

**MINUTES
of the
180th COUNCIL MEETING
Grand Hyatt Washington Hotel
Washington, DC
March 22, 2016**

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MEMBERS AND ALTERNATES PRESENT

ALASKA	David Schade
ARIZONA	Tom Buschatzke Cynthia Chandley Einav Heneson
CALIFORNIA	--
COLORADO	Trisha Oeth
IDAHO	Jerry Rigby John Simpson
KANSAS	Dave Barfield
MONTANA	Tim Davis
NEBRASKA	Jeff Fassett
NEVADA	--
NEW MEXICO	--
NORTH DAKOTA	Jennifer Verleger
OKLAHOMA	JD Strong Brittnee Preston
OREGON	--
SOUTH DAKOTA	Kent Woodmansey
TEXAS	Jon Niermann Robert Mace

UTAH

Eric Millis
Norm Johnson
Walt Baker

WASHINGTON

--

WYOMING

Pat Tyrrell
Sue Lowry
Chris Brown (via phone)

GUESTS

Christopher Estes, Instream Flow Council, Anchorage, AK
Jim Rizk, Texas Commission on Environmental Quality, Austin, TX
Omar Saucedo, Southern Nevada Water Authority, Las Vegas, NV

WESTFAST

Patrick Lambert, Federal Liaison, Murray, UT
Becky Fulkerson, Bureau of Reclamation, Washington, DC
Roger Gorke, U.S. Environmental Protection Agency, Washington, DC

STAFF

Tony Willardson
Michelle Bushman
Sara Larsen
Cheryl Redding (via phone)

WELCOME AND INTRODUCTIONS

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

APPROVAL OF MINUTES

The minutes of the meeting held in Manhattan, Kansas were moved for approval, a seconded was motioned and were unanimously approved.

COMMITTEE REPORTS

A. Water Resources Committee

Tim Davis reported on 3 sunseting positions, which the Water Resources Committee recommended to be renewed with amendments.

Jerry Rigby moved for approval of Position No. 349, urging Congress to prioritize federal programs that translate science on climate and weather extremes to water resources management actions. A second was made, and it was unanimously approved.

J.D. Strong moved for approval of Position No. 350, supporting rural water infrastructure needs and projects. Jennifer Verleger seconded, and it was unanimously approved. Tony noted that a similar resolution was adopted at our meetings last July. We'll look at that this for coming summer meeting in Bismarck.

J.D. Strong moved for approval of Position No. 351, supporting renewable hydropower development. Jennifer Verleger seconded, and it was unanimously approved.

B. Legal Committee

Jennifer Verleger reported that no positions were handled and briefly reviewed topics of discussion including: updates on the WOTUS cases; the *Catskill's* water transfers case; the water supply users meeting; and Pat Lambert's overview of Non-Tribal Water Rights Workgroup activities.

C. Executive Committee

Jerry Rigby reviewed the proposed FY2017 budget under Tab D, which is a flat budget relative to FY2016. The Committee had some extra time to discuss some relevant issues regarding the future of the Council. There was a lively discussion about the budget, what we expect to get out of our contracts and symposia. Page 46 shows that if nothing is done to increase dues, the WSWC would have to dip into its reserves in the near future. For FY2017, all dues, with the exception of Kansas has been paid. As the record indicates, the Council is doing well, but the question remains as to how long that will remain. Last year we considered a dues increase of 20% that the members could take back to their states. We will probably bring this up again at a future meeting, for now that dues increase is not in force.

Because of rent and lease renewal will be due soon, options were discussed. The WSWC office will be moved to a location with more space for about the same price

J.D. moved for approval of the FY2017 budget as proposed. Seconded. Approved.

D. Water Quality Committee

J.D. Strong reported that there were no sunseting positions. Items on agenda were highlighted, including: EPA update on the forest roads case; an update on TAS 303(d); Good Samaritan and Hard Rock Mine Remediation; and the Gold King Mine. We looked at dead wood to potentially remove from the Work Plan, and added some new tasks to it.

Roger Gorke apologized that the individual from EPA was not able to attend due to illness, and said if we have any questions about EPA to let them know.

Jennifer Verleger brought forward two resolutions of appreciation. One for Todd Sando and one for Michelle Klose. J.D. moved to approve. There was a second and the resolutions were approved by acclamation. Jennifer believes they will both be at the Bismarck meetings, so the resolutions can be presented at that time.

