MINUTES
of the
WATER QUALITY COMMITTEE
The Lodge at Deadwood
Deadwood, SD
October 3, 2013

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Those in attendance at the Water Quality Committee meeting were as follows:

MEMBERS AND ALTERNATES PRESENT

ALASKA	--
ARIZONA	Mike Fulton (via phone)
CALIFORNIA	Tom Howard Jeanine Jones
COLORADO	Trisha Oeth Steve Gunderson James Eklund
IDAHO	Jerry Rigby John Simpson Barry Burnell (via phone)
KANSAS	Tracy Streeter
MONTANA	John Tubbs
NEBRASKA	Brian Dunnigan
NEVADA	Roland Westergard
NEW MEXICO	Greg Ridgley Maria O'Brien Scott Verhines
NORTH DAKOTA	Michelle Klose Jennifer Verleger Todd Sando
OKLAHOMA	J.D. Strong
OREGON	Phil Ward

SOUTH DAKOTA	Kent Woodmansey Steve Pirner Jeanne Goodman Eric Gronlund Mark Rath
TEXAS	Carlos Rubinstein Curtis Seaton
UTAH	Dennis Strong Norm Johnson Walt Baker
WASHINGTON	--
WYOMING	Pat Tyrrell Sue Lowry Kevin Frederick (via phone)

GUESTS

Garland Erbele, Wenck Associates, Pierre, SD
Victor Anderson, Wenck Associates, Cheyenne, WY
Andrea Travnicek, North Dakota Governor's Office, Bismarck, ND
Mark Limbaugh, The Ferguson Group, Washington, DC (via phone)
Carlee Brown, Western Governors' Association, Denver, CO
Paul Blanchard, Northwest Pipe Company, South Jordan, UT
Scott Leedom, Southern Nevada Water Authority, Las Vegas, NV
Bob Bacon, Missouri Department of Natural Resources, Jefferson City, MO
Dennis Todey, South Dakota Office of Climate and Weather, Brookings, SD

WESTFAST

Eric Stevens, Federal Liaison

STAFF

Tony Willardson
Nathan Bracken
Sara Larsen
Cheryl Redding

WELCOME AND INTRODUCTIONS

J.D. Strong, Chair of the Water Quality Committee, called the meeting to order. In light of a pending snowstorm, J.D. explained that the WSWC had agreed to hold condensed meetings and would forego the Full Council meeting. As such, the WSWC would convene in full at certain points during the Water Quality Committee to consider the Committee's recommendations regarding sunsetting positions and other business items.

APPROVAL OF MINUTES

The minutes of the meeting held in Casper, Wyoming, in June 2013, were moved for approval by Tracy Streeter. The motion was seconded by Carlos Rubinstein. The minutes were unanimously approved.

SUNSETTING POSITION

The Committee discussed sunsetting Position No. 328, which supports legislation to clarify that pesticide applications that comply with the Federal Insecticide, Fungicide, and Rodenticide Act do not require National Pollutant Discharge Elimination System permits under the Clean Water Act (CWA). WSWC proposed some minor changes to update the position.

Carlos moved adoption of the position as revised.

Nathan mentioned that Stephen Bernath of Washington was unable to attend the meeting, but had indicated that Washington continues to oppose the position.

Bill Howard stated that California is in line with Washington in opposing the position, and noted that his state executes NPDES permits for pesticide applications and has not found it to be problematic.

Walt Baker said that Utah is supportive of the position and seconded Carlos' motion, noting: "If states want to have their own permitting program…they can do that. That is certainly an option that states have."

The position was passed by the Water Quality Committee. California and Washington's opposition to the position was noted.

The Full Council meeting was opened. A motion and second to adopt the position as revised were made. The position was passed, with opposition from California and Washington noted for the record.

WESTERN GOVERNORS' ASSOCIATION DRAFT WATER QUALITY RESOLUTION

Carlee Brown with the Western Governors' Association (WGA) reported on her organization's efforts to revise its Water Quality Resolution (#11-15), which addresses issues involving the CWA, the Safe Drinking Water Act (SDWA), and the general concept of having states as "full partners in water management." It also includes a statement on the State Revolving fund and the Rural Water Program.

Carlee then discussed a new policy review process that the WGA has implemented. Under the new process, new and revised policies will be sent directly to the WGA's Staff Advisory Council. WSWC members are encouraged to contact their respective SAC representative to obtain copies of proposed policies and changes and to make their suggestions and comments through their SAC representative. For the revised Water Quality resolution, Carlee said the governors will consider the resolution at their December meeting in Las Vegas, Nevada. As such, she urged the WSWC to provide comments to their SAC representatives by November 15 at the latest, but preferably before the end of October.

