

**MINUTES
of the
181st COUNCIL MEETING
Radisson Hotel
Bismarck, North Dakota
July 15, 2016**

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Radisson Hotel
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July 14, 2016**

MEMBERS AND ALTERNATES PRESENT

ALASKA	David Schade
ARIZONA	Einav Henenson
CALIFORNIA	Betty Olson
COLORADO	John Stulp
IDAHO	Jerry Rigby John Simpson
KANSAS	-
MONTANA	Tim Davis
NEBRASKA	Jim Macy Jeff Fassett
NEVADA	-
NEW MEXICO	John Longworth Greg Ridgley
NORTH DAKOTA	Garland Erbele Jennifer Verleger Andrea Travnicek
OKLAHOMA	-
OREGON	Tom Byler
SOUTH DAKOTA	Kent Woodmansey
TEXAS	Jon Niermann Jim Rizk Robert Mace

UTAH

Norm Johnson

WASHINGTON

Mike Gallagher

WYOMING

Pat Tyrrell
Chris Brown
Steve Wolff
Kevin Frederick

GUESTS

Dave Mitamura, U.S. Army Corps of Engineers, Austin, TX
Jim Fredericks, U.S. Army Corps of Engineers, Portland, OR
Rick Deuell, Wyoming State Engineer's Office, Cheyenne, WY
G. Edward Dickey, U.S. Army Corps of Engineers, Dickinson, ND
Chaunsey Chau-Duong, Southern Nevada Water Authority, Las Vegas, NV
Wayne Stenehjem, North Dakota Attorney General's Office, Bismarck, ND

WESTFAST

Patrick Lambert, Federal Liaison, Murray, UT
Becky Fulkerson, Bureau of Reclamation, Washington, DC
John D'Antonio, U.S. Army Corps of Engineers, Albuquerque, NM
Roger Gorke, U.S. Environmental Protection Agency, Sacramento, CA (via phone)

STAFF

Tony Willardson
Michelle Bushman
Sara Larsen
Cheryl Redding

WELCOME AND INTRODUCTIONS

WSWC Chair Pat Tyrrell welcomed those in attendance at the meeting.

APPROVAL OF MINUTES

The minutes of the meeting held in Washington, DC on March 22, 2016 were moved for approval. The motion was seconded and the minutes were unanimously approved.

WATER RESOURCES ISSUES IN NORTH DAKOTA

Wayne Stenehjem, North Dakota Attorney General provided an update on water resources issues in North Dakota.

I notice you have a legislation and litigation update. We have a file that is even thicker! There has been a significant evolution in the area water litigation. When I started working with our legal division we were talking about garden-variety water issues—neighbor v neighbor; state v state; or state or political subdivision v Canada. Now, most of our litigation seems to be our state v one or another federal agency. We contend that there is an alarming over-reach by the federal government.

In North Dakota we often struggle with either too much water or not enough. The Northwest Area Water Supply (NAWS) System was designed to bring water to the Northwest area of North Dakota. There is a large earthen dam to store water, and can be a useful tool, but we spend more time in the courtroom than in the engineering room drawing up plans for the water. We started with the litigation 8-9 years ago. We sought to use water from Lake Sakakawea, and Canada objected to transfers of water due to biota. The amount of water is insignificant, and is even hard to measure, but Missouri takes great exception to our use of its water from the Missouri River. We hope to satisfy the objections and dissolve the injunction currently in place. We have received some small approvals and will likely be able to complete the NAWS project. Fargo and Grand Forks all rely on the Red River, which is not very deep. There have been times the river has nearly run dry. They're also looking for a water supply system from Lake Sakakawea.

The Red River Valley is a very flat valley, and when the Red River breaches its banks, the water flows over the valley. Grand Forks had to be evacuated in 2009, and in some ways we were fortunate to lose the flood battle, because we're getting the necessary funding for permanent flood protection. Fargo is battling now to construct dikes to protect their city, and is looking at a \$2 billion project. Minnesota is not happy with the plans to protect the State of North Dakota in Fargo.

