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2010 Report to Wyoming on Water Industry Needs, Solid Waste Planning, and Infrastructure

In 2007, our report to Wyoming concentrated on the need for increased communication between agencies, metering, rates (sustainability) and increased enforcement by the agencies. In 2008 our focus was on regionalization, rates (sustainability), water loss (conservation), technical assistance, operator retention, recruitment, and public health. 2009 we continued our focus on sustainability.

This year, let's focus on enforcement, regionalization and solid waste issues.

Each year, WARWS field technicians make in excess of 2,000 on-site technical assistance visits to communities, water systems, wastewater systems and solid waste facilities in Wyoming. Meeting with town councils, district managers, joint power boards, licensed water and wastewater operators and federal and state regulatory agencies produces a wealth of information on the status of Wyoming's water industry. We provide our state's licensed operators with over 10,000 man-hours of continuing education, as well as nearly 2,000 man-hours of management training for councils and boards annually.

As we all know, Wyoming is a headwater state. Any issues within the water, wastewater and solid waste industries may become everyone downstream's problems as well. With state revenues decreasing, our residents must take the lead in addressing many of these issues.

Enforcement -

The state and federal agencies have proposed several new rules. We are in support of most, but realize that the new rules are only as good as enforcement. Several rules or regulations are in place currently, but enforcement is lacking or continued failures would not be occurring.

As a living example, a subdivision exists in the northeast area of the state that we have been following the situation for close to 3 years now. The basics of this issue are many. A "developer" (I'll use that word loosely, as you will see) sold off several 20-40 acre tracts on his property on contract for deed. Roughly 40 homes are out on this unplatted, undocumented subdivision. He drilled a well and hooked each home up to the well without the benefit of a well permit, water system construction permit, or proper engineering. Fast forward several years and the "developer" wanted the homeowners to create a homeowners association (HOA) and take over the "system". That's where we came in. We were contacted by several homeowners to help with the formation of the association. It's at that point we discovered the lack of permits and the general hazardous conditions of the well and the lack of water testing. Heck, nothing about this "system" had been done per regulation.

The home owners contacted DEQ and EPA to see what steps they should take or what they should do to correct the deficiencies as part of the formation activities. EPA and DEQ did what they should do; they issued administrative orders and required that permits and the well be brought up to snuff.

Currently, the well is still not up to snuff, the permits are still not all in place, and the administrative order is still in existence. The system was activated by EPA, but the HOA has never been created due to all of the legal issues surrounding this “system”.

So, what is an upstanding “developer” to do? He drills 4 or 5 new wells (no one is sure if permits were issued or not) and hooks 4 or 5 homes to each well, so now there is no “system”. He then asks EPA to deactivate the system that no longer exists. Then informs all of the homeowners how much they now owe him for the “new wells” that are spewing poor quality water (untested or treated) or he will turn the electricity off to the wells. DEQ and EPA indicate they have done all they can within the parameters of their regulations and continue to work with the “owner” to correct the deficiencies. I am sure that no one at DEQ, EPA or Campbell County would agree that this is the way they hoped the system of regulations would work!

I’m not even sure where we start to fix situations like this. This is a real deal, not fabricated, and there are numerous “subdivisions” like this all over the state. One place for the legislature to start might be somehow requiring that contracts for deed be somehow recorded at the time of signing. I won’t even address just how poor I think the banks acted in this. Obviously, they did not do much due diligence, and would probably be quite miffed to find out they have a loan on a home on someone else’s property that has no water and is basically worthless. The hit parade just keeps coming.

Now, new rules are being promulgated for water/wastewater operator certification. Facility owners (towns, districts or HOA’s) will have new responsibilities under these new rules. We hope the new rule comes with proper enforcement penalties that will be enforced.

As stated at the beginning of this section, new regulations or rules are only as good as enforcement. **There must be teeth in the enforcement of these new rules or they are not worth the effort to create them. Public health is at risk.**

Regionalization and Rates –

As we stated last year, we have been pleased to see so many areas of the state begin to discuss regionalizing their systems to better address water quantity and quality issues. Several developers faced with increased scrutiny of their rate structures from the Wyoming Public Service Commission have requested information from our technical staff on creating districts or joint power boards to address multiple subdivision systems.

