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2002

4-4-2002

Concluding Comments

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Citation Information

Schmit, Ayn, "Concluding Comments" (2002). *Coalbed Methane Development in the Intermountain West (April 4-5)*.

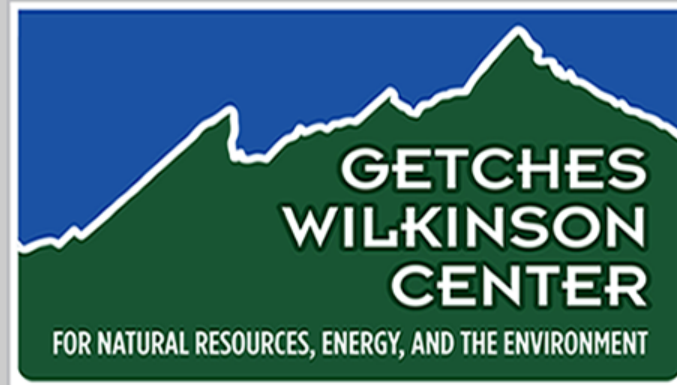
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Ayn Schmit, *Concluding Comments, in COALBED METHANE DEVELOPMENT IN THE INTERMOUNTAIN WEST* (Natural Res. Law Ctr., Univ. of Colo. Sch. of Law 2002).

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COALBED METHANE DEVELOPMENT IN THE INTERMOUNTAIN WEST: CONFERENCE PROCEEDINGS, SESSION 4, CONCLUDING COMMENTS

AYN SCHMIT, *Coalbed Methane Coordinator, U.S. EPA Region 8*

I am here representing the EPA here in Denver; and Region 8 covers the Dakotas, Montana, Wyoming, Utah, and Colorado. I'm the coalbed methane coordinator. I've come to the conclusion that one possible, and perhaps the most likely interpretation, is I'm supposed to know everything, enough to be dangerous. So that's sort of the premise I guess I can operate on here. What I wanted to do is take just a few minutes to talk about a few things that are happening now or they are upcoming in the very near future, not in any detail at all, but then to touch really briefly on them. And then I wanted to talk about the topic of the panel—coalbed methane.

EPA is working—in fact, I've been running back and forth, I mean that quite literally, between my office and . . . concerning the Wyoming and Montana BLM environmental impact statements. As many people have mentioned, those are out there now and the comment periods are coming to a close. Section 309 of the Clean Air Act obligates the EPA to evaluate and rate environmental impact statements done by Federal agencies so that we have sort of a unity in that regard. We were a cooperating agency on the Montana EIS as well. So that's something that will be coming to a close very shortly. We're also preparing a response to a petition that was submitted to the state of Wyoming's delegation. I think I actually saw one of my Wyoming's DEQ colleagues in the audience. So that's something that was submitted. It's been perhaps nine months or so, and so we have done a review of Wyoming's EIS routinely anyway as part of its oversight. So we've prepared a draft report on that program review, and we're working on response to that petition which, by the way, was filed by the Powder River Basin Resource Council. We're also working to finish an analysis of the economic feasibility of different waste water management treatments similar to some presented yesterday. And we're doing that because the EPA interprets that.

Oil and gas agreement limitation guidelines don't apply to coalbed methane development. So EPA's intention is to certainly expect to be in a permit writing role for

tribal lands, and we expect to use that so-called best providential judgment analysis in that capacity, but we also hope it will be a useful piece of information for other people out there working on this issue. And then we've been working with the Northern Cheyenne tribe quite a bit lately in their development of numeric and sodium absorption ratio; and they are now, in fact, I think they just mailed their responses and comments. They had a public hearing, and they are now finishing the response to comments. And I would expect that they would take those proposed for adoption some time in the very near future.

On the upcoming front, Montana is in the process—and a number of these things have been alluded to in previous talks—but they're in the process of addressing salinity and SAR. And EPA, typically as developing standards, will enter with the State regarding our perceptions of the approvability of those proposed standards and, in fact, will be until they're approved.