Along the northern border of North Dakota on the Northeast there's a road or a dike built by Canada that impounds water, backing it up into North Dakota. For the past 10 years we've been dealing with a water treaty that involves the Joint Border Commission. The Court in Canada says the treaty only deals with water that flows from Canada into North Dakota and not vice versa. North Dakota will be appealing that to the Queen's bench, and North Dakota believes the treaty should be interpreted to provide protections in both directions.

We have several lawsuits pending against the federal government. There are at least a dozen lawsuits with EPA. We also have issues with the U.S. Army Corps of Engineers (Corps) over Lake Sakakawea, which is a huge body of water that extends 250 miles. The Corps says because they constructed the dam they should charge us to use the water, with 20,000 cfs flowing through that dam every day. We say we should not have to pay anyone for that water, which

belongs to the state. The Corps has indicated that a water supply rule will be promulgated at some point.

The Bureau of Land Management (BLM) came out with a rule that the federal government was going to control fracking on federal lands. We felt their rule is unnecessary, duplicative, imposing more red tape and federal overreach. We went to the court in Wyoming and the judge said that our constitutional form of government is built upon 3 separate branches of government, that this case is a constitutional question, and that the role of the court is to determine whether Congress has delegated power to the BLM to regulate fracking. The judge concluded that Congress has not. We expect this to be appealed.

The Waters of the U.S. Rule (WOTUS) is one of the most contentious rules that I have ever seen. EPA and Corps decided to will settle the issue of what is a water of the U.S. by saying it is all waters of the U.S. Here in North Dakota and elsewhere, we have regulated and protected our own water quality, because it's important to us. This rule is worrisome for us. We should be able to use the water that is under the control of the State of North Dakota. We have many rills and gullies that are usually dry and only intermittently flow. We also have prairie potholes. These potholes do not connect to anything. No water supply comes in, nor goes out. These would all be considered waters of the U.S. because they've been determined to be a regional treasure. Farmers who farm around these potholes all the time would have to seek a federal permit. They do not want to have to do this. We sought an injunction, along with 11 other states. We were told the lawsuit was frivolous. We did indeed receive an injunction, which initially only applied to the 12 states who were involved in the injunction. A federal court in Ohio recognized the disparity and they issued a nationwide injunction.

I want to give you a heads up. On June 1, the Corps published its notice of proposed changes to the 2017 Nationwide Permits in the *Federal Register*. The proposed changes include an effort to incorporate the WOTUS rule despite the stay from the courts. We view this as a clever attempt to resurrect WOTUS and circumvent the stay. The Corps states in the notice that it wants to promote consistency. I suggest you visit with your AG with respect to this issue. I agree with Lily Tomlin: "I try to be cynical, but sometimes I simply can't keep up."

The recent stream protection rule was initially designed to deal with water protection around coal mines, but when the final rule came out, suddenly North Dakota was part of the rule. Water protection in Appalachia is far different than here in North Dakota. We use lignite coal resources for electricity, and our air and water quality are still good.

I want to thank you all for coming to North Dakota. We take exception when the federal government thinks we don't take care of our environment. We do care. We realize it is the right thing to do to protect our environment. We have stringent protections in place. It is time to stop the fight between the states and the federal government. The federal government agencies need to recognize the state's primacy.

COMMITTEE REPORTS

A. Water Resources Committee

Tim Davis proposed to move all four sunseting positions (#352 - #355) for readoption at one time. Kent Woodmansey moved, second and all were approved.

B. Executive Committee

Jerry Rigby reported that the Council is healthy economically and fiscally. We have concluded that we will not ask for a dues increase this fiscal year (FY2016-17), but there will be an increase coming in the near future. Our dues cover 70% of what is needed to maintain the WSWC's revenues, so it is incumbent upon us to address the issue of an increase in the coming years. Please review the budget sheet and prepare your state for such an increase.

We have been a product of our own success. As a result, folks are asking for Tony to address various organizations about water. Tab M shows how many activities the WSWC is involved with, and the staff is really active in carrying out what we intended. We need to consider what the WSWC does. Jeanine Jones started a strategic planning process to look down the road and decide what activities best serve the Council. We can't be everything to everyone, so we are looking at what is the best bang for the buck. Anyone who wants to be involved in the Strategic Planning Committee is welcome to participate.

Pat Tyrrell commented that he wanted to "take his hat off" to Tony and the staff to managing the budget. We owe the staff a debt of thanks.