SD WATER QUALITY UPDATE: POWERTECH IN SITU URANIUM MINE

Steve Pirner gave a presentation on a proposed in situ uraminum mine that Powertech has proposed for southwestern South Dakota. The mine is currently undergoing the permitting process and has been "controversial from the start" due in part to the scarcity of water supplies in the area, where there is a lot of concern about possible water quantity and quality impacts.

Steve then discussed the regulatory review process for the mine, referring members to Tab Q in their briefing books for a detailed chronology. In 2006, the South Dakota Department of Environment and Natural Resources (DENR) asked the state legislature for a law that would give it specific authority to regulate the in situ processes. The legislature passed such a law, which was non-controversial. In 2007-2008, DENR developed two sets of rules, with one set falling under its mining program and the other set addressing underground injection programs. South Dakota has delegated authority from the Environmental Protection Agency under the SDWA for Class 2 wells, but does not have delegated authority for the other classes, including Class 3 wells

In 2007, Powertech received its first exploration permits and began drilling to confirm the deposit. It also began working on applications for the state water right permits, the Nuclear Regulatory Commission's (NRC) licensing program, and EPA's Class 3 underground injection control program. In 2011, Powertech found it difficult to work with each of the agencies individually, and asked the state legislature to delegate the state under the NRC and to seek

delegation for the Class 3 program. Powertech also wanted the legislature to set aside the rules DENR developed in 2007-2008 until the state is either delegated or considered to be an "agreement state."

This occurred during a time when state government was experiencing 10-20% budget cuts. DENR was not growing, and argued that it could not handle the process to become delegated in the foreseeable future. Steve further noted that Powertech's mine is the only potential project for which it would have regulations, "so why would they develop a whole state program to regulate one operation?"

The legislature decided that the state should not duplicate the federal programs, leaving the state with some jurisdiction over water right permits and groundwater discharge. Powertech then submitted an application for a groundwater discharge permit in March 2012, which DENR publicly noticed in December, recommending conditional approval. Two hundred fifty two parties intervened and contested.

In June 2012, Powertech submitted two applications for water right permits. DENR publicly noticed these applications for conditional approval in November 2012, and 11 parties intervened and objected. In October 2012, Powertech submitted an application for a limited large-scale mining permit, and DENR recommended approval on April 15, 2013. Again, 125 parties intervened and objected. Given the number of intervening and objecting parties, DENR needed to determine how, and where, to hold the investigative hearings for the objectors in front of each of the appropriate boards. Letters were sent to all intervenors that set forth three options: (1) intervenors could be formal parties to the proceedings; (2) intervenors could read written testimony into the record; or (3) intervenors could leave their petition objecting to the record. About 20 parties chose to actively participate in the hearings.

The large-scale mining permit hearings will begin on October 7 in Rapid City in front of the Water Management Board. There will be about the same number of parties; roughly 20 different parties for each witness. Hopefully the proceedings will speed up a bit.

Powertech has made applications to the Nuclear Regulatory Commission, which are "fairly well along" in the licensing process. Powertech hopes to get all of their approvals by next spring, and would then begin construction next summer.

Steve Gunderson from Colorado commented that Powertech has also bought land to do in situ mining east of Fort Collins, near Nunn. This generated a lot of opposition, which led to the passage of legislation requiring the groundwater to be restored to the quality that existed before operations. Powertech has since suspended its plans indefinitely. Steve further noted that the price of uranium is "pretty soft," and wondered if Powertech's proposal in South Dakota will come to fruition.

Steve Pirner said the opposition in South Dakota has raised Colorado's experience during the hearings, and looks to Colorado as their "hero" state.

EPA UPDATE

Given the federal government shutdown, EPA was unable to attend or participate to provide an update. Therefore, Nathan Bracken provided a brief overview of the following.

A. Connectivity of Streams and Wetlands to Downstream Water Draft Report / Clean Water Act Rulemaking

Nathan reported that EPA and the U.S. Army Corps of Engineers announced on September 17 that they have withdrawn their proposed CWA guidance. However, the agencies also announced concurrently that they have submitted a draft rule regarding the extent of CWA jurisdiction to the Office of Management and Budget (OMB) for interagency review.