Pat Tyrrell offered a resolution on behalf of Sue Lowry. Sue may not be at the July meetings. Many of you have known Sue longer than I have. She's one of the stalwarts, going on 16 years. As a personal note, I will really miss Sue. She has done a lot of hard work for Wyoming. It's always to have staff that you don't have to worry about. He noted that the Council has done a good job with the resolution. To make it short and sweet, Sue we love you and we're going to miss you. Norm moved to approve the motion, and Jerry seconded the motion, which was approved by acclamation.

WESTFAST REPORT AND WORKPLAN

Roger Gorke noted that today has been a big day. One piece of that is a Presidential Memorandum (PM) and the White House Water Summit. You will hear about this in the next couple of days as we talk more about this during the ICWP and WestFAST Principles meetings.

There is an action plan that accompanies the PM, touching on infrastructure, drought, energy, etc. We started with a blank page and filled it in with work that supports the 2000 Drought Policy Commission, the WGA drought forum and other WGA data over the years. It supports leveraging investments and federal resources, both technical and financial. The federal family will work together in states and throughout the country, following the WSWC's WestFAST model with consistent, ongoing communication. Instead of chasing down the federal agencies, you have a conduit for someone to contact who knows the answers. There are not a lot of multi-agency models out there. We have an example in Montana that we'll talk about more on Thursday at the WestFAST Principles meeting.

We want to think about how the states and federal agencies can work together on drought. How do you want the Federal family to work with you? How can we use the specific WestFAST members to engage their regional counterparts on the ground? We want to figure out how to work our implementation, and that's what we'll be working on for the coming months.

We are gearing up for hiring a fifth liaison. Pat Lambert's term is nearly complete. This is a valuable team that is working with you, and there is merit and value in having it. WestFAST is of mutual benefit. That said, it does not translate to other areas, as there are no other organizations like the WSWC.

We want to make it through the next Presidential transition, with no hints of slowing down. We want to replicate WestFAST in other parts of the country, which has great value. On the other hand, we recognize that there's not another organization like WSWC in other parts of the country. WestFAST has come a long way over the past 8 years, and has become the model for state-federal relationships.

Questions:

Tony: Memo on drought was very well done. It sounded familiar, similar to a lot of WSWC and WGA work.

Roger: It was based on what we've heard over the last 20 years. We want support for the things we do, but we haven't been telling you what we're working on until we release it, which has created problems. We're trying to fix that. This is the first presidential declaration on drought ever. This will continue long-term. It will not be done when there is a new Administration.

J.D.: Since you've had more time to review – did you see anything in there that we need to focus on with WestFAST? Any new emphasis or change in direction?

Roger: Nothing sticks out. There are 6 goals and 27 actions listed. NOAA has their new water thing they are rolling out, with data inter-operability. We are trying to build on things that are already out there, supporting regional and local planning. FEMA is becoming a more active member, especially on the drought planning piece, trying to get out ahead of drought in terms of climate resilience and addressing problems in a joint way. FEMA usually sends month to states in disasters like fire, earthquakes and floods, and we're putting drought on the same level as other hazards. Since I live in California now I'm helping out with Region 9, working with the FEMA administrator and communications with Governor Brown and the President's security advisor, Monica. We're looking at leveraging federal funding – using programs together like EQIP and WaterSMART to combine funding opportunities rather than having disparate approaches. How to use existing SRFs creatively to get more out of the funds sitting on the books? Finance Center is working on these. That's just a small taste.

Pat Lambert followed up and noted the broad and overarching issues of WestFAST that Roger mentioned. At the last Council meeting, we discussed progress on the 2015-2017 WestFAST work plan. WestFAST plans to undertake a series of case studies on proactive collaboration, initiating a framework that will continue forward with others as they come into WestFAST. They started this with steering groups to conduct and discuss the studies, with five studies involving collaborative activities in rulemaking and program implementation, from EPA, BOR, NOAA, USFS, and NPS. We're trying to document and emphasize the process, without expressing an opinion on the worth of the outcome, but focusing on the pre-rule making outreach

and collaboration. We're seeking to understand different perspectives, raise awareness of collaborative opportunities, identify different expectations about what collaboration should take place, and pinpoint the barriers to collaboration, the reluctance to expend resources, when the outcome of collaboration is uncertain. We're looking for outreach opportunities so we can reduce the number of times we stumble and stub our toes.

