenditures and what was done – summary. There is already a newsletter and a goal of coming out with one every quarter. Perhaps add these things to the newsletter. The newsletter is on the website, it could include the project updates, etc. There are links to the air quality and ozone pages. Nice job on the website.

Other outreach efforts: Jim Lucas states that they are planning the first outreach session for the public, at the library or other common area, to educate the public. The first time will be a meet and greet the JIO/PAPO staff in the evening. Then every couple of months, the outreach can focus on a particular project, monitoring efforts, etc. There are several outreach efforts in progress. Chairman Corra referenced a letter from CURED (Citizens United for Responsible Energy Development) which was sent to the BLM and WDEQ. Thrust of letter was to tell us more about what has been done with the 10 year forecasting for emissions, what the air quality division is doing, water quality, monitoring. Theme was to try to find a way to get these things presented to the public. Maybe this can be done at the first outreach meeting. One of the questions in the letter related to the air toxic study. Maybe discuss this more today, or at least before it happens. Don Simpson states that Jim Lucas needs to be doing this outreach as much as possible.

**Air Quality as presented by Jennifer Frazier, JIO, Staff Engineer with Wyoming Department of Environmental Quality (WDEQ), Air Quality Division: 1. Air Quality Mitigation Projects: Monthly Report Update (February 2010), 2. Dust Suppression Project: Memorandum by Jennifer Frazier, WDEQ, and 3. ARRA DERA Project Amendment: Memorandum by Jennifer Fraizer**

Item 1: Air quality: Thanks for the board members' getting the money into the community, and appreciate support for the projects. Jennifer Frazier is sending out a monthly air quality report. The non-road equipment change out is basically putting on a fancy muffler. It's been very rewarding going out into the community as they are very interested in these changes. Don Simpson asks what percentage of vehicles have been changed over, and Jennifer says a little over half. Community

outreach efforts done -- "what can I do." Outreach efforts show that people don't like cars idling. University of Wyoming (Dr. Field) / PAPO: Spatial Measurement effort: we received a letter on March 9 updating us on this project, and now have March 22-26 for monitoring. They bought the equipment, will make sure it's working, and will deploy it after May. Jennifer has the letter if anyone wants to read it. Completed projects include the woodstove change out program which went well. Forty-one old woodstoves were changed out. Jennifer reports that people felt good about making a difference -- more environmentally conscious. Environmental book donation for Sublette County Citizens -- project complete. Of the earmarked dollars for air quality mitigation; have spent \$605k so far and \$489k still to spend.

Item 2: Dust reduction. High Meadow Ranches is a densely populated area. Tim Wells, High meadow Ranches Home Owners' Association President, is in the audience. (Presentation on screen). Will other subdivisions want the same thing? Refer to handout, 3 concerns:

This project is up for vote: Chairman Corra has 2 questions: other subdivisions excluded/included. The County Class II road ends: does the County have plans to go further? Joel Bousman states that the Class II road program is dependent on people applying for it. Question for Tim Wells: are there any future plans for Class II application? Tim says no, not currently. Everybody's street in the subdivision included, will be treated. Will the other subdivisions come forward when they see that? Total potential amount of money requested \$324,000.00. The letter from High Meadow did not say that they would never come back and ask for more money. The Board of High Mountain understands that the funds are available on a one-time basis. How infrequently do they anticipate requesting money? Tim responds that currently, there is no homeowners association on some of the subdivisions. Each and every landowner has to agree, and the chances of that happening at this point, are nil. If an improvement district was formed, they could all be included. Jennifer states that there was concern at the September JIO Committee meeting, and Green River Ranches and other subdivisions wanting improvements. Green River Ranches' roads are rockier, and they have a CLASS II road application in. The County does not mandate dust suppression on private roads. Joel Bousman comments: more bang for the buck with dust suppression on these roads than anything else. Joel Bousman supports the dust abatement project. Bob McCarty (from the public) states that they did a cost/resident analysis. In the Bargerville area, one year of his taxes paid for improvements for his house (approximately \$1500 per residence). Chairman Corra: the area called "Bargerville" is High Meadow Ranches, etc.? It was discussed that the entire area included all of the subdivisions. Tim thinks it's a good project and affects a lot of people, and states that there were 7 cabins in 2000, now there are 300+ residences.

Chairman Corra mentions another project on the list: Another 400 some thousand earmarked for Jonah spending. ARRA/DERA -- (federal grant). Item #3, \$250,000 already approved and no more money asked for. Need to vote on options: 1) put money back in pot, 2) roll over \$136,000 into EPA/DERA grant, or 3) ARRA diesel reduction act. Out of 26 engines, 11 are completed. May of 2009, EPA, as a result of President Obama's federal stimulus package, put in for competitive grant. We got 1.3 million. This involved changing out older engines on non-road equipment and it pays for engine upgrade or replacement. (There are two engines on scrapers, for example.) Conclusions of this program: tremendous environmental benefits plus employment in Cheyenne, Casper, and Sublette County. The

money is not accounted for because the vendor could not deliver product as specified in the grant. That money is not spent, and hopefully we can get a vote on what we can do with that money. Three options to spend this “remaining” committed money (\$267,822.50): 1. \$50,000 for 9 DOCs, remaining money be spend on additional EUGs and repowers (\$217k); 2. \$267k be spent on EUGs and repowers; 3. \$267k be put back on the pot for air quality mitigation, nothing more contributed to ARRA DERA Grant. There would be a recipient match in options 1 and 2. Questions on percentages and matches were discussed and answered.

