**MINUTES**
**of the**
**178th COUNCIL MEETING**
**Bluemont Hotel**
**Manhattan, Kansas**
**October 9, 2015**

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**MINUTES**
**of the**
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**October 9, 2015**

**MEMBERS AND ALTERNATES PRESENT**

| | |
|---|---|
| **ALASKA** | -- |
| **ARIZONA** | |
| **CALIFORNIA** | Jeanine Jones |
| **COLORADO** | -- |
| **IDAHO** | Jerry Rigby<br>John Simpson |
| **KANSAS** | David Barfield<br>Tracy Streeter |
| **MONTANA** | -- |
| **NEBRASKA** | Jeff Fassett<br>Jim Macy |
| **NEVADA** | -- |
| **NEW MEXICO** | Greg Ridgley<br>John Longworth |
| **NORTH DAKOTA** | Jennifer Verleger |
| **OKLAHOMA** | JD Strong |
| **OREGON** | Tom Byler |
| **SOUTH DAKOTA** | Kent Woodmansey |
| **TEXAS** | Robert Mace |
| **UTAH** | Eric Millis<br>Walt Baker<br>Norm Johnson |

| | |
|---|---|
| **WASHINGTON** | -- |
| **WYOMING** | Pat Tyrrell<br>Sue Lowry<br>Chris Brown<br>Kevin Frederick |

## GUESTS

The Honorable Sam Brownback, Governor of Kansas
Ginger Harper, Kansas Water Office, Topeka, KS
Andy Ziegler, U.S. Geological Survey, Lawrence, KS
Carmel Walters, U.S. Forest Service, Washington, DC
Jason Armbruster, U.S. Forest Service, Washington, DC
Katie Patterson-Ingels, Kansas Water Office, Topeka, KS
Laura Chartrand, Western Governors' Association, Denver, CO
Robert Large, Kansas Department of Agriculture, Manhattan, KS
Susan Metzger, Kansas Department of Agriculture, Manhattan, KS
Kathy Flanagan, Southern Nevada Water Authority, Las Vegas, NV
Shaun McGrath, U.S. Environmental Protection Agency, Denver, CO
Karen Flournoy, U.S. Environmental Protection Agency, Lenexa, KS
Mike Tate, Kansas Department of Health and Environment, Topeka, KS
Millie Heffner, MT Dept. of Natural Resources and Conservation, Helena, MT

## WESTFAST

Patrick Lambert, Federal Liaison, Murray, UT
Jean Thomas, U.S. Forest Service, Washington, DC
Anita Thompkins, U.S. Forest Service, Washington, DC
Roger Gorke, U.S. Environmental Protection Agency, Sacramento, CA (via phone)

## STAFF

Tony Willardson
Michelle Bushman
Cheryl Redding
Sara Larsen

## WELCOME AND INTRODUCTIONS

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

## APPROVAL OF MINUTES

The minutes of the meeting held July 10, 2015 in Stateline, Nevada were moved for approval by Dave Barfield. Seconded by Sue Lowry and unanimously approved.

## KANSAS EXAMPLES OF THE NEXUS BETWEEN WATER QUANTITY/QUALITY

Tracy Streeter, Director, Kansas Water Office welcomed everyone to Kansas. He then reviewed a powerpoint presentation regarding the future of water supply in Kansas. They have gone through two years of developing a water vision, driven largely by drought with a lot of the focus on water supply. Water supply trumps water quality to some extent - if you don't have any water, then there is no quality to worry about. However, the presence of blue-green algae underscores the need for both.

Earl Lewis, Assistant Director, Kansas Water Office, who talked to us out at Milford Lake about Tracy's summarized comments of the water assurance district in Kansas. We need to make sure we can meet the long-term water supply demands. We are watching flows on all three of the rivers, and we are starting to make releases in October to manage the drought, despite the unusually high precipitation during the summer.

We need to be mindful of the water quality. We saved water in the Kanopolis Reservoir in 2012. We did not degrade water quality in coming up with that solution, looking at no-till and other conservation efforts. A Water Resources Sub-Cabinet was formed, joining together the agencies of Agriculture, Health & Environment, Wildlife, Parks & Tourism, and the Water Office. The communications amongst these entities is really important, as was emphasized in the Water Quantity-Quality Nexus workshop earlier this week. Tracy encouraged other states to come up with a similar kind of mechanism.

The 2015 Legislative successes included four pieces of legislation introduced, three of which passed:

- Water Conservation Areas (WCA) – a self-reduction tool that is simple and streamlined, as well as flexible. Any water right owner, or group of owners can develop a management plan, and they don't have to have a middle man, dealing directly with the Department of Agriculture. There are approximately 10 such groups under way right now.
- Multi-Year Flex Account (MYFA) Balance Carry Forward – allows unused balance of a 5-year MYFA to carry forward to a new MYFA. This encourages conservation and eliminates another use-it or lose-it scenario. It encourages them to keep rolling it forward, saving it today to use it tomorrow.
- Rewarding Conservation – future regulation and management plans must recognize and consider previous conservation efforts, preventing undue penalization of anyone engaged in conservation efforts.

- 3rd Party Conservation Easements – this is a new tool allowing the Division of Conservation to hold conservation easements. This aids the project applicants in coping economically with the mitigation requirements resulting from 404 permit provisions.

They have begun to limit the point of diversion for wells. The primary driver is chasing water in declining groundwater areas, digging some wells deeper than 300 feet in an effort to reach a more favorable part of the aquifer. Water users may be encroaching on somebody else's water right, and in some cases they have been willing to risk the fine because the benefits they get from over pumping outweigh the cost of the fine. This regulation change would significantly reduce the likelihood of that occurring by imposing stiffer civil penalties for exceeding authorized quantity. They would also impose civil penalties for failure to file water use reports, and they are seeking authority to seal meters to discourage tampering.

Kansas has a Water Transfers Act that has been modified since its enactment in the 1980s. They've made a public interest determination, triggered by proposed transfers of more than 2,500 acre-feet over more than 35 miles. A long-term municipal water supply project in the cities of Hays and Russell is proposing to transfer water from the R9 Ranch in Edwards County, over a distance of more than 80 miles.

Dredging sediment from the John Redmond Reservoir has necessitated finding and building disposal sites (Potential Confined Disposal Facilities) to deposit the removed sediment. They've also worked on streambank stabilization, and a reallocation of the John Redmond Reservoir.

The Kansas Water Vision states that: Kansans act on a shared commitment to have the water resources necessary to support the state's social, economic and natural resource needs for current and future generations. They do this through water management, water conservation, identifying new sources of supply, and through technology and crop varieties.

Next, Mike Tate, Director, Kansas Department of Health and Environment discussed $WQ^2$ Legacies – how we impact quantity with quality of water. All of our states have legacy pollution that affects our water resources. Much of it stems from mining, chemical manufacturing, refining, and smelting. At the time, it probably did not seem too bad. Today we know better. We're living with the impacts and costs of cleaning up past pollution. We don't want to leave the next generation with more problems and more costs.

The John Redmond Reservoir needs to be dredged due to sedimentation. Half of the reservoir can only hold about 6 feet of water nowadays because of the amount of sediment. The reservoir serves as a stop-gap for both water supply and flood control, and need the reservoir space. The solution is to raise the conservation pool level for water supply storage. They are dredging portion of the reservoir, and the cost is approaching $30 million for 600,000 cubic yards. They're also intensively applying watershed soil conservation practices.

Another legacy pollutant is salt. There is an area in south central Kansas known as the great salt plains. There is also salt mining waste, and oil field brine. It is a big problem, and it requires a lot of money to clean up. One of the solutions was to build a reverse osmosis drinking

water treatment plant in Hutchinson, Kansas (pop. 45,000) to treat and reuse the water. It is a 10 MGD plant and it cost $35 million. They collect and distribute the salt and VOC contaminants, and use two Class 1 UIC disposal wells.

We also have legacy pollutants from oil and gas. In 1980, propane escaped from salt domes into water wells, and people literally had fires in their homes due to the propane that was in their water supplies. Hydrocarbon companies bought out the town, and this spurred state regulation of hydrocarbon storage and sonar studies of the salt caverns to ensure they maintain their integrity. Kansas now requires a log of the salt caverns to monitor and make sure they maintain their size.

We want to determine what our legacy will be to future generations of water users. Will we improve or degrade the quality of the water? We need to make improvements so that more high quality water is available at reasonable cost. As we degrade our system we end up with less high quality water, and the degraded water is either unusable or is usable only with a significant treatment cost. We can treat the heck out of water today. It just takes capital and energy. We have to evaluate the opportunity costs of spending more to treat water, because state and federal budgets have a lot of places to go. With ever growing societal costs, it behooves us to minimize our water costs.

Kansas is trying to work on the nutrient problem, which is a huge problem across the nation. There have been several lawsuits already filed, including the *City of Des Moines Waterworks* (nutrients from farm field drainage tiles) and the *Community Association for Restoration of the Environment v. Cow Palace* (which ruled that over-applied dairy manure ($NO_3$) falls under RCRA.)

The Gulf of Mexico Hypoxia is a huge problem. They are extending compliance date by 20 years to 2035. They are trying to force things faster, and are counting on state reduction plans to hold off lawsuits, which would significantly increase costs.

Harmful Algal Bloom (HAB) Guidance identified stringent guidelines for drinking water toxins, particularly microcystin and cyclindrospermopsin (about 400 times more stringent than the World Health Organization). USGS has done monitoring on the variable pH levels in the algal blooms, because photosynthesis generates high pH during the day and $CO^2$ at night. Chlorphyll concentrations are impacting the lake trophic state. Aquatic life is exposed to high levels of dissolved oxygen, creating environmental effects on the lakes -- and they are receiving plenty of signals that there are problems.

Kansas' approach is to reduce total nitrogen/total phosphorous (TN/TP) loads leaving the Kansas border by 30%. Both point sources and non-point sources are making equitable TN/TP reductions. Major NPDES biological nutrient removal efforts have been modified to acknowledge that phosphorus is a bigger issue for reservoirs, changing the annual average TN/TP ratio (1.5 mg/L / 8.0 mg/L). Some designers think 8.0 TN is too tough to hit and they modified the ratio to also allow 1.0/10. It is not an easy task, and it is different for every situation and every waterbody. But the approach (biological nutrient reduction and removal) is a

better target for the NPS funds. The specific Nutrient Criteria are derived through TMDL and WRAPS efforts.

In Milford Reservoir, the sources of total phosphorous are almost all (44% fertilizer, 23% manure) from agricultural producers, raising the question of whether the problem is even worth tackling. In the Oklahoma Kaw Reservoir, the point source of pollutants can possibly be adjusted as there are other significant sources like urban runoff, although agriculture is still the highest contributor (47% fertilizer, 10% manure). So where is Kansas TN/TP discharge headed? Between 2003 and 2014 there was a 65% reduction in average/median waste water treatment facility total nitrogen, and between 2003 and 2006 there was a 32% reduction in total phosphorus.

Kansas has drafted its TMDL priorities under its Water Vision, which include: (1) 16 priority HUC 8's in Eastern and Central Kansas (nearly all water supply reservoirs) to protect quantity of water supply for cities and industries; (2) push NPDES for treatment plants downward, reducing nutrient loads (driven by runoff, NPS) to address stream phosphorus/nitrate impairments, though targets will vary with the type of nonpoint source; (3) have TMDLs for 19 stream stations either approved, completed or drafted through 2014, and for 57 more stream stations between 2015 and 2022. They are targeting areas with the priority TMDLs and are trying to target the NPS dollars they have through Department of Agriculture and EQIP funds. If they only count on the federal and state funds coming in at the rate they are now, it may take another 40 years.

They continue to push forward with the original plan for both TN and TP. There is a new ammonia criteria from EPA that will drive some of the folks to upgrade treatment, which will help with nitrogen levels, and they hope to knock out phosphorus at the same time. They are also beginning to look at nitrate groundwater impacts creating problems for towns with public water supply wells. There are some very expensive multi-million dollar fixes out there. Studies indicate that $NO_3$ contamination mobilizes uranium, creating two problems instead of one. Uranium is very costly to treat and is exacerbated by the nitrate issues. The drinking water standard is 10 mg/L nitrate, and they're finding 8mg/L nitrate or greater in shallow and deep groundwater.

The nitrate issue is spread throughout the state. We are trying to be optimistic and take the opportunity to continue to move forward to reduce nutrients, making progress until the next generation takes over. We will continue adaptively manage our approach for cost effective results, find the things that work, tweak the plan as needed. We are trying to continue to manage our supplies and the quality of the water so that we don't have to treat exorbitantly in order to have clean water.

**Question/Answers:**

Walt: What kind of pushback did you get from the POTW?

Mike: We've always worked closely with them, and eventually we came to the same conclusion that the POTWs are a problem. They have not all embraced it, but most of them came along pretty quickly. The last 15 or so are a bit reluctant.

Walt: Any secondary removal of phosphorus?

Mike: It is dependent on who the designer chooses. Some consultants believe they don't have to worry about the biological removal, while other waste regimes will do biological removal up to a point and not as much chemical removal. It is better to use biological removal to save costs.

Pat thanked Tracy and Mike for their intros on Kansas.

## GOVERNOR SAM BROWNBACK

Tracy Streeter introduced Governor Sam Brownback. He has been very hands on with respect to water in the state. We are making headway on his water priorities.

Governor Brownback - Water is a unifying event for the region. You guys have a lot to deal with. My roots in water go back to 25 years ago when I was Secretary of the Kansas Agriculture Department. The longer you wait, the less your opportunities are. It is a good policy moment on water. Policy matters don't move unless there are galvanizing events, and people have to do something. In water we are getting to a "burning" platform. It has been predicted for 40 years that there would be water shortages. California should not be surprised about their water shortages. Kansas should not be surprised at the shortages occurring in the Ogallala Aquifer. The policy moments did not occur earlier in the 1980s or 1990s. The opportunity is now. Get everyone involved that you possibly can. Keep the pressure constant on the issue and establish a vision. People sometimes ask why something wasn't done sooner. It's a very serious, difficult matter, and expensive, and involves hundreds or thousands of people.

In Kansas we gathered together our departments and talked about where we wanted Kansas to be in 50 years with respect to water. They established that, and now they are trying to figure out how to get there. We had three pieces: (1) decreasing water demands on the Ogallala, without reducing our economic activity; (2) reservoirs silting-in that need to be renewed and reinvigorated; and (3) the Missouri River Basin water allocation.

We are at the implementation phase on the Ogallala. We're using the opportunity approach, not the blunt instrument approach, to get people to change their perspective. Reduce irrigation, crop rotation, increasing policy options, look at all possible alternatives. I don't know that the process is politically sustainable. You have to bank into these things as long as you can. We are accumulating resources, attracting them from as many sources as possible to reach a desired point, and bank into this over a period of 5 years.

I try not to start a process where we talk money at the outset. He used an analogy about buying a new car. Sell the car, and then talk about the cost. Look at all the features that are appealing about the changes first. The right approach may be as important as anything in

changing people's attitudes toward necessary changes. I applaud you for working in the topic area. I would urge you to not grow weary in doing good. People can get frustrated in working on things that take many years to resolve.

He talked about opening up a cattle farm, and the change between cattle vs. corn for an economic return. It has taken 25 years to make this move. Don't make abrupt moves. I applaud your work at the WSWC and urge you to keep it up!

**Question/Answers:**

Tony: Given your experience, can you talk about the federal budget.

Governor: Yeah, you're going to get less money! The money to dredge reservoirs is going to be less. We are doing everything we can here to reduce our dependency on the federal government because it's broke. There's an entitlement system eating up money. Absent huge inflation, I would presume that you need to figure out how to fund things with state and local funds. If it's worthwhile, you come up with the money. Local communities want the water, and they work hard to find a way. Reality will set in. When you are in a short money environment, it puts state and local communities back in the driver's seat.

Norm: What is the key to getting the states to work together on the Ogallala?

Governor: I don't know. We have done a lot of research. To get them to cooperate, I don't know. Maybe get the states together to meet. Our Ogallala is what we've got. We just have to figure out how to use it. We have used the easy third of the aquifer in Kansas. We have to deal with our problem here. The tragedy is it is the law of commons. "Who is in charge of making sure there are still fish in the ocean?" We are getting to some systems that are beginning to look at the issue. We are creating tools where people can conserve their water on their land, and trying to put that forward, so it is in their own economic interest to do. It is a different mindset. Create the doors that open in a positive fashion. Once we lose this property right its gone; the shallow aquifer has been mined, and now we're looking to conserve and extend, allowing us to irrigate for at least the next 40 years instead of just the next 10. It's a lengthy process that takes time.

It was very kind to be invited. I hope you have a successful meeting.

## ENVIRONMENTAL PROTECTION AGENCY UPDATE

Shaun McGrath, Regional Administrator, EPA Region 8 mentioned it was interesting to listen to the familiar issues in the Water Quality Committee meeting yesterday, with Good Sam, Indian water rights, and drought. He really appreciated the resolution the Council presented to him last summer in Helena. It is hung very prominently in his office.

He called his counterpart in EPA Region 7, and Karen from the Wetlands Division in Kansas was able to join him today.

The WOTUS Rule went final on August 28. We really appreciated the comments that were submitted to the docket by the WSWC. The comments were thorough and very detailed, and we made revisions based on what we heard. The final rule codifies many rules that were in process. It provides a clear definition of a significant nexus where upstream waters impact downstream navigable water, biologically, chemically or physically, based on strong scientific foundation. The connectivity report is based on more than 1,200 peer review publications. Science Advisory Board review was available to the public at different times, and the EPA-Corps development of the final rule was a public process. We identified clearer broader conclusions. Stormwaters features are not waters of the U.S. Erosion features are excluded. Intermittent ditches and other ditches are excluded where they are not tributaries.

We set clear limits for adjacency. We used FEMA 100-year floodplain maps. For the first time the agency defined neighboring. Since the publication in the *Federal Register* on June 29, a preliminary injunction was issued for 13 states in North Dakota, staying the rule. The court denied request for a nationwide preliminary injunction. [Jennifer Verleger noted that the 6th Circuit Court just issued a nationwide injunction staying the rule pending a review of its jurisdiction.]

EPA's focus has been on implementation. There is a lot of information on the website about the rule itself. We are constantly updating the website. We are also hosting webinars, providing notices to ACWA, wetlands managers. Hopefully you and your staffs are getting the info about the webinars. Last week the webinar was on tributaries, before that it was on ditches. We expect to make those resources available.

We issued a joint memo and Q&A document between EPA and the Corps to provide clarity about when to issue permits, to ensure consistency between the agencies and regions, and to increase transparency in the permitting process. The jurisdictional determinations from EPA and the Corps are publicly accessible on the same website. There are 150 jurisdictional determinations already issued and posted on the website. The JDs and permit database, as well as statistics on watershed locations and water body types will be on the website as it evolves over the next few months. The database will be searchable with different parameters (map interface, year, state, watershed) and data downloadable.

Applications received before August 28 were completed under the old rule. JDs are in effect for 5 years, so an existing JD should remain effective. Agencies are taking steps to ensure a smooth process. We expect to expand upon Best Practices through public scrutiny and feedback, providing information to improve implementation. The EPA and the Corps will be able to provide answers as the rule takes effect, to ensure the rule is protecting the waters intended to be protected, to see how exclusions are being implemented, and how the rule affects waters. They will evaluate existing permits and procedures, and improve coordination between the state and federal entities. They are reviewing the nationwide permitting program, which is up for renewal in 2017. EPA and the Corps are committed to working together as they develop new tools. They are meeting together regularly in conferences and education, and both agencies are working to finalize a new JD forum.

If you would like for Shaun's team or counterparts in other regions to meet with your states, contact them. They have a program for education of interest groups.

The CWA Section 518 reinterpretation changes are intended to reduce burden on tribal applicants for Treatment as States. EPA appreciates WSWC's engagement, which informed the development of the reinterpretation. Many of you participated in a meeting with Ken Kopocis, Assistant Administrator at the EPA Office of Water. The comment period closed on October 6, and the rule will be finalized next spring.

Shaun provided an update on the Gold King Mine release near Silverton, Colorado. On August 5, a large release occurred when EPA and Colorado were working on the mine. This was a tragic and unfortunate incident, and EPA is taking necessary actions to respond. EPA is holding themselves to the same high standards they would demand of others. EPA is doing an internal review to assess all the contributing factors, and will implement all recommendations from that report for conducting ongoing site assessments across the country. DOI is also doing an independent review of the incident and the contributing factors to provide EPA with additional information. EPA will keep the public informed about the impacts from the incident and EPA's response activities. They're coordinating with states and tribes, posting data on the website and keeping agencies apprised of sampling results. It's important to note that the watershed itself receives around 300 million gallons annually, and comparatively, the release included 3 million gallons. They're monitoring potential impacts from the spill on the Animas River.

Shaun ended his presentation with some details about a drought demonstration pilot project in Montana. The basis for this work goes back to a national drought meeting held about 3-4 years ago, and is based on work the WSWC and WGA have done on drought. There was a recommendation for large landscape-scale coordination among all government entities and water users. Watershed basins groups included 9 federal agencies and 3 state agencies with water resources expertise. The Kansas Governor framed well the need for collaboration. It is intended to be a pilot and if it works well, it can be applied elsewhere. It is being driven by the local governments. The beauty of this is that the State of Montana is not in the middle of a drought. It is easier to prepare when you're not in the middle of a crisis. Again, it is driven in large part by the good work of the WSWC and the WGA.

**Question/Answers:**

Greg Ridgley: Were there any lessons learned from the Gold King Mine spill?

Shaun: Yes, absolutely. This event looked like it was not going to have impacts downstream, but we misjudged that. EPA did not look far enough downstream. We executed the call-down plan. We didn't call across the border until a day and a half after the event. There was no initial outreach to the other EPA regions. That was a problem. EPA was able to notify in advance of the plume, but it was not adequate for those already upset and frustrated. There were limitations due to artificial boundaries.

Walt: Why was EPA's information so slow in forthcoming? The state seemed to be way out ahead in reporting to the public. Is there an inherent constraint operating there?

Shaun: Initially our folks on the ground said it was an event that occurred in a dead stream. We were not looking downstream. We were initially slow to respond. We immediately received questions about what was in the water and what were the implications of what was in the water. We were getting samples immediately, but then it took time to get the samples to the lab in Golden. It took a longer time to get lab results from the dissolved metals analysis, and for the scientists to determine what the data means and the implications of what the dissolved metals in the water meant for people. We were able to shift the delay from weeks down to days, and some questions were answered right away while other responses were delayed. I also received questions about water hauling, etc. We had questions about how businesses were impacted and what happens. I don't mean to come across as being defensive, and I'm sure I do, but we were getting info out as quickly as we could.

Pat: Thank you. We appreciate your candor, Shaun, and your being in attendance here.

## WATER VISION STATEMENT

Pat acknowledged the work the subcommittee did on the vision. Sue moved approval to adopt the vision. Motion was seconded with a minor correction of today's date and adding a comma after "for" in the last line of the first bullet were noted. Approved.

## WESTFAST REPORT AND WORKPLAN

Roger Gorke, WestFAST Chair, appeared by phone and apologized that he could not be here in person. He is working with the National Drought Resiliency Partnership in Montana, which is setting a good example of federal-state collaboration.

We held a principals' meeting last week. Nearly all WestFAST members and principals were there. We discussed how we can better align ourselves to collaborate with WSWC and with the states in general. We had some presentations on successes and failures, and one thing that came out is that if we can work together on a basin level with states and stakeholders on the ground, we get much better results. Issues change over time and depending on where you are. Are there places in large basins and areas where we can bring the relevant federal partners together to work with a state or states on multiple issues in any given watershed -- whether that is drought or water quality or water quantity issues? We want to begin a dialogue with the WSWC to see if we can find a demonstration of where we can work with the states and feds in the field. The partnership in Montana's Missouri River watershed is a perfect example of this. This would not be a pilot program, but rather a demonstration of how to work better with the federal agency family. It is wonderful to have people like Jennifer Gimbel and others familiar with the issues on both state and federal sides to provide their perspective.

Are there are specific issues or questions on this?

Pat Lambert, WestFAST Liaison, provided an update of the two-year WestFAST Workplan discussed at the Principals meeting last week. We have decided that we need to have more face time with our principals, sitting down together to have conversations. We have traditionally met only once a year for a couple of hours, which we decided was insufficient to effectively conduct the liaison work. The theme of last week's meeting was proactive collaboration. Laura Chartrand mentioned that the WGA is also discussing collaboration for its Workplan. Laura and I have talked about how we can memorialize these events, so we can discuss pre-rulemaking expectations, perceptions, principles of best practices, awareness of the kind of communication that can occur, and what are the key collaboration practices that result in a successful event.

We proposed 5 examples of collaboration practices: Clean Water Act Section 303(d), the Colorado River Basin Study, the Forest Service's proposed Groundwater Directive, the Utah National Arches water rights agreement, and NOAA's work on California drought. We want to take advantage of the examples already available, and blend these in with our other case studies. If anyone is aware of other successful collaboration events we should be aware of, please let WestFAST know. We have reached out in a preliminary way to the staff involved in these events to get their opinion on the appropriateness of these events being on our list. Everyone thought this was a pretty good start.

We are looking at next steps for collaborating on a basin-wide scale, with WaDE streaming data on a sub-watershed scale. We want to look at the potential for exchanges of federal data to WaDE, and allowing combined state-federal data. We want to take some example watersheds and think about the kind of data that can be shared and ask question now as the process is evolving.

Any advice is appreciated from the WSWC. Pat Lambert noted that collaborating and holding consultations is a really positive outcome of what you are doing at these Council meetings.

Pat Tyrrell noted that the states have a responsibility to reach out to the federal agencies, as well. Robert Mace asked a question about the Climate Symposium.

## COMMITTEE REPORTS

### A. Water Resources Committee:

Pat Tyrrell reported on the Committee on behalf of Jeanine Jones. There were three sunsetting positions: (1) Position No. 345 – regarding federal water and climate data collection and analysis programs; (2) Position No. 346 – supporting legislation to reauthorize the NIDIS Act, and accompanying letter to NOAA Administration Lubchenco; and (3) Position No. 347 – supporting legislation to reauthorize the Reclamation States Emergency Drought Relief Act. Positions No. 345 and 347 had no changes. Position No. 346 had two changes. Jennifer Verleger motioned to approve, Kent Woodmansey seconded the motion. All three positions were approved unanimously.

### B. Executive Committee

Jerry Rigby provided an update on the Executive Committee stating that the financial affairs are in good shape. We are just under expenses to date by about $5,000. With respect to any increase in dues, in order to be prepared for the future, we discussed the potential of a 20% increase. As you know, we have what we refer to as "soft money" from short-term grants and contracts to supplement dues. We're fine for the present, but we discussed what we plan to do for the future. To date, we have not increased the dues, and don't have any urgency to do so. Strategic planning came up, so we created a small subcommittee, to be chaired by Jeanine Jones, and the subcommittee will discuss WSWC activities and determine when to address the actual increase in dues.

We will meet next in Washington, DC on March 21-25, 2016, and will meet with ICWP. Please mark this on your calendars.

### C. Water Quality Committee

Kevin reported as the Vice Chair of the Committee. There were interesting case studies at the $WQ^2$ Nexus workshop. We will be addressing a couple of issues. Shaun McGrath responded to questions from the Committee. He informed the group that EPA and the Corps are involved in internal agency training to ensure there is consistent training amongst their own agencies. Materials from the cartoons and webinars on jurisdictional waters will be available in the near future. State water managers can anticipate more webinars in the coming months as well.

Observations made with respect to the Water Quality Standards draft rule process worked really well due to early and frequent communications with state water quality officials. This was different from Water of the United States Rule process. The WQS process would serve as a nice model as EPA moves forward.

Kevin mentioned a few more items that Shaun discussed, including the Corps involvement in the development of the WOTUS rule and implementation of the rule. He addressed the Gold King Mine situation, and noted that Good Samaritan legislation should be carefully crafted. It is important to keep in mind as legislation moves forward that a blowout similar to Gold King Mine would still fall to the states and EPA for remediation.

The Committee heard a presentation about the Wichita and Little Arkansas Watershed Group and offsite BPMs, with creative solutions to deal with stormwater runoff, with emphasis that it is not a "trading" program. And the Committee finished with water quality issues in Kansas, discussing nutrients and nitrates and the adoption of new standards.

### D. Legal Committee

Jennifer Verleger, Legal Committee Chair stated that sunsetting Position No. 348 – regarding States' Water Rights and Natural Flows was moved and seconded for approval. The position was unanimously approved.

Anita Thompson from the Forest Service reported on the withdrawn proposed Groundwater Directive. The USFS has listened to us, and we really appreciate that. Michelle provided an update on the Indian Water Rights Symposium. Pat provided an update on the upcoming WSWC-WestFAST McCarran Amendment webinar on November 10. We heard litigation updates on WOTUS, ESA, and water transfer cases, as well as other legislative and litigation updates. The breaking news is that the 6th Circuit issued a nationwide stay of the WOTUS rule until it makes a decision on whether it has jurisdiction to hear the consolidated cases.

## STATE REPORTS

**Utah:** Eric Millis reported from the water resources side. There has been a lot of interest this year in money for water. An audit came out on water use and looked at our projections for how much money would be needed in the future for water. We think there is a way to conserve. There was a public survey with 52,000 participants voicing what the public thinks could be done and what they would be willing to do to improve water supplies. They were in favor of cutting back lawn sizes, conserving water for economic growth while keeping farms. There is quite a bit of interest in this group trying to get money for water development projects. Some are interested in putting money in for large projects. A pot of funds was established last year with a small deposit into an account. It's been a very interesting water year. Utah has had cooler weather and rain that helped us get through the summer. We have had rains that are preparing the mountains for the winter snow. We're hoping for a good water year!

Walt Baker reported from the water quality side stating that the water year has been interesting and challenging. We're developing criteria for upper watersheds on nutrients, and working with the Department of Agriculture. The criteria requires a reduction in phosphorus levels by 2020. Nitrogen was to have followed, but we have put that on hold. The group is beginning to unravel, with recent legislation that may undercut some of our efforts over the past seven years. We are submitting the initiative to a scientific peer review process that is intended to challenge and inform the issue without trumping the issue. Spills (Gold King Mine), the Great Salt Lake standards and nutrients are the top issues right now.

**North Dakota:** Jennifer Verleger reported that oil prices are impacting the state's budget. $160 million of infrastructure projects were approved on Tuesday, with a record number of dollars for water projects.

**Texas:** Robert Mace said they are selling bonds to support state water limitations. The $2 billion appropriated by the legislature will be bonded for $7 billion to leverage water over the next 50 years. They also appropriated $3.4 billion for the Vista Ridge Pipeline to transport groundwater. Texas is back in drought, with over 48% of the state in drought. El Nino is looking more like El NoNo for Texas.

**Nebraska**: Jim Macy reported on two legislative proposals. The first would transfer oil & gas issues back to the Department of Environmental Quality. The second would change the definition of how we transport water from one irrigation canal to another. We're looking at State

Revolving Fund dollars in that transfer scheme. As the former SRF director, I'm watching that very carefully.

**South Dakota:** Kent Woodmansey reported that additional money was put into their information-technology budget to help us improve several databases. A few GIS maps were available on the website. Now there is a one-stop database with seven GIS maps, and there are new ones popping up all the time. It is taking more time than staff thought, but they are providing updates pretty frequently. People may be interested in taking a look at this.

**Wyoming:** Kevin Frederick reported that Wyoming is in the process of trying to finalize categorical UAA from primary recreational use to secondary recreational use. Trying to use an EPA model, using a rebuttable presumption. We held a public meeting in Casper with about 100 people who showed up. We heard testimony for the record, and it was a good opportunity to hear support for the approach we are taking and concerns from recreationists in that portion of the state. Will be synthesizing the comments heard at that meeting. Stay tuned.

Pat Tyrrell added that Wyoming, like North Dakota, is now in a budget crunch, being largely a mineral revenue state. The governor announced that he is planning to trim $200 million from the State agency budgets, which is a pretty good chunk. All agencies are being asked to look at their budgets for the remainder of the current biennium, as well as cutting back for the next biennium. We don't have a target to meet, but he is expecting to hear from every agency as to where they can trim from their budgets. This affects our operational budget and water strategy. Our initiative for 10 reservoirs in 10 years is still in the planning development stage. The monitoring wells to collect data for groundwater management in Ogallala area are probably also in jeopardy.

Upper CO River Basin pilot program - including the Upper and Lower Basin states of Colorado, Arizona and New Mexico – is funded by the municipalities and the Bureau of Reclamation. It was intended in the Upper Basin to determine if demand management would even work. They're paying people not to irrigate in order to prop up water levels in Lake Powell and Lake Mead. That has been fairly successful this summer in Wyoming. It is a two-year program intended to investigate whether demand management would work.

*Montana v. Wyoming* is still going on, dealing with a call on the river. The two states have communicated back and forth, which was a bit rocky at first, but we've gotten through the process successfully. We're still continuing to work on the case between the two states. It is still active litigation, but we can see the light at the end of the tunnel. The rains this summer have helped.

**Montana:** Millie Heffner was asked by Tim Davis to report on the construction of a bypass, diversion dam for the passage of sturgeon. The Feds are looking at what they can do to get an injunction lifted. Montana has an exception to the permitting process, allowing individuals to appropriate groundwater up to 35 gal/min. The Department was sued over their definition of what constitutes a combined appropriation. They prevailed in district court, but it was appealed to the Montana Supreme Court. We're hoping to get a scheduling order on that soon. There's been a lot of interest in the outcome of this case.

**New Mexico:** Greg Ridgley reported that Tom Blaine, who could not be here at this meeting, announced an initiative to reduce the permit applications backlog by 50% within the year 2015. This target was met ahead of schedule, reducing 1,400 pending applications down to 700. It was a real challenge and has been stressful, but we've been very pleased by the outcomes.

John Longworth reported on drought conditions. It's the third wettest year on record, which is a reversal from previous years. We had some good storms, and only about 8% of New Mexico is in moderate drought conditions. We are relieved about that. The drought monitor does not give the whole story. Most of the stream systems have good storage. The Rio Grande is relatively low at 200,000 acre-feet compared to a 200 million acre-feet storage capacity. That is a long-term indicator of how hard drought has hit us. We hope to get snow this winter. One reservoir is still barely keeping wet. Due to rains, a provision in the Pecos River Compact was invoked for the first time ever in nearly 70 years. We had the new experience of appropriating flood waters to store water for Texas, releasing the water at the end of August. It was a benefit to both states.

He provided New Mexico's perspective of the Animas River and the Gold King Mine spill. Some of the successes included the communication within state agencies at the Executive level and with residents. We set up a water fair where people could bring in water samples for testing. We had community meetings for (10) days with on-scene state, local and federal officials, providing updates and answering questions. This personal contact made a big difference with the local public community. It began to build trust. New Mexico never had to issue any orders. We asked folks not to divert any water until we were able to analyze enough samples to ensure water quality and lift any advisories, and experienced wide voluntary compliance. The metals testing took time, and the state police officers used a Code Red to transport samples at a speed of 130 miles per hour for as long as necessary to get some samples to the lab before it closed. A helicopter would have run out of gas before it reached the lab. It was a comical moment in a serious situation, but the lab reports were able to come out four hours ahead of schedule.

**Oregon:** Tom Byler reported on the five-year drought hammering communities in Willamette Valley, and coastal water users had tough year. It has been a "smelling salts" moment, and we stepped up legislation in the spring and summer and authorized $60 million in funding for grants and loans for several issues, including projects for feasibility studies, for planning at the basin and sub-basin level. We're looking at local interests, and trying to determine what sources might be available to them and develop options to meet their future needs. It's an exciting time to get these grant and loans programs up and running.

Governor Kate Brown issued an Executive Order for a 15% cumulative water reduction from state agencies, completing conservation efforts by 2020. Tiny agencies may have a very tiny staff, and they have been perplexed at how to meet the goal. We're not looking at them, though, focusing more on the big water users. We're hoping to get the Klamath legislation passed by the end of the year, before the agreement expires.

Recreational marijuana became legal on October 1. We're working to improve the education of growers. There has been a lot of interest in the program from folks interested in growing marijuana, with a gold-rush intensity of 3,000 people signed up for the new program.

**Kansas:** Dave Barfield reported that Kansas is reaching toward another interstate agreement on our disputes on the Republican River. It is probably the most comprehensive so far, with the agreements more long-term. We are making good progress, in a phase of dispute resolution. We now need to get the Bureau of Reclamation to work with the states.

## FUTURE COUNCIL MEETINGS

The 2016 WSWC Spring meetings will be held in Washington, DC on March 22-25.

## OTHER MATTERS

There being no further matters, the meeting was adjourned.