

**MINUTES  
of the  
WATER QUALITY COMMITTEE  
Best Western Agate Beach Inn  
Newport, Oregon  
August 2, 2018**

**Table of Contents**

Welcome and Introductions .....	3
Approval of Minutes .....	4
Sunsetting Position.....	4
Washington WIFIA Loan Update .....	4
EPA Update .....	6
Western Governors’ Association Water-Quality Policy Resolution .....	7
Discussion: WSWC WOTUS 2.0 Comments.....	7
WSWC Water Quality/Quantity Nexus Workshop Report .....	7
Sunsetting Positions for 2018 Fall Meeting.....	8
Other Matters .....	8

**MINUTES  
of the  
WATER QUALITY COMMITTEE  
Best Western Agate Beach Inn  
Newport, Oregon  
August 2, 2018**

**MEMBERS AND ALTERNATES PRESENT**

<b>ALASKA</b>	David Schade
<b>ARIZONA</b>	Einav Heneson
<b>CALIFORNIA</b>	Jeanine Jones
<b>COLORADO</b>	Patrick Pfaltzgraff
<b>IDAHO</b>	--
<b>KANSAS</b>	Tracy Streeter Tom Stiles (via phone)
<b>MONTANA</b>	--
<b>NEBRASKA</b>	Jim Macy (via phone)
<b>NEVADA</b>	--
<b>NEW MEXICO</b>	Greg Ridgley Tom Blaine
<b>NORTH DAKOTA</b>	Jennifer Verleger
<b>OKLAHOMA</b>	--
<b>OREGON</b>	Jennifer Wigal
<b>SOUTH DAKOTA</b>	--
<b>TEXAS</b>	Jon Niermann
<b>UTAH</b>	Norm Johnson Eric Millis

**WASHINGTON**

Mike Gallagher  
Buck Smith  
Mary Verner

**WYOMING**

Kevin Frederick

**GUESTS**

David Moon, The Water Report, Eugene, OR  
Ward Scott, Western Governors' Association, Denver, CO  
Kathleen Ligon, Texas Water Development Board, Austin, TX  
Christopher Estes, Chalk Board Enterprise, LLC, Anchorage, AK (via phone)  
Dan Kaplan, King County Wastewater Treatment Division, Seattle, WA (via phone)  
Caitlyn Hall, King County Wastewater Treatment Division, Seattle, WA (via phone)  
Andrew Sayers Fay, Alaska Department of Environmental Conservation, Anchorage, AK  
(via phone)

**WESTFAST**

Roger Pierce, Federal Liaison, Murray, UT  
Kevin Werner, NOAA Fisheries, Seattle, WA  
Pat Lambert, U.S. Geological Survey, Salt Lake City, UT  
Doug Cutis, U.S. Bureau of Land Management, Washington, DC  
Deborah Lawler, U.S. Bureau of Reclamation, Salt Lake City, UT

**STAFF**

Tony Willardson  
Michelle Bushman  
Sara Larsen  
Cheryl Redding

**WELCOME AND INTRODUCTIONS**

Kevin Frederick, Vice-Chair of the Water Quality Committee, called the meeting to order.

### **APPROVAL OF MINUTES**

The minutes of the meeting held in Arlington, Virginia on March 14, 2018 were unanimously approved.

### **SUNSETTING POSITION**

Council staff made suggested changes (Tab C) updating Position #382 on EPA's Water Transfers Rule and NPDES permits. Jen Verleger made a motion to recommend the position with proposed changes before the Full Council. Pat Pfaltzgraff seconded the motion, and the Committee voted to approve.

### **WASHINGTON AND NEBRASKA WIFIA LOAN UPDATE**

Dan Kaplan, Financial Services Administrator and Caitlyn Hall, Business and Finance Officer, King County Wastewater Treatment Division/Finance & Administration, provided a powerpoint presentation on the Why, What, and How of King County's WIFIA loan.

The WIFIA loan offered an opportunity for \$30.4 million in savings. WIFIA rate on April 19, 2018 was 1.02% lower than a tax-exempt issue for 30 years. The savings are very significant, and meant greater certainty for project funding. The Georgetown Wet Weather Treatment Plant was mandated under a consent decree, and includes primary treatment followed by UV disinfection for two overflow locations. It is the Water Treatment Division's largest project at \$262 million. It has a traditional design bid-build procurement.