EPA has further indicated that the final version of the rule will be based on a draft "connectivity" study that it also released for public comment on September 17. Titled "Connectivity of Streams and Wetlands to Downstream Waters," the report reviews and synthesizes peer reviewed literature on the connection between small, isolated waters and larger bodies of waters. An EPA Science Advisory Board panel, which does not include any state experts, will review the report during a meeting in Washington, D.C. on December 16-18. EPA is asking the public to submit comments by November 6 to be considered during the meeting.

Nathan said the Executive Summary of the report seems to support the approach EPA and the Corps took with the guidance. In particular, the report makes the following key findings:

- "Streams, regardless of their size or how frequently they flow, are connected to and have important effects on downstream waters. These streams supply most of the water in rivers, transport sediment and organic matter, provide habitat for many species, and take up or change nutrients that could otherwise impair downstream waters."

- "Wetlands and open-waters in floodplains of streams and rivers and in riparian areas...are integrated with streams and rivers. They strongly influence downstream waters by affecting the flow of water, trapping and reducing non-point source pollution, and exchanging biological species."

- "[T]here is insufficient information to generalize about wetlands and open-waters located outside of riparian areas and floodplains and their connectivity to downstream waters."

Nathan further noted that Ellen Gilinsky, Senior Policy Advisor, Office of Water with EPA, called him about an hour before the EPA announced the submission of the draft rule to OMB and the release of the connectivity report for public comment. Ellen indicated that the states will be able to comment on the rule when it is published for public comment, but also said that the states can submit comments to OMB during its review period, which will likely last about 90 days. Ellen could not comment on the substance of the report itself.

"TALKING POINTS AND PRINCIPLES" FOR CLEAN WATER ACT RULEMAKING

J.D. Strong presided over a discussion on possible comments the WSWC could make regarding the draft CWA rule.

Nathan began the discussion by explaining that he worked with J.D., Trisha Oeth, and Tom Stiles to develop potential "talking points" to include in a possible letter to EPA and the Corps (Tab R). The draft concepts are not proposed language and address:

- The need for greater state consultation and for the states to be treated as co-regulators in the development and implementation of the rule;
- Deference to state water law, including the need to give "full force and effect" to the intended purposes of Sections 101(b) and 101(g) of the CWA;
- The need for clear and unambiguous language stating that CWA jurisdiction does not extend to groundwater or any "subsurface flows;" and
- The need to conform with U.S. Supreme Court limits to CWA jurisdiction.

Nathan also mentioned that WGA Policy Director Holly Propst has raised concerns about the lack of state expertise in the SAB panel that will review the connectivity report. Out of 26 people on the panel, 19 are academics and the rest are from think tanks and non-profit groups, including the Nature Conservancy. Thus, Holly had wondered if the WSWC wished to comment on the need for the SAB panel to include more state expertise.

Questions and Discussion

The following is a transcription of the ensuing discussion regarding possible WSWC responses to the submission of a draft rule to OMB.

Walt Baker: "The process that EPA goes through relative to rulemaking although disconcerting is never a surprise to me. They do it time and time again – which is to initiate rulemaking and then the states, who are ostensibly identified as partners, are relegated to the role of the general public at large. The Association of Clean Water Administrators (ACWA) has been harping on EPA about their process. We've said that is not how we do business as states. We involve stakeholders before we begin rulemaking so that they are party to that development. That is not where we are at with EPA right now. Frankly, I don't see change."

"It is appropriate for EPA to tell us how they are going to engage the states. I think there is some common ground. We are all interested in protecting our waters. How can we collaborate so that there is a win-win? No one is more interested in protecting the waters than the states. Ask them for the process and how the states can be included. How can our input be heard before we get to the end of rulemaking?"

"I'd rather not put on the boxing gloves and have a throw down with EPA right now. There are areas of agreement. Let's try to figure out where the gaps are and figure out if there is a path forward that gets us to the same place. This is contentious, and it has been in court rulings.

There will be disagreement, but we can try to close the gaps in a collaborative way. ACWA is very much engaged in this."

John Tubbs: "I agree. I had an opportunity to work on this rule for about three years as a representative of the Department of Interior. I cannot remember it in detail, but you are not mistaken in terms of the direction it is going. While the guidance may be issued by EPA, they are not the only agency of target. Army Corps also plays a very significant role in terms of the development of 404, and of course, CEQ organized the discussion within the federal family. While the focus of this conversation has been strictly on EPA rulemaking, the Army Corps plays a significant role. I don't think we have probably been consulted by the Army Corps on this issue either. When you see the rule, it is much more eloquent. It is much less legalese referring to a specific judge's statement. It is a true rule. It will be a different document when you see it. It is not modeled directly after the guidance. If retained, they really pulled back on irrigation contributions as being regulated. My main point is that while EPA may be the agency of authorship, but within the federal family, the Army Corps is equally looking at this rule and its effect on how they administer 404 permitting."

