

**MINUTES
of the
WATER QUALITY COMMITTEE
Crystal Gateway Marriott
Arlington, Virginia
March 14, 2018**

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MEMBERS AND ALTERNATES PRESENT

ALASKA	David Schade
ARIZONA	Einav Henenson
CALIFORNIA	--
COLORADO	Pat Pfaltzgraff
IDAHO	Jerry Rigby
KANSAS	--
MONTANA	Tim Davis Jan Langel
NEBRASKA	--
NEVADA	Jason King Tom Blaine Greg Ridgley
NEW MEXICO	--
NORTH DAKOTA	Jennifer Verleger
OKLAHOMA	--
OREGON	--
SOUTH DAKOTA	Kent Woodmansey
TEXAS	John Niermann Jim Rizk

UTAH

Eric Millis
Todd Adams
Norm Johnson

WASHINGTON

--

WYOMING

Pat Tyrrell
Steve Wolff
Kevin Frederick

GUESTS

Wendy Nero, HDR, Fort Collins, CO

WESTFAST

Roger Pierce, Federal Liaison, Murray, UT
Chris Carlson, U.S. Forest Service, Washington, DC
Stephen Bartell, U.S. Department of Justice, Washington, DC
Doug Cutis, U.S. Bureau of Land Management, Washington, DC

STAFF

Tony Willardson
Michelle Bushman
Sara Larsen
Cheryl Redding

WELCOME AND INTRODUCTIONS

Kent Woodmansey, Chair of the Water Quality Committee, called the meeting to order.

APPROVAL OF MINUTES

The minutes of the meeting held in Albuquerque, New Mexico on October 19, 2017 were unanimously approved.

EPA WOTUS: STATE OUTREACH MEETING

Tony provided an overview of EPA's outreach meeting with nine states representing the nine EPA regions, including Wyoming, Oregon, and Arizona, on March 8-9. It was a substantive meeting. They prepared issue papers on how to potentially define wetlands and tributaries, among other WOTUS topics. These topics were discussed openly. In Tony's 39-year career in water, this was the first time in his experience that they have sat down with a federal agency and discussed and compared notes on rulemaking. This was actual consultation. Many states have statutes that pre-date the Clean Water Act. One of the significant questions raised was how waters will be protected if they are not included in the WOTUS rule. State laws vary.

One of the topics discussed was exclusions. The Council position names a number of waters that should be excluded from federal jurisdiction, such as playa lakes, prairie potholes, and groundwater. Tony prepared a summary of the meeting, and this was passed out to those in attendance here at the Water Quality Committee meeting.

Pat Tyrrell said he agreed this felt like consultation. It was an in-depth two-day meeting, and not the usual states he typically finds himself working with. EPA was struggling with the narrow versus broad definition of WOTUS. Most states in attendance seemed to be pushing for a narrower definition of WOTUS. There was a federal flavor of - so what are you going to do with those waters that are not covered? The states basically said, well, that is the point. We don't need everything covered.

Pat asked Mr. Ross for the time frame in getting things done and Mr. Ross said his deadline was last year. Tony added that Administrator Pruitt spent some time at the meeting as well, and expressed his appreciation for the work being done at the meeting.

EPA WOTUS: STATE AUTHORITIES

Kent noted there is a lot of discussion on WOTUS right now. The WSWC sent out a survey to identify what the states are already doing to protect their waters of the state. ACWA also sent out a modified version of WSWC's survey.

Michelle noted that seven of WSWC states responded to the survey. Most respondents had a definition for waters of the state, and several had state laws that were parallel to CWA statutes. If any other states feel the inclination to provide a response, WSWC would appreciate that.

Pat added that the surveys were important at the meeting, because it changed the federal perception that if it's not covered by WOTUS, the water is not regulated and therefore at risk. The surveys allowed the states to show that they are in a position to cover state waters not under federal jurisdiction. The survey responses backed up our position on state authorities over waters of the state.

GROUNDWATER AS A CONDUIT FOR POLLUTANTS

Kent referenced Tab O, EPA's request for comments on the issue of whether groundwater discharges are covered under the Clean Water Act. He provided a brief overview of the recent 9th Circuit decision in Hawaii, and the dye tests that indicated the groundwater acted as a conduit for pollutants to reach the ocean. The court required the county to get an NPDES permit for the discharges to the groundwater. A rule that addresses discharges to groundwater could impact storage tanks, septic systems, drain tiles, detention basins and several other issues.

Pat Pfaltzgraff stated that Colorado will be submitting comments to EPA. There are some discharges on the South Platte that are now permitted. There is some interplay between CERCLA and NPDES coverage. The WSWC's concern is that groundwater is a state responsibility.

Jerry Rigby mentioned that Idaho had a number of groundwater calls due to groundwater pumping that impacted senior surface water rights. Their efforts to address the water supply problem includes intentional groundwater recharge for the Snake River Basin, involving a significant amount of water. We are trying to revitalize and aquifer that has been drained, and after several years of recharge we haven't had any issues with pollutants. This 9th Circuit ruling and EPA request for comments gives us great pause. Our injection wells and ditches are not that far from the river.

Jen Verleger noted that there are some concerns in North Dakota. We are walking a fine line on this issue.

Kent said we will send around some comments before the deadline.

WGA WATER-RELATED POLICY RESOLUTIONS

Tony provided an update on WGA's water policy resolutions. One issue of continuing interest to WGA is Good Samaritan laws and solutions to the work needed to clean up abandoned mines without the liability.

WATER QUALITY-QUANTITY NEXUS SUBCOMMITTEE

Dave Schade noted the draft workshop agenda under Tab P in the briefing materials. Our next workshop will be held at the Summer meeting in Newport, Oregon. The agenda lists several topics that could be covered in this and future workshops, and asked whether there were any topics of particular interest the members would like to see first. We will also work on filling out the presentations with our WestFAST partners

Kent mentioned that from the subcommittee call, the communication between the state water quantity and quality folks has greatly improved. Now we need to get better communication with the federal partners.

FY2018-2019 WATER QUALITY COMMITTEE WORK PLAN

Kent asked if anyone had suggested changes for the updated work plan. There was a motion, second, and the Water Quality Committee Work Plan for 2018-2019 was unanimously approved.

STATE ENGAGEMENT WITH FEDERAL PARTNERS: TOPICS AND STRATEGIES

Kent read through several of the topics under Tab L that have been important to the states and the Council, and asked that members come with questions for the federal representatives.

OTHER MATTERS

There being no other matters, the meeting was adjourned.