

**MINUTES
of the
193rd COUNCIL MEETING
Virtual Summer Meeting
(due to COVID-19)
July 22, 2020**

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MEMBERS AND ALTERNATES PRESENT

ALASKA	--
ARIZONA	Kyle Miller Ayesha Vohra Kelly Brown
CALIFORNIA	Jeanine Jones
COLORADO	Becky Mitchell Patrick Pfaltzgraff
IDAHO	Jerry Rigby Mary Anne Nelson
KANSAS	Earl Lewis Kenneth Titus
MONTANA	Tim Davis
NEBRASKA	Jesse Bradley
NEVADA	Jennifer Carr Micheline Fairbank James Bolotin Adam Sullivan
NEW MEXICO	John D'Antonio Greg Ridgley
NORTH DAKOTA	Jennifer Verleger
OKLAHOMA	Julie Cunningham Sara Gibson

OREGON

Tom Byler
Doug Woodcock

SOUTH DAKOTA

Kent Woodmansey

TEXAS

Jon Niermann
Jim Rizk
Kathy Alexander
Kathleen Ligon

UTAH

Todd Adams
Norm Johnson
Erica Gaddis
Todd Stonely

WASHINGTON

Mary Verner
Buck Smith

WYOMING

Steve Wolff
Chris Brown
Kevin Frederick
Sam Swartz

GUESTS

Christopher Estes, Chalkboard LLC
Ward Scott, Western Governors' Association
Jolene Walsh, Eastern Municipal Water District
Jordan Bunker, Las Vegas Valley Water District
Dave Tuthill, Recharge Development Corporation
Cindy Loeffler, Texas Parks and Wildlife Department
Earl Lott, Texas Commission on Environmental Quality
Marlo Berg, Texas Commission on Environmental Quality
Jill Csekitz, Texas Commission on Environmental Quality
Kim Nygren, Texas Commission on Environmental Quality
Lori Hanilton, Texas Commission on Environmental Quality
Scott Van Winkle, Texas Commission on Environmental Quality

WESTFAST

Deborah Lawler, Federal Liaison
Lauren Dempsey, U.S. Air Force
P. Brent Duncan, USDA-NRCS

Pat Lambert, U.S. Geological Survey
Chris Carlson, USDA Forest Service
Michael Higgins, U.S. Fish and Wildlife Service
Cherilyn Plaxco, U.S. Army Corps of Engineers
Kevin Werner, National Oceanic and Atmospheric Administration

STAFF

Tony Willardson
Michelle Bushman
Jessica Reimer
Adel Abdallah
Ryan James
Cheryl Redding
Joseph Brewer, Intern

WELCOME AND INTRODUCTIONS