J.D. Strong: "Was the April letter directed to both [Assistant Secretary of the Army (Civil Works) JoEllen] Darcy and [EPA Acting Administrator Bob] Perciasepe?"

Nathan Bracken: "Yes, our positions have gone to both the Corps and EPA. John, you raised an interesting question about CEQ's involvement. Would it also be worth our while to communicate with CEQ?"

John Tubbs: "They were the coordinating entity. Yes."

Carlos Rubinstein: "John, I'm thinking about what [Texas] had to do to preserve our right and ultimately win on the Clean Air rule. They didn't treat the states the way they should have. Administratively, they did not include the states. Then when states actually got to comment, they were ignored. Because our administrative process was not protected and preserved, it was one of the ingredients as to why we were able to overturn that. This is a very critical rule that could severely hamper the states. I think the tone of the letter needs to be to nicely point out the role that the states need to play. Also we need to highlight where we are actually regulating and don't get any additional treatment. Further, we need to preserve our ability administratively to challenge the rule if it goes the wrong way."

J.D. Strong: "Behind Tab R we have some rough concepts outlined. Do we have consensus that we should at least address these topics? State consultation, the issue that despite our previous pleas, they have not consulted with the states in developing the rule and yet all the delegated states, which is most, if not all of us, will have to implement it. Is that a concept that everyone agrees we should include in this letter? There is no opposition to that?"

"Deference to state water laws, also when it comes to the water rights administration and water allocation side of things – surely we all agree we don't want EPA or the Corps under CWA authority to intrude on that issue?" The Committee agreed with J.D.'s comments.

J.D. then asked: "Do we have unanimity on the fact that we don't want CWA jurisdiction to be extended to groundwater? This is an issue we saw creep up in previous versions of the guidance."

Walt Baker: "There is no question that EPA has no jurisdiction on groundwater. It should be no surprise to anyone in this room that this connectivity issue where groundwater starts influencing surface water. We see it time and time again in Utah, whether it be septic tank in grain fields or injection wells that are influencing surface waters, and so that is a little bit of a gray area. One is going to influence the other. Yes, they don't have authority over groundwater and rights, but recognizing there is this connectivity issue that may bring them into the fray. I cannot ignore that in Utah there is a connection a lot of times between groundwater and surface water. I want to keep the camel's nose out of the tent as far as EPA in groundwater, certainly. But, how do you walk that line? How do they walk that line?"

J.D. Strong: "Was that another one of those issues where the states should be free to regulate that issue on their own? In my mind, the states should be able to regulate groundwater quality influence on surface water. So, I am afraid that if we nuance that, EPA will just jump right in. I think we have to be really strong and to the point on this."

John Tubbs: "This is an essential framework for Corps and wetlands and what is regulated under 404 permitting. You may be aiming at a target of connectivity, thinking about water quality concerns being contributed. But you should also think from the Army Corps' perspective on connectivity and the issue of wetland development and disturbance and how they do their permitting under 404. This becomes the nexus for the Corps' ability to assert authority under 404. If you're only going to pick the battle with EPA, you will find out there is a Department of Defense side of the issue."

Walt Baker: "John, it is probably more important on the wetlands, frankly. Isolated wetlands, which ones are waters of the U.S. or connected to waters of the U.S. You are absolutely right."

Nathan Bracken: "As the person who will likely be drafting this letter, I have a language question. Some of our states have expressed concerns about the use of language 'sub-surface flows.' This was specifically raised in our original position. The language is quite prevalent in the connectivity report. When we talk about groundwater, do we want to go as far as the sub-surface flow language in our letter?"

J.D. Strong: "I think we do. I understand what you're saying about 404 and wetlands. In Oklahoma, wetlands are surface waters. Sure, there are some sub-surface connectivity in places. They can be regulated through surface water wetlands."

John Tubbs: "I'm just saying that [the U.S. Supreme Court's decisions] in *Rapanos* and *SWANCC* have given a narrow window for the Corps to see how they have regulatory authority over certain wetlands, and it has limited them in others. They begin to have to build this regulatory framework to [determine] what wetlands are governed under the CWA, and that have to be waters of the United States. This is their pathway, and the court decisions are providing the

path. That is why the guidance speaks to it. My point to the Council is that if we are going to pick this fight, then we need to take it to the Army Corps, not EPA."