So that process, as many of you know, is playing out. The standards they're looking at also in Wyoming, there is work group that has been convened by the DEQ to advise on possible approaches to SAR and salinity. We expect the tribe to enter into coalbed methane lease agreements in the near future. And again, as mentioned before, that will require both NEPA coverage as well as EPA permitting for water management.

Another thing I just wanted to mention briefly. Just based on a number of things, litigation, the extent of public concerns being raised about permitting, I think EPA is intending to look more closely at permits for coalbed methane discharges in our office site capacity. I think we feel like we've been doing that, to a greater or lesser degree, in the different states. And I think we're going to be asking some questions like, do those permits consistently protect numeric water quality standards, and so forth. I think I've actually lost a page of my talk.

I just wanted to mention those briefly. As far as kind of ideas about where this might go in the future and conclusions based on some of the observations people have made over the last day and a half, I really have to com-

mend the law center for the diversity of the speakers they have. I did a quick tally on the program, and I counted six industry speakers, two from local government, two from state governments, two from federal agencies, six from community and environmental groups, one tribal person, and discovered that I was the lone representative of a federal regulatory agency. And I guess as a representative of an environmental regulatory agency, landscape is going to continue, I think, to be a major factor that shapes the future of coalbed methane development.

In that light, EPA's position has been from the beginning and remains that this resource can be developed in a manner that meets environmental standards. It's really a question of how the collective groups and individuals that are vested in this issue can work together to define that. That sort of brings me to the watershed approach. As Jim mentioned in the introduction, I come from the arena of management of large rivers, and in that arena, there are some very distinct parallels. The same stakeholders are involved and their positions are quite entrenched; but nevertheless, despite the concept of watershed management, this is something that is really beginning to occur elsewhere, and I don't yet see that happening here.

I think a couple of benefits of this, which I'm talking about an ecosystem management approach, which already determines a lot of different terms that get used for similar kind of philosophy, I think. This is one of the benefits to resolving disputes via litigation, and litigation is kind of a high-stakes game. It may not be what you went in thinking was the likely outcome. I think another benefit is that, although it sometimes seems like a lot of time upfront to set the wheels in motion, I think it often is able to go much more smoothly and quickly because of that upfront work. I just want to talk about elements that are common to successful watershed or community-based problem solving efforts. One is the notion of working within natural boundaries. That makes sense given the issue, rather than traditional administrative boundaries. If water is your concern, then working with people on a watershed basis is the only way, I think, that makes sense to defining and solving problems. I think another environmental element is that all of the interests are represented and they're at the table on an equal footing. And the more contention, the more essential it is that that be the case.

I think another ingredient of this type of approach is the notion of goals or outcomes. And probably one that everybody's had a hand in is developing. They might be water quality standards or they might be goals that are derived from those standards. Another element I want to talk about with this is to approve scientific information in a cooperative and transparent way so that you can avoid the potential for very dueling science and stretch what are scarce monitoring resources. And I think that in order for us to be able to make science-based decisions, there's a need for a pretty rapid mobilization around integrating the data that's already out there and developing new data. I think that's something that's best done by people sitting around the table together. You have to be committed to working together for the long haul.

These are complicated problems, and there are a lot of relationship and trust issues. It's not going to happen overnight. So I think there has to be a commitment to working together in a very long-term kind of way. And that commitment has to be understood for something like this to be successful. I think there are some hopeful signs and some initial steps, and maybe the elements of a model are there that we can look at. I think these meetings that have occurred between the two states and the tribes to talk about transboundary issues was hopeful. I think the fact that the state of Montana—this was something I was going to mention earlier—development of TMDLs for the Powder River Basin streams is also a good thing. And I think the TMDL process had the kind of elements of watershed approaches. I think models like the Montana technical working group where you have people that are working on technical issues, coming together on a regular basis so everybody knows and can keep each other updated are great. Technical work is also a good model.

I went to a community meeting down in the Raton Basin a couple of weeks ago that was convened by the CSU cooperative extension that I thought was a really constructive form for people to get information. What's missing is an opportunity for people to interact; it tends to be more talking heads. If you're lucky, there's time for questions and answers, but what I think is needed here is going beyond that and building some forums for real interaction. And it probably makes sense to do that within the individual basins.

Thank you.