Motions and vote for the dust suppression and ARRA/DERA:

Dust Suppression Project -- Steve Ferrell motioned to accept the amended recommended motion in the Memorandum in the packet as follows: “Motion that the JIO Agency Managers Committee approves providing \$324,000.00 to High Meadow Ranch Property Owners, Inc. in Boulder, WY, on a one-time basis to apply road base and treat 7.2 miles of roads with magnesium chloride for dust suppression to mitigate visibility impacts identified in the Jonah Record of Decision.” Don Simpson seconded the motion. Vote unanimous – amended motion passed.

ARRA/DERA Project:

Jennifer recommends Option #1. Clarification: Option 3, feds still spend their share of the money, but they have to find a project for it. We do not lose any portion of the federal money. Everything done on the EUGs has been documented fair and square. No need to go back through and do another process. Do all three options have a like effect on air quality? (#2 is best for that) Emissions reductions are best in Options 1 and 2.

Staff recommends option #1. Motion is 9 DOCs for \$50,000, and approximately \$217,000 for Engine Upgrades. Is this board committing an act of favoritism? Jennifer explains that the other program gave everyone the opportunity. This one person was identified way early in the game. Everyone else has gotten their engine upgrades, etc. It is important that other contractors don't sit back and say gee whiz – so and so was handpicked. All the contractors are happy with what they got. No favorite players, per Jennifer.

Don Simpson moves that we accept Option #1, Jason Feareyhough seconds. Recommended motion stated in the Memorandum in the packet amended as follows: “Motion that the JIO and PAPO Agency Managers Committees and the PAPO Pinedale Anticline Mitigation Management Board approve directing the originally-committed monies from the ARRA DERA Grant Program to a new DOC and DPF Program under Option #1. The total commitment would be \$267,822.50.”

Any discussion? No. Vote on amended motion -- unanimous. Motion passes.

Now, 1<sup>st</sup> motion on High Meadow Subdivision: who would the money go to? High Meadow Ranch Property Owners, Inc. Magnesium Chloride lasts 1 year? Joel comments that it depends on who is running the grader on future upgrades. Sometimes it's good for 2-3 years. The additional road base will



help. The homeowners association is committed to keeping this up. Wording changed in motion to say apply road base and treat 7.2 miles. This is a one-time basis to apply base and treat 7.2 miles of road with magnesium chloride. Chairman Corra: it says on a one-time basis and he wants to make clear that the assumption is that it is a one-time basis. The board also needs to understand, as well as County and everyone else; that we are not getting into the business of taking care of all of the subdivisions. Don Simpson assumes that this project will be done before we hit dust season. The scheduled timeline is that within 45 days of the decision, High Meadow will put out a request for quotes to bid this project. Jennifer Frazier will be working on this grant application with the new procedures.

**Sommers/Grindstone Conservation Project: letter from Mr., John McKinley, Attorney at Law, Davis & Cannon, LLP, dated March 2, 2010, providing a project update.** Jim Lucas presented this item to the Committee. See your packet for a copy of the letter. Rene Dana (WLCI) stated that an additional \$250k is now available and the deadline is 12/31/2010. This letter is all we know for an update.

**Boulder Lake Campground Improvement Project: memorandum by Cara Farr, Rangeland Specialist, BLM Mitigation Team.**

Boulder Lake Campground Project: Cara Farr: Originally presented in June, but wasn't ready for vote. Cara Farr made a updated power point presentation. This allotment sits behind High Meadow Ranches, which equals a lot of recreation. Jason Fearneyhough – how many cows are out there, will one well pull the cows off the beach? The permittees have been heavily involved and feel that one well is adequate. How confident are we that we can keep the OHV traffic off of the beach? JIO is optimistic that with boulder placement and signage, it will keep them off. Hopefully there will be enforcement early on. Joel Bousman asks what the cultural implications are? Rob Schweitzer, Archaeologist on BLM Mitigation Team, stated that this has been a popular recreation site for about 10,000 years. The beach areas are full of artifacts, and during the wet seasons, there is a lot of trampling. Are there identified archaeology sites? Interpretation will be part of the kiosk, yes.

Staff Recommended Motion as stated in the Memorandum in the Committee packet: “Motion that the JIO Agency Managers Committee approve funding of the Boulder Lake North Campground Project in the total amount of \$84,500.00 to be divided 50/50 between recreation funds (\$42,250.00) and cultural funds (\$42,250.00).” Motion to approve the recommended motion made by Jason Fearneyhough, seconded by Don Simpson. Discussion: Any wildlife issues? There shouldn't be any wildlife issues, especially with the fence removal. Vote on motion: unanimous. Motion passes.

Public Comments: Dawn Ballou. Cottonwood Ranch Easements – is there any public access as a part of that? Dan Stroud stated no, other than the existing federal lands.

JIO Committee Meeting adjourned at 12:30 PM.