J.D. Strong: "It sounds like we have consensus that it ought to be a letter that goes to both the Corps and EPA and covers everything, and maybe even include CEQ on the letter as well. Has anyone looked at the draft connectivity report to see what terms they are using there?"

Nathan Bracken: "Sub-surface flows."

J.D. Strong: "Sub-surface flows. Okay."

Tony Willardson: "Have they actually issued a report or just a summary?"

Nathan Bracken: "The report has been issued. They are accepting comments on it through [November 6]."

Tony Willardson: "If I'm correct, it also said, not only water bodies, but even if ephemeral streams or dry washes within a watershed impact waters of the United States and should be jurisdictional. That is an issue that we have raised. Among staff, we have discussed that we don't know where we are going to draw the line. I think they said that anything that is outside of that, they don't have enough information to say if it is jurisdictional. They are drawing this… further than *SWANCC* or *Rapanos* may let them. Should we suggest that there be a bifurcated process, where they first take Justice Scalia's standard, which is direct connectivity…. Beyond that, then maybe we need to look at some other way of working with the states to determine under Justice Kennedy's standard, is there a significant nexus or is there not?"

Steve Gunderson: "We are going to have to see how long this rule sits at OMB. The water quality standards rule that EPA gave finally jogged loose, was jogged loose in large part because ACWA weighed in directly. ACWA requested a dialogue on issues in the rule. Some of the water quality standards rule had not been changed since 1983. This is more controversial by far than the water quality standards rule."

"Regarding [ephemeral streams], as Walt has said, there is so much gray and nebulous stuff. There are situations where ephemeral drainage heaves can result in catastrophic, adverse impacts to our waters. During the break, Walt was referring to something that happened in the Kennecott Copper Mine area, where there was a stormwater event heaving ephemeral drainages that have moved a lot of sediments containing heavy metals that are now poised such that in another storm event, will end up in your waters. We need to see the rule before we try to decide how to draw the lines. There are times where ephemeral drainages can wreak havoc. In some states, I'm not sure in Colorado, as our definition of safe waters is very broad, but in some states, definition of safe waters is far narrower. It is based on federal rule. In Colorado, I joke about the fact that we don't care about what the water looks like when it leaves our state, because it all goes downhill to somewhere else. Kansas went to our Arkansas Basin rulemaking hearing a couple of months ago, expressing concern about the lousy water quality in the Arkansas River crossing the state line. It's just a thought."

J.D. Strong: "When you talk about ephemeral drainages, are you talking about that having any sub-surface component to it? I'm thinking of ephemeral streams, which flow periodically. There are clear differences and it would take us a long time reach consensus on where to draw the lines in terms of tributaries and headwaters, etc. The phone call that Trisha and I participated in exhibited there are clear differences in where Colorado wants to go with that versus Oklahoma. Throw all the rest of the western states into the discussion, and it would take us a long time to sort through it all. We are trying to pick off at least the overarching issues that we do have consensus on."

"Can we be specific in this comment letter to say mitts off any sub-surface flows? We understand there can be some water quality impacts from contaminated groundwaters and that sort of thing, but in some of our views, that has never been CWA jurisdiction stuff. There is some jurisdiction under the [SDWA] to deal with some of those issues, as well as RICRA and CERCLA and others. Because of the fact that EPA tried to go there before, and we had a strong statement against that in the guidance, can we still go there?"

Walt Baker: "I like the language that Nathan has in Tab R relative to groundwater. I think it ought to stand, but it is nuanced. The proof will be in the pudding. There will be battles on that. I like the language that is there. Groundwater is in the purview of the state and should remain that way."

Tony Willardson: "This has always primarily been a 404 issue, as we have discussed it. It has been raised now that, if it is not waters of the U.S, and it is not jurisdictional, is it not subject to an NPDES permit, 402, and any of the other authorities under the CWA. [W]hatever we define under 404 will apply to the rest of the Act."

J.D. Strong: "What do people think about Tony's approach, where you have we would suggest a tiered approach. The rules could clearly address jurisdiction under the Scalia test, and then for everything else sort of the significant nexus, Kennedy test there [would] be a mechanism for collaboration of the states to draw those lines. Is it possible to suggest a tiered approach like that in this letter? Or do we want to wait and try to pry the rule out of them and see what it says?"

Tricia Oeth: "That approach seems like it would lead to different results of what is [jurisdictional] in each state."

John Tubbs: "There are a lot of questions about surface water contributions, and these are not 'navigable' rivers that the surface water rule would attach itself to. It basically takes the navigable waters of the United States and reaches up to its tributaries that are directly connected. If I remember correctly, the comments were not always supportive of jurisdictional authority under tributary water, both in ditch and in other streams. That bifurcation may be seen as a support for issues that states aren't necessarily supportive of."

J.D. Strong: "Yeah, that's a good point."

Tony Willardson: "I think the SAB report says they will not draw the line at flows – any flows."

Nathan Bracken: The report does not get into where they draw the line, but it essentially concludes that everything is connected."

J.D. Strong: "The last point made in the memo is [the need] to conform with the U.S. Supreme Court rulings in rule implementation. Surely, we have consensus that this rule should be clear, easy to implement and interpret, and unlikely to create further uncertainty."

J.D. then asked Nathan to explain the memo's use of the phrase "the rule should conform with the Supreme Court's rulings."

Nathan Bracken: "This is a concept that we have discussed at the staff level, and something we've heard a lot from EPA and the Corps. Essentially, they are trying to return jurisdiction to the status quo that existed pre-Rapanos. It is that it is not up to EPA nor the Corps to do this - it is the responsibility of the Supreme Court and the Congress…. In my opinion, what [this language] means is that whatever the jurisdiction was the day before the Court issued the *Rapanos* decision, that is not the limit now."

J.D. Strong: Okay. How do people feel about that? I certainly agree with the latter part, that we want this clear and easy to interpret. Is there a danger that it might be interpreted that we subscribe to a more expansive interpretation of the CWA because of *Rapanos*?"

Nathan Bracken: "I think it would be more difficult for them to come up with something clear if it is going to be that expansive. As indicated in the report, there is insufficient information about these isolated waters. The narrower the rule is, the easier it will be to implement. The broader they try to make [it], the harder it's going to be to be clear and easily understandable."

John Tubbs: "Don't overuse that. It's better than the rule. What if you followed up with a statement that says anything else that might broaden the definition of waters of the US should only be done through an act of Congress."

Roland Westergard: "Instead of referring the Supreme Court decisions?"

John Tubbs: "No. Refer to the Supreme Court decisions and then say if you want to broaden the definition, then you need to do it through an act of Congress."

Roland Westergard: "I don't know a lot about this particular subject to the extent that many of you do, but I think if those Supreme Court decisions are so hard to interpret, I think there is a risk in referring to them here."

J.D. Strong: "I share that concern…. What if we drop the reference to the Supreme Court decisions or conformance to that and go with any broadening of the definition needs to be done by an act of Congress? Any opposition?"

There was no opposition to J.D.'s suggestion.

Question: Did we come to a decision on the groundwater topic?

J.D. Strong: Yeah. I thought I heard resolution that we could support the language…in the memo…."

Walt Baker: "It would be helpful to hammer home the issue of certainty -- bringing certainty to this uncertain document we have now. We need to drive that point home. It is the uncertainty that is driving costs up, causing delays, and court cases – not that they would necessarily be abated with rulemaking."

STATE NUTRIENT EFFORT ROUNDTABLE DISCUSSION

J.D. Strong mentioned that the Committee had originally planned on having a roundtable discussion on state nutrient efforts. However, given the snowstorm and the need to condense the meeting, the roundtable discussion will be postponed.

J.D. then mentioned the possibility of holding a conference call with the Committee and EPA officials to discuss the issues EPA was unable to discuss during the meeting due to the government shutdown.

After some discussion, the Committee agreed to work with EPA to schedule a conference call to discuss a number of issues, including but not limited to: (1) the draft CWA rulemaking and connectivity report; (2) the proposed water quality standards rule: (3) new ammonia criteria; and (4) nutrients.

OTHER MATTERS

Tony mentioned that members of the National Hydropower Association contacted WGA to express their appreciation for the WSWC and WGA's support for legislation to expedite the development of small hydropower projects (H.R. 267 and H.R. 678). The group is also concerned that the 401 certification process is a "blockade" to securing approval for hydropower projects. Tony raised the possibility of creating a workgroup to interface with the hydropower community to addresses their concerns regarding 401 certification for hydropower projects. Thomas Howard said he would interested in serving on the workgroup.

There being no other matters, the meeting was adjourned.