We believe regional systems can address many of the issues facing individual small systems, increasing regulation, population, operator shortages, water quality and quantity to name a few. We understand the jurisdictional arguments and management arguments, but the time has come. We support the legislature’s efforts on the Gillette regional system and encourage additional studies for other areas of concern.

Due to our sparse population, state government must be prepared to not only help with construction funding for these regional systems, but also might have to provide perpetual maintenance/operational funds as well. Sustainability will be an issue.

Managements must continue to implement conservation strategies, develop maintenance, betterment, and replacement plans all based on adequate rate structures that provide needed funding to achieve these minimum standards. In short, **systems must be self sustaining so state funds can address projects that exceed a system's financial resources.**

As we stated last year, we are pleased to hear the Wyoming Water Development Commission, Department of Environmental Quality, and the Wyoming Business Council all discussing community funding for projects that include judging whether the community has addressed its needs internally. Have they installed meters, evaluated rates, evaluated taxing authority, investigated water loss amounts, and addressed maintenance and operational needs?

We find in our travels that many elected officials are not equipped with the necessary knowledge of the responsibilities and liabilities they accept when elected. The new rules for responsibilities of water system owners, we hope, will force more governing officials to at least find out where the water plant in their community is! The more our state funding agencies ask questions about the system, the more the elected officials and/or managements must learn in order to address the funding concerns.

Attendance at training classes conducted by groups such as WARWS, WWQ-PCA and WAM to meet the education of newly elected officials and managements is typically 30% or less. **Management and Board Training should be addressed as part of the funding cycle.**

Solid Waste Planning and Implementation –

The results from landfill testing seems to be substantiating what we all feared, **our landfills are leaking and contaminating our water supplies.** We must all brace for the costs of cleanup if we want to continue to enjoy clean, SAFE drinking water.

Putting off addressing the current leaking landfills and not addressing the need for new regional **lined** landfills is only dooming our children and grandchildren to contaminated water requiring large sums for treatment and cleanup. We encourage communities to investigate all strategies for solid waste management, some of which have been in place in surrounding states for the last 20 years.

Solid waste legislation will be reintroduced in 2011 in some form. As we balance resources for closure, post-closure, and remediation of Wyoming's landfills, we must never allow for the polluting of our most valuable resource. While we may prioritize which landfills need to be given attention first, all of these leaking sources of potential contamination will eventually need to be addressed.

Meeting the requirement of Subtitle D of the Resource Conservation and Recovery Act (RCRA) is expensive, but the long-term costs of not meeting the requirements will plague generations. The clean-up from decades of poorly designed, located, and managed landfills in many of our smaller communities threatens Wyoming greatly. **State agencies and the legislature need to hold fast and not let the fear of expense lessen the need to do solid waste planning AND IMPLEMENTATION correctly or we will not be able to sustain product quality.**

Conclusion –

As we stated last year, no avenue can or will be successful if careful analysis and planning is not done to maximize our financial resources, utilize matching funds from federal or private sources to address aging infrastructure, aging professional workforce, and connectivity. Planning must balance the needs of energy development with community growth, affordable housing, and land and water uses to position Wyoming as a destination for any company or family while keeping our “Forever West” lifestyle.

Specifically, Wyoming must continue to address: board and management training, existing infrastructure improvements, system rate structures, coordination of funding sources, retention and recruitment of professional staff and extend the need for certified operators or system training to all public water and wastewater systems.

Wyoming must reconcile energy needs with community resources, further develop multi-jurisdictional communication between state agencies, develop public education programs for solid waste planning, encourage solid waste reduction and recycling, and continue to address source water and groundwater protection strategies.

We are available to answer questions regarding this report and/or participate in solution discussions.

Respectfully,

Mark Pepper, Executive Director