The letter of interest and application were all done internally without outside consultants. Their full-time grant administrator was the key person who interfaced with the project managers. They also had a capital budget analyst and an environmental specialist for NEPA compliance. Their procurements documents previously incorporated with the federal requirements. With all of those details already in place, the project documentation only needed to be summarized and incorporated by reference, not created from scratch. They wanted to speed through the application process so as to lock in the best rate available. The Treasury rates were available online every day, and moving quickly meant a significant amount of savings in interest. The application required signification coordination between project managers, in-house counsel, risk managers, the finance officer, and permit managers.

King County has not yet drawn on the WIFIA loan in order to defer interest payments. The loan is available until one year after substantial completion. They will be using \$141 million from a legal settlement or interim financing to delay draws. They do monthly compliance reporting to EPA, but the reporting burden seems light relative to the financing benefits to the project. Their annual financial reporting will coincide with adoption of the 2019 sewer rate.

EPA staff have been very professional, helpful and knowledgeable. EPA wants the program to succeed. Sharing lessons learned, they noted that it helps to have a good project to submit. One that is large, but not too large or that would place your system at risk. Have skin in the game and show that significant costs have already been incurred, that it's not only shovel-ready, but in the process of being built. Most project costs incurred prior to the Letter of Interest are WIFIA eligible and can be reimbursed. After this first round, take a look at the type of projects that were approved and see whether your project fits the profile. Also, take advantage of the opportunity to talk to EPA about your project.

Jim Macy provided a power point presentation on Combined Sewer Overflow (CSO) Challenges Facing Omaha. The city is balancing CWA regulatory compliance with projects that are economically feasible and can meet the needs of a large community. The service area includes a population of 600,000, 10 wholesale users, 2 regional treatment plants, 2,000 miles of sewers, and 28 combined sewer outfalls. Under 2002 conditions, the City of Omaha typically generated over 8 billion gallons of wet weather combined sewage.

Jim shared the CSO timeline beginning in the late 1980s, including modeling and creating a Long-Term Control Plan as required by the Nebraska Department of Environmental Quality. NDEQ and the City entered into an Administrative Consent Order in 2007, which has been modified twice, but implementation began in 2009 and requires completion of the CSO project by 2037. The City hopes to avoid any enforcement actions, and has a series of projects to address aging infrastructure, construct a deep tunnel for conveyance to treatment facilities, underground storage tanks, targeted sewer separation, and various inflow reduction and green infrastructure projects.

The WIFIA loan of \$76.7M will go toward the Saddle Creek RTB project, replacing an aging grit facility and conveyance sewer. The facility disinfects 160 million gallons per day; it reduces untreated overflows, and E. coli during recreation season.

Various project components and improvements have already taken place using SRF loans, 30-year bonds, and sewer fees. A significant number of residents already face a high financial burden with recent changes. Under a proposed five-year rate ordinance, the City would impose annual increases of 5.25%. Typical monthly household bills have gone from just over \$10 to \$50 in 2018 and will continue to rise to \$60 in 2023. The City has paid out about \$7.5 M in low income rate assistance program. Project affordability is a huge deal. WIFIA will allow modifications to the cost and schedule of the CSO Program, which will help reduce the financial burden. With the additional time, City will proceed in a more stepwise fashion: build, monitor, and modify/adapt as needed.

Kevin Frederick: Was this project on the books for a long time?

Jim: The CSO Program has been around for years. The WIFIA loan application centered around the Saddle Creek RTB component of the program, which was shovel-ready.

Kevin: Were nutrient reductions selling points for the projects?

Dan: No, that was covered within the existing permits.

Jim: I would echo the same, but everyone has their eye on that in the future. Nutrient reduction would be in the next phase.

### **EPA UPDATE**

Roger Gorke provided an update on issues EPA has been working on. Senior political officials from EPA, NOAA, USDA, Interior, Corps, and others have formed a water subcabinet, to work on water issues and solve problems at the local-regional level with interagency resources. Their initial focus is on Water Reuse and Recycling, and also Nutrients. Dave Ross wants to focus on the Nutrients issue in particular, taking a closer look at precursors for HABs and ways to more effectively deal with pollution, nutrients. The Subcabinet plans on outreach to states and stakeholders, WSWC and other organizations, to identify locations that could be opportunities to problem solve on the ground, break down government silos, and leverage resources. In the meantime, helpful to consider what problems the agencies can help work together on.

New Mexico and EPA recently signed an MOU on produced water. While there is no funding component, the state and federal agency will work together to identify better ways to make use of the water, potentially treating it and putting it into the hydrologic system to be reused rather than re-injecting it as a waste product. They're taking a look at the state and federal legal frameworks, permitting requirements, and the level of treatment necessary for potential uses. The MOU envisions a task force that would prepare a white paper identifying solutions.

There is no new guidance on tribal TAS and proposed federal water quality standards. Roger sent out an inquiry to the EPA family how many tribes there are that have TAS, and what WQS they have adopted (state standard, or separate standards that may be difficult to meet) and whether WQS be more collaborative between states and tribes. Kevin expressed interest in getting the information on TAS and how many tribes have WQ standards. Wyoming has had some outreach with their tribes, and sees a lot of upside to presenting existing state standards as an option for tribes interested in adopting WQS. He hopes that EPA may be willing to carry some of that messaging. Mary Verner agreed that it would be good to have all of that information about tribal WQS compiled to see the scope and any disconnect that exists. The state water quality programs are open to opportunities for discussion, to share the perspectives of the different states and tribes. Such a discussion may benefit the tribes interested in developing WQS and facilitate their efforts, by helping them better understand what the states went through in developing their WQS. Roger said he would reach out to the WQS folks and tribal coordinators and see what they can do to add value for both the tribes and the states.

No update yet on the issue of clarifying whether groundwater as a conduit for pollutants is covered by the Clean Water Act, or on the timing of a new WOTUS rule. Roger encouraged the WSWC to share thoughts with OMB on WOTUS. It helps crystallize the issues.

## **WGA'S WATER-QUALITY POLICY RESOLUTION**

Ward Scott reviewed the Western Governors' Association (WGA) resolutions, which are under Tab E. WGA readopted the Water Quality Policy. Building a strong federal-state relationship is high on the Governors' list, ensuring that states are treated as co-regulators under the Clean Water Act. WGA has been involved with commenting on the WOTUS Rule, but it is impossible to get 22 governors to agree on the appropriate scope of the CWA. In 2015, the Governors were disappointed in the fact that the states were not consulted on the rule.

The state water quality certification process (CWA §401) has been historically controversial, and state authority is under attack in Congress right now. Efforts to streamline infrastructure permitting look to the timing of §401 certifications, and state perspectives on the issue are being ignored. Legislation introduced earlier this week proposes to limit states' ability to consider water quality impacts of proposed projects. WGA sent a letter opposing various legislative proposals to overhaul a system that has worked for the past 40 years, signed by WSWC and several others, noting that states need to be consulted and part of the process.

Ward discussed the Lead and Copper rule under the CWA, and WGA's efforts to emphasize the need for state consultation, and the need to include state data. He also provided an update on Forest and Land Management issues, and the impact of degradation on water quality concerns.

## **DISCUSSION: WSWC WOTUS 2.0 COMMENTS**

The Council has an existing position (Tab O), Position #410, that we are considering updating prior to the three-year sunseting timeline due to the anticipated WOTUS 2.0 Rule. Position #410 dealt with the agencies' failure to consult on the 2015 WOTUS Rule. The WSWC has held a series of conference calls to identify what concerns our states have and what principles we might agree upon. We sent out a straw-man survey to get a better sense of where we might have some consensus, and the issues raised during the call helped form those principles. We don't expect to see unanimity on all of the issues. Of the states that responded, there was consensus that the states would like a delay period before implementation, to give the states time to identify and address any gaps in regulation.

Kevin suggested that the Committee be prepared for serious discussion on position #410 for the next meeting. Michelle will give us an idea of the survey results. If the Council were to recommend a delay, we may need to consider a time frame for how much time it would take.

## **WSWC WATER QUALITY/QUANTITY NEXUS WORKSHOP REPORT**

David Schade review the highlights of Wednesday's workshop. We will continue these workshops as they are very effective.

**SUNSETTING POSITIONS FOR 2018 FALL MEETING**

There are no sunseting positions to review for the 2018 Fall WSWC meeting.

**OTHER MATTERS**

Roger Gorke said the state-federal engagement should not be limited to just major rulemakings. The federal agencies could use the engagement with states on many issues to meet mutual objectives. We can make use of the relationships we build to identify other opportunities for state-tribal-federal collaboration. Let's identify opportunities to make the water programs work better both nationally and with individual states.

There being no other matters, the meeting was adjourned.