The Forest Service recently made a change in its collaborative rule with states, and from the Forest Service point of view, they saw this as a positive step, because it mandated any action to fall into the collaboration process. From the states point of view, the proposed changes looked different. We're still working on ways to improve collaboration.

Pat pointed out that Dwane Young, a former WestFAST liaison, was instrumental in getting the WaDE effort up and running. We're engaging in assessment of the current utility of WaDE for federal programs, seeing how that portal can be used by federal entities. Our questions include, if it remains a state data portal, what benefits are there to agencies, and how can the agencies support down the road from the agencies. Can we use the WaDE portal for the states to access federal data?

Pat Tyrrell thanked both Roger and Pat. The WSWC certainly wants to continue our WestFAST collaborative efforts. Although we've stubbed our toes, we're getting better, and WSWC is in a position to keep WestFAST strong.

Roger Gorke noted that the Thursday Principals' meeting will be stepped up a notch. The high level folks are looking at WestFAST as a model, and they will attend the meeting.

Pat Tyrrell and J.D. gave their perspectives on the White House Water Summit. There was a very crisp delivery on innovative finance, infrastructure, etc. The six goals are data collection and integration, critical infrastructure, coordination of federal activity, market-based approaches, etc. The presentations were pretty broad, and showed how some of our positive influence made it into presidential memoranda. Corps reservoirs are viewed differently than in the past. They looked at some positive trends in North and South Dakota and other states. Most of it we are already familiar with, but there was some new stuff. The materials were posted this morning, and they're worth taking a look.

FUTURE COUNCIL MEETINGS

The WSWC Summer meetings will be held in Bismarck, North Dakota July 13-15; Fall meetings will be held in St George, Utah on Sep 28-30, The Western State Engineers are meeting Sun – Wed. We're planning on a joint field trip.

We have a meeting with NOAA April 29. The seasonal precipitation meeting is June 6 in San Diego, combined with another meeting with NASA JPL folks. We'll also be scheduling meetings on irrigation management systems as part of our contract with California.

Looking ahead, and planning for meetings – Tony reviewed the 2017 and 2018 meetings as set forth in Tab Q, with upcoming meetings in Nebraska, California, New Mexico, DC, Oregon, and Idaho.

STATE REPORTS

North Dakota: Jennifer Verleger – Governor will change in November, so there will be new administration changes. With the economic downturn in oil, there have been budget cuts. We have more flexibility with water projects due to the oil trust funds we set up to fund those projects.

Alaska: David Schade said they are also facing budget cuts due to lost oil revenue, with projections for funding shortages. Their Commissioner retired suddenly. Governor's goal is to do a natural gas pipeline. Commissioner did not get that done, which is one reason for his departure. We had an interesting legislative session, and expect changes with the new administration.

Arizona: Cindy noted that as a tanning oil state, there's been no shortage of tanning oil. Their budget is stable. DWR previously cut staff down to 90 people. All agencies have a hiring freeze except DWR, so there have been some increases. We've been implementing a groundwater permitting program one of our rivers, where BLM has claimed a federal reserved water right that has not been quantified or prioritized. BLM sued, and the lawsuit is now in the appellate court, with our next hearing on April 28. The legislature has a couple of bills on groundwater, which has been a lesson in being careful what you ask for, because they're looking to weaken the requirements to get a water right, which has been a controversial issue.

Nebraska: Jeff Fassett - I'm still adjusting to the new setting in the State. We have water! The budget is stable since we're not tied to oil and gas. Property taxes are much lower than elsewhere, and there's controversy over local property taxes being slower to retreat after the commodities dropped off. The water situation is good. We're working on some new issues and reorganizing the water agency. Also adjusting to a unicameral legislature.

Wyoming: Pat Tyrrell – Wyoming is dominated with oil and gas revenues and is currently facing a deficit. Agencies took about a 14% cut in non-personnel budget. We have had to retract in some areas, and with personnel changes we've had to get creative. We've experienced some effects from El Nino, with the northern part of the state affected less than the southern part. The Governor did not fund any new items on his water strategy, which includes building 10 reservoirs in 10 years. Most other things did not get funding if it was not already on the books. Update on recent things along the Colorado River.

Idaho: Jerry Rigby and John Simpson – We've had some protracted litigation and a good Supreme Court decision on Snake River aquifer. We've had conjunctive management between surface and groundwater users, and with reduced precipitation we've had to look at groundwater depletion more than once a year. In July there were concerns about the possibility of curtailment,

and that pushed the groundwater folks to the table rather than rely on the recharge program. We're looking at how to restore the aquifer, using the 1991-92 average ESPA as representative of what surface water users could get by with, and an attainable goal for water users to achieve in the next ten years. Eight or nine groundwater districts are looking at ways to reduce consumptive use by 10-15%, with the goal of stabilizing the aquifer over the four years. Once they sign up and get a safe harbor, there's no exit ramp, so it's important that they do whatever is necessary to meet that goal. The State of Idaho stepped up to take some responsibility, and said they would implement recharge with funding from the legislature, \$5 million in 5 years to deliver water during the winter months to recharge the aquifers and assist groundwater users to reach the goal. Groundwater management areas are becoming a better tool to manage groundwater than the prior appropriation doctrine.

Kansas: Tracy Streeter – We're on a two-year budget. We're looking at additional revenue for state projects. We have a task force of industry representatives fighting over the budget. We're taking a very proactive attitude for 2017. We're on the cusp of dredging the John Redmond federal reservoir. We are excited to get that up and running. We're making progress on short-term agreements to work toward long-term interstate agreements, augmentation of supply with the Bureau of Reclamation. We continue to seek solutions to the Ogallala aquifer declines, proposing 5-year allocations, based on amount of decline. We have a long way to go. We're working on the issue of National Wildlife Refuge groundwater rights, voluntarily trying to reduce water use, doing an impairment investigation, finding the junior groundwater pumping is affecting 95%, trying to find solutions with augmentation.

Nevada: Our budget is stable. We've completed construction of the pumping station at Lake Mead, with a timeline for a low level pumping station to be completed in the summer of 2020, so we can continue to have access to water as lake levels continue to drop. We convened a citizen meeting to discuss rate raises. We've had fruitful discussions after the Drought Forum, and hope that the 2017 legislative session will benefit from those efforts.

Texas: Robert Mace - Our next state water plan is out on the website. Still expecting state growth. Costs are up, but with our funding mechanism the projects are also coming in. Drought is mostly over, but we went from drought to flood, so we're looking a funding for gages for flooding early warning system. In responding to drought we experienced legal developments and setbacks regarding the agency's discretion in responding to a priority call from a senior water user downstream. TCEQ understood it had authority to look at priority of need, even if for junior users. The Texas Farm Bureau sued, and the lower court held that TCEQ must strictly follow first in time, first in right.

Oklahoma: J.D. Strong reported on budget woes due to oil and gas economy. They've experienced a 20% shortfall in the monies appropriated in this legislative session. This hits the monitoring programs in particular. Cost share programs with the USGS were also impacted. The 5-year drought (worst drought since 1950s) finally ended last year with the wettest year on record, so they've had flooding issues instead, as well as dam safety and dam failure. Unfortunately, interest in water conservation and efficiency ended with the additional water.

Oklahoma's Initiative for water was featured in the White House Summit, emphasizing reuse and recycling. We're already seeing abnormal dryness this year. Goal to keep the citizenry focused and double down on conservation, efficiency, direct potable reuse. Hopefully we can get ready for the next drought.

Montana: We were hoping for more snow and rain this year. We're looking out 10 years to finishing state adjudication, final decrees, 300,000 abstracts, and trying to understand what that means for change applications, preparing for finalization of everything.

Utah: We just completed an audit of water data, projecting future needs, and we've had people questioning data. We looked at money and legislation to improve data gathering. We have a stream of money set aside for development and repair of infrastructure. The water year started out good, but dried up in Jan-Feb. For water quality, the biggest development was legislation that allows appeals of permit decisions. Pre-emption has changed to require a peer review. CA and WI have similar provisions, so there's a big shift.

Colorado: We're at 95% average snowpack, and got lots more snow. We're still dealing with abandoned mine issues. The Colorado Water Plan is completed, and we're working on implementing the pieces. The State held an event that brought together federal and state agencies, looking at streamlining the 404 permitting process for projects and other efficiencies. The State has put a strong emphasis on reuse, looking at expansion and what would be the requirements for edible crops and grey water. This is part of the WQ2 nexus, municipality not treating for TDS when putting water into aquifer, lots of salt, farmers putting on the land, causes material injury to their water rights. Triggers obligation to consult with quantity side.

North Dakota: During our recent legislative session we had stream and omnibus bills that passed.

OTHER MATTERS

There being no further matters, the meeting was adjourned.