C. Water Quality Committee

Kevin Frederick reported that the Committee will look at Position #359 at the coming meeting and decide whether or not to readopt it and carry it over. We made some minor modifications to the work plan and collapsed some of the items. He noted some of the presentations given during the Committee meeting, including David Glatt's presentation on North Dakota's challenges with water management; EPA's presentations on forest roads, NPDES regulations, TAS and tribal baseline WQS; a joint presentation by EPA-USGS on their recent draft technical report; Gold King Mine monitoring plans; Walt Baker's presentation on state water quality authorities, and we briefly touched on a new CERLCA rule for mine cleanup financial assurances.

D. Legal Committee

Jennifer Verleger summarized the proceedings of the Legal Committee meeting, including the Fargo-Moorhead presentation. She noted the materials in Tab S and offered a quick rundown of the National Water Supply Alliance, with its focus on the Corps water supply policies. The group is still forming and it's a good time to give input. The Committee will have a sunset position for the coming meeting.

WSWC NOMINATING SUBCOMMITTEE

Pat Tyrrell - This is the peaceful transfer of power. The past two years have gone by very quickly. He thanked each of the staff members and each of the Committee chairs. He said it has been a great ride, and a real pleasure to be the chairman of this group. It's amazing what can get done by a group with a common goal.

Roland Westergard called into the Executive Committee yesterday. The Nominating Subcommittee recommended and moved the following slate of officers: Chair – Jerry Rigby; Vice-Chair – Jeanine Jones; and Secretary/Treasurer – J.D. Strong. Pat accepted a motion (by Norm Johnson); a second; and the nominations were approved by acclamation.

Jerry Rigby commented he will be relying heavily on the members of the Council for the issues we deal with. He appreciates those who have taken him under their wing to teach him what to say and not to say. He presented a gavel to Pat Tyrrell on behalf of the Council in appreciation for his service, noting that Pat is a man to be reckoned with and that he hopes Pat will stay around so we can listen to his sage advice.

Pat: Thank you. I hope Jerry has as fruitful a couple of years as I have.

WESTFAST REPORT AND WORKPLAN

Roger Gorke - With Pat Lambert's rotation as the West FAST liaison coming to an end, six candidates for the new liaison, our 5th, will be interviewed soon. We hope to have the process completed by the end of July or beginning of August. We will be sorry to see Pat go.

Roger provided an update on progress with the National Drought Resilience Partnership. We are developing a charter to fulfill the requirements of President Obama's Action Plan delivered last March. There are 27 actions underway on the 6 goals, and 11 agencies involved, including WestFAST representatives. We have involvement from people in D.C., regional representatives, and those on the ground, working to develop a regular relationship. We have a webinar scheduled on July 28 to give you a better understanding of the programs available, individually and collectively, from the USDA, DOI, and EPA finance centers. EPA is reaching out to USDA and DOI, to discuss joint efforts such as how to better use SRFs, how to get each of the finance centers to work together. We're also looking at seasonal-to-seasonal forecasting and planning, which WSWC has been actively involved in, market-based and technology-based approaches to dealing with drought, infrastructure, and looking agricultural as well as municipal areas.

As was noted in March, the goals of the NDRP line up closely with WGA and WSWC priorities. The Action Plan sounded like a report WSWC could have written. We'd like WSWC feedback. How would you like to interact with the NDRP? There will be regular meetings at the national assistant secretary level, and a steering committee with folks you have regular relationships with. We will be coming out with an update report for the Presidential Memo in August. We want to do some outreach after that. We're interested in having a dialogue with you as states, especially where the impact of drought is the greatest. Let me know what you would like to hear from the NDRP. We want to be as communicative with you as possible.

Pat: Thank you for the question Roger. That is just what we have asked the federal government to do. Consulting with the NDRP can certainly be included in our work plan.

Tony: I would add that Michelle cross-walked our positions with that Presidential memo. Roger, we can present that to you. We would like to make sure we are well positioned for the transition in Administrations, to ensure that the work continues to go forward. We hope it becomes the normal to work together.

Roger: That would be great. The Washington folks are interest in that cross walk. A big piece of the action Plan is that we are doing this work in conjunction with States, Tribes, and local stakeholders. How do we come in with federal resources, both technical and financial, that you all are interested in, to address the problems.

Pat: When might we be able to see a copy of that Action Plan?

Roger: The AP was released on March 21st. It is a series of 6 goals that the federal family is working on over the coming 3-5 years. It is off and running. What is coming out in August is a report on what we have done over the last 3 months. How does that work align with the work that you all are doing? For example, the S2S work that you are doing goes hand in hand. We are now talking about what we have done over the past few months and how we are moving forward. We need to make sure we are well-positioned for the transition teams. We don't want to slow down. Over the next year we want to continue to push ahead without a slowing down, and be supportive of the needs that you all have.

Pat: Please refresh us on the dates. When is the webinar?

Roger: The July 28th webinar will be led by EPA's Jim Gephardt, Director of the Water Resilience Infrastructure Center. He'll be talking about what EPA is working on with the SRFs and how we can bolster the money that is in there, whether in the East or in the West. It will address how are the agencies are going to work together within the NDRP. Tom Iseman is representing the Department of the Interior on a regular basis. The first principals' meeting was attended by the senior leaders in the Administration and the federal family. NDRP tries to seek collaboration not just at the DC level, but also for those on the ground. Now that I'm in southern California, I am meeting with many folks in CA in the federal family. I hope you all can see yourselves in this Action Plan and its six goals. The August report will include highlights of all of the work and actions within those goals.

Pat: We will find a spot on the agenda for our Sept meeting in St. George. WSWC members will be talking and working via email and conference calls in the coming weeks.

Roger: Regarding the upcoming transition, WestFAST plans to develop some general talking points and a general one-pager to give the message to the new Administration on the value and the need for WestFAST to be continued in the same way. We can add agency specific reasons for continued engagement as well. We are working to make sure that EPA is doing a better job of including and consulting with states, not just checking off a box, when we bring up new rules, etc. We want to make sure we are helping WestFAST fulfill its collaboration role between the states and the federal family. We also want to continue the relationship between the federal agencies so that we are working better together.

Pat T.: The Council has the same question amongst ourselves for the transition team. I think your goal of informing through the transition is critical. We have the same job amongst our Council. Who are the key people we reach out to and work with on the transition team is one question, as well as how best to get the word out about our programs and who we are. Hopefully WSWC and WestFAST can help each other through this.

Roger: I think we can share the WestFAST one-pagers with the WSWC so you can see what we are doing.

Activities of WestFAST

Pat Lambert - We are working on the priority tasks of our work plan, including participation in the recent Non-Tribal Federal Water Rights workshop and S2S workshops, outstanding examples of what we can accomplish and learn from each other as we work together. The S2S workshops are called out in the NDRP Action Plan, and we're assessing our role in linking the agencies together and coordinating effort in order to leverage our work plan and the Action Plan to accomplish tasks important to WSWC. At the March principals' meeting we also talked about improving the flexibility of dam operation rules and Corps operated facilities. We have had a lot of people from WestFAST engaged in the recent workshops and workgroups with WSWC.

We've also lost some of our members. Jean Thomas (USFS) and Bill Hansen (NPS) have retired. Chris Carlson may be filling Jean Thomas' role.

We have been looking at various examples of the benefits and persistent limitations of the WestFAST model. We're working on a report on case studies of collaborative events, and what enhances and limits those. In our report out from EPA we received advanced notice on the proposed tribal water quality standards. The report on ecoflows and flow alterations was an action item for the January 2016 WestFAST Principals' meeting. There's a continuing gap between the states' expectations of collaboration and the type of collaboration that actually happens. Sometimes we're not going to change each other's perspectives, but even with different opinions we can still seek to understand each other and make progress, finding flexibility and

ways to fill the gap. There is much, much work to do, and we continue to pound the drum. Suggestions are welcome.

Roger: At WestFAST Principals' meeting about 3 years ago, you pointed out to us that sometimes it is not that the states disagree with what we are trying to do, but the language we put into things matters, because the words used can get crosswise of the stakeholders.

EPA's advanced notice of proposed rulemaking on the tribal water quality standards is an example of where we are getting it right. A few EPA folks were talking about the beginning stages of an ANPR as an information-gathering tool. I asked them to be engaged with the Water Quality Committee yesterday so they could inform the WSWC of what they are planning to do and letting you know where they are heading. You should recognize this and begin to get engaged now.

Pat: Thank you, Roger. It is incumbent on us to become engaged and act on those opportunities to collaborate as they arise.

FUTURE COUNCIL MEETINGS

Our upcoming meetings include: Fall Council Meeting in St. George, UT, September 28-30; CIMIS Workshop Aug 25-26 in San Diego; Spring Council Meeting on April 11-14, 2017 in Nebraska; and Summer Council Meeting in California.

Other meetings as set forth on the schedule, unless changes are made. We may substitute one of the summer meetings in Alaska.

SUNSETTING POSITIONS FOR FALL 2016 MEETINGS

Tony reviewed the positions that will be taken up at the St. George meetings, looking at updating the NASA position, NPDES permits for FIFRA approved pesticides, support for the SECURE Water Act, and the issue of filing fees for federal claims in water rights adjudications.

STATE REPORTS

North Dakota: Garland Erbele - I want to thank the WSWC for coming to Bismarck. I thank Jennifer for the work in arranging for these meetings. I have been the State Engineer here in North Dakota for about 6 weeks now. Many of the issues I've learned about facing North Dakota are similar to those I've dealt with in South Dakota, such as the Missouri River. However, there are also striking differences, and some are international. We have boundary water issues with Canada below the 49th parallel under a 1909 water treaty, and the court's interpretation of the treaty is surprising and "marvelous," in the sense that we are all still marveling over it. Getting beaver dams removed to stop flooding on a lake near the border now has international implications, along with all kinds of regulations to be dealt with. Fargo-

Moorhead, permitted as of last week, is a \$2.1 billion project. This is the second largest water management project ever built in North Dakota. Garrison Dam was the largest and cost \$300M in 1950. The North Dakota budget is heavily reliant on oil revenues, so we've been impacted by the downturn. The Governor has called a special session the first week in August to try to balance the budget.

Idaho: Jerry Rigby - I want to say, it is nice to have you back with us, Garland. We're able to report that Idaho's adjudication is completed, but there are still some issues outstanding. Regarding the right to fill a reservoir, when a reservoir has fulfilled all of the junior water rights, can the reservoir be filled again with extra water at the end of the season? Previously Idaho has been a one-right state. The Snake River has zero flow at Millner Dam, with the river replenished at Thousand Springs. With the technical issues tackled by the adjudication, it made sense to grant rights for a second fill as beneficial use, filling at the end of the season for the following year. However, the issue of second fill was challenged below the Boise area, especially if the water was used for flood control. Another issue this brought up was, when can you begin filling the reservoir. We have been working on this for many years. Boise is not listening to us.

John Simpson: On Tuesday we had the Non-federal Tribal Workshop where we talked about the implementation of the Fort Hall Indian Water Rights agreement. In 1990, we were not aware of all of the implications. We have to incorporate the Shoshone water rights into administration of the state-based rights and reconcile the intended operation of those rights with the operation of the reservoir. How the reservoir filled for the subsequent year has impacts on water available for other uses and other water users. There are also impacts of leasing the storage water on the rental pool. Ensuring that there's no injury to those rights is difficult. It has been difficult working with the tribes. As water becomes more valuable, it adds another layer of complexity into the issue. The tribes aren't developing the water, but realize the water has value for other uses downstream. We're not sure how storage water or water marketing fits into the implementation of the Fort Hall agreement. We're dealing with conjunctive management issues, how junior groundwater users are going to cut back on their use in order to achieve the goals under the agreement, bringing back the aquifer levels to what was in 1991 in order to maintain the settlement agreement. We're looking to the tribes to acquire recharge storage water to benefit those junior groundwater users. Additional flows below Millner Dam provide many benefits to the State of Idaho, including incidental benefits to water quality, and additional flows during the summer that benefit downstream states. As we look at the Columbia River Treaty with Canada, it's helpful to hear what North Dakota is doing. We're facing complex issues, and we appreciate hearing your comments and interpretations that we can take back to our state.

Oregon: Tom Byler - Last year we had an epic drought, especially on the east side of the state, but also along the west side and the coast. Some were not used to being regulated. Our water condition has improved. The Klamath saga and adjudication has been ongoing for 40 years. The California and Oregon tribes and the irrigated agriculture interests have worked to find a comprehensive settlement for the Basin. Congress failed to approve the settlement before expiration at the end of last year. Dam removal in Congress was a killer. Efforts have been rekindled with a new hydro settlement earlier this year that has allowed us to avoid having the dam removal issue go before Congress. We're hopeful to get the remainder of the agreement through Congress before the end of this calendar year. Election cycles and leadership changes at

all government levels have also made it difficult to get this issue resolved. We have a small community that entered into an agreement with Nestle to bottle water. Nestle folks wanted a spring but the water right for the spring is held by the state Fish and Wildlife (ODFW) agency for fish. From a political aspect, this has really raised interesting discussion points. Usually people don't know we exist, and some are aware that water is a publicly held resource but that's as far as most people know. We're working on educating the public on water transactions in the Fall. Nestle is a big company, so this has become an interesting international exercise. There are also anti-Nestle folks involved. State of Oregon has a grant and loan program for water projects, with \$50M for a program area and \$15M for water supply projects. Most are water efficiency projects such as lining or piping canals for conservation.

Arizona: Einav Henenson – In December 2015, the Governor implemented the Governor's Water Initiative. There are 30 members on the Governor's Augmentation Council to find opportunities for water augmentation for the state, such as using reclaimed water. They selected three planning areas from the initial 22 proposed as part of the strategic plan. The team is working with all stakeholders in these areas; the stakeholders don't want to be regulated, but they reached out to ADWR for help in facilitating discussions and resolving water issues. We're also working on the Drought Contingency Plan for the Lower Colorado River along with Nevada and California. A long period of drought reduced the water elevation in Lake Mead. All of the Basin states rely on this lake for water supply, and we've been in discussions among the states to take voluntary shortages to postpone regulation. Arizona will take voluntary shortages, which will not affect all the river water users in the state equally. We're reaching out to the tribes, farmers and other stakeholders, with the goal to get consent of all of the stakeholders.

New Mexico: Greg Ridgley – We have another flashpoint of conflict between state and federal authorities around the New Mexico Meadow Jumping Mouse. There are 5 or 6 critical habitat locations in New Mexico and the Forest Service (FS) has implemented a program of fencing off grazing areas that contain habitat for the mouse. Grazing allottees have been pushing back hard against the FS efforts and the addition of fences, filing a takings case in the court of claims. The state legislature signed a letter advocating support for the allottees, adding a lot of pressure on the State Engineer to take action and evaluate the FS claims to the water blocked by the fences. Tom Blaine is testifying on a panel on the jumping mouse issue at an interim committee hearing, which is why he's unable to attend this meeting.

John Longworth – Both Greg and I could go on and on with the issues we deal with on water. We've had a reprieve over the past couple of years in terms of reduced drought conditions. They seem to be creeping back. Who knows what La Nina may bring. We are trying to work with the great state of Texas as we deal with drought and one of our critical reservoirs. Elephant Butte is at 10%. El Nino did not fill the reservoir unfortunately. We're looking at a challenging situation between now and the end of the irrigation season. We are keeping an eye on the La Nina and drought conditions, particularly with wildfires.

Texas: Jon Niermann – Our lake levels are up, but our tax revenues are down. All agencies will be taking a hit. We are moving away from general revenue and going toward fee based revenue. We've experienced increasing demands on our water regulatory programs, and the shortfall forced us to ask for some general revenues, but they rejected our request and suggested we raise

fees. We have a Texas Supreme Court decision regarding inchoate groundwater rights, extending rights to the servient estate. A federal judge issued a settlement with BP to settle economic and environmental claims brought by several fed agencies and hundreds of local entities. It's the largest civil environmental settlement. Fees coming out of the settlement will be used for ecosystem restoration in the Gulf. It's a model of what to do and what not to do when dealing with a multi-state disaster, and hopefully we'll never have to use it.

Robert Mace – Drought in Texas persists in some areas of the state and we're concerned about low reservoir levels. Flooding has become a much bigger issue in the state, and we've been closely following the National Water Model for flood predictions. We are putting in more gages. Also putting in the Texas Mesonet, with weather stations to collect soil moisture and determine when they may get run-off.

Wyoming: Kevin Frederick – We've been working on developing a model for primary (full body immersion) v. secondary recreational contact. It distinguishes between low levels of E. Coli, as opposed to elevated E. Coli for secondary use contact recreation. We worked closely with EPA Region 8, and in 2014 we sent the model to EPA for approval. After review, EPA determined they had not complied with the requirements for public hearings because they did not have a transcript to understand the context of the comments made. The environmental groups were pushing for another public hearing, so that may have influenced EPA's decision. Another hearing was held with a court reporter for a transcript, and this time 100 people showed up. It's taken a lot of work, but it's close to reaching a final determination.

Rick Deuell - Wyoming State Engineer's Office has been dealing with budget cuts following the downturn in oil and gas, and we're losing 11-12 positions, hopefully through attrition by not filling empty positions. Also going through a capitol hill renovation and we have had to move our offices, and its been challenging to move in the middle of a construction zone. In the western part of the sate precipitation was about average. Northern part of the state was a bit less on the Tongue River. We filled our reservoirs, although the flow to Montana is not as good. We are dealing with forest fires now instead of floods.

Nebraska: Jeff Fassett - Hydrologically we had a good year. We were asking people to divert water in order to reduce flooding, and our reservoirs are in good shape. The hydrology has quickly dropped off, and we're back to regulating as things have dried up. A tightening of the budget is coming with respect to agricultural commodities; as the price of corn has dropped, that is showing up in the revenue forecast for our state. It may impact a 10-year project for funding new water development, which has \$10M - \$15M per year for a variety of projects across the state. We have a unicameral legislature. Not much legislation was introduced, but one bill was unique, allowing a change of use from hydropower to an instream flow water right on a tributary to the Missouri. We've been dealing with Republican River Compact issues for 15 years, working with Colorado and Kansas to try to resolve them. Nebraska was in violation of the compact. There has been a lot of turmoil. This triggered a policy fight with the BOR over five dams. The states are finally getting along, and now the BOR is a new player, and they are not proving to be helpful partners in a more positive setting.

Jim Macy – Nebraska is not an energy state, but we’re forecasting a \$95 million budget loss, and we’ll need to do some belt tightening and trying to diversify our portfolio, with industrial growth in addition to agriculture. The chickens for CostCo will be produced in Nebraska. How to deal with application issues for the chicken manure will be a real challenge. It is over \$1 billion business annually. With that comes added manure and the challenge of dealing with blue-green algae. We will be trying to look at some new business development that can also address some of the environmental problems. One company extrudes the animal waste through a corkscrew system and produces bio-coal. There is also ingenuity for soil, introducing a soil amendment to slow down the nitrogen releases into the soil. We’ve reduced our backlog on permitting applications. General permits are now online. For our construction stormwater program we figured out a way to drop the 14-day process to get a permit online in about an hour.

Colorado: John Stulp – We’re dealing with drought and water both, with high precipitation in the northern portion of the state maxing out our reservoirs, but not as well in the southern part. We just finished the Colorado Water Plan process, which took about 10 years, and we’re now in the implementation phase. Funding to implement the plan is being affected by the downturn in the oil and gas industry and related severance taxes. We’re looking at alternative transfer methods to converting agricultural to municipal uses, trying to avoid “buy and dry.” The farmers are participating in a pilot program for marketing water. The Governor recently endorsed two large water projects in northern Colorado and the Denver area, consistent with the Water Plan. We’ve had recent legislation approving rain barrels with up to 110 gallons of rainwater storage. The State Engineer will monitor to make sure there is no injury to water rights holders. We’re dealing with 15-16 year drought on parts of the Colorado River Basin. We’re watching Texas and New Mexico as they work out their differences since Colorado is part of the Rio Grande. Colorado, Kansas and Nebraska are working hard on the Republican River, but our federal partners are not as cooperative and seem to be dragging their feet.

California: Betty Olson - Jeanine expressed her regrets at not being here, but she is doing good work with NOAA right now. Following the Groundwater Management Act of 2014, California is looking at requiring management plans for larger basins, a split action between the CDWR and the CSWRCB. We just finished the basin assessment and obtained grant money to develop those plans. The drought situation in California has worsened, with 8 – 36% reductions in water use due to the drought. Local water utilities had quite an experience, losing revenues due to less water use. This year the state had a temporary basis for water reduction use. It required most water purveyors plan as though we are in a third year of drought, and expecting 3 more years of drought. State just released its draft of indirect potable water reuse standards for projects waiting for construction. San Diego has a minute treaty with Tijuana, with money flowing south but spirit on both sides.

Washington: Mike Gallagher - In 2015 we saw statewide historic drought. There was no snowmelt bump in 2015, leaving us with only 47% of our normal water supply and record low flows. Yakima Basin experienced \$3 million crop loss. We had unusually high temperatures in April 2016, with 5 days in 90s. Snowmelt again was early, by six weeks. Fish runs will change due to very low flows. We will be issuing more denials for water rights. The 2006 legislature asked us to look for new water supplies and move away from groundwater, looking a future irrigation purposes and stream flow enhancement. More recent legislation has sought to make

our water banks more transparent with pricing information made public, which may raise new issues and may also level out the differences between basins. In 2012, use of marijuana was legalized. This has not been a water issue. Grow operations were limited by the Liquor and Cannabis Control Board, allowing domestic well use, so water rights are not needed for marijuana grow operations. The Columbia River has good flows due to neighboring states' good precipitation received. We've experienced traffic increases due to export facilities for oil out of the Bakken and for coal.

Alaska: David Schade - Alaska is an oil revenue state. We've experienced deficits of \$3.8B due to energy reduction. We're now in our 5th special session of the legislature. It is an all out political disagreement, with 50 of our 60 legislators up for reelection. Governor appointed a new commissioner to the Department of Natural Resources. Lots of transition in local government. We're moving forward with a pipeline for a gold mine project that crosses 136 rivers, which will take 1-2 years to get through and permitting will take up about 20 staff members. With the downturn in oil and gas, there was enforcement action put in place. People are being turned in for violations, with fisheries impacted by unpermitted diversions, and we're letting the public know that we will follow through. Our fire folks have not had a lot of work so far this season. We're developing and invasive species process, with public notice and a regulatory process. We recently had a submerged lands case litigated, over a quit claim deed at Mosquito Fork, finally getting a concession out of federal government. The judge found bad faith, and then federal defendants quibbled over the amount of the attorneys fees. There was a clear message from court for when agencies can't decide whether to adopt court precedent. We hope for better understanding between state and federal agencies; we want to work together instead of litigating, and we have a lot of rivers together to cooperate on. Alaska is fully committed to join WSWC and pay dues.

Utah: Walt Baker - Eric Millis was unable to attend this meeting due to hearings on the Lake Powell Pipeline and the Bear River project, where he's testifying about the expenditure of funds. EPA has paid NM for the Gold King Mine spill expenses, but UT and CO are still waiting. We're monitoring in phases, with the second phase looking at the states' legacy contamination, dramatically different in metal content, and we're looking at public health risk. It's been a normal water year in UT, and our reservoirs are filling. Salt Lake is at historic lows, with lake levels debilitating for the brine shrimp, but the metals industry is delighted by increased salinity. The Florida Governor recently declared a state emergency for algal blooms, and Utah lake had a harmful algal bloom on Wednesday, visible on Landsat photos, covering 25% of lake. We made the decision to close Utah Lake to the public. The HAB appeared out of nowhere, and there's no trace of it now, but does not mean toxins are not still there. Wastewater treatment plants cause most of the nutrients.

South Dakota: Kent Woodmansey - Governor activated and met with the Drought Task Force, and issued an emergency fire declaration for 13 counties. The declaration allows him some flexibility for firefighting resources. The Crow Creek Tribe filed a lawsuit asking for \$200M in damages and a declaration that the federal government has breached its duties relating to the protection of its water rights. This will be something to watch. That Tribe has not approached the state on moving forward on water rights.

Montana: Tin Davis - Two tribal water rights compacts have been introduced in Congress for the Blackfeet Tribe and CSKT. Perhaps a lame duck congress will get it passed. CSKT is unlikely to move this year.

We have two major infrastructure projects for irrigation. At St. Mary's canal we're working with the BOR on replacing the fish screens, and constructing a bypass at another dam.

OTHER MATTERS

There being no further matters, the meeting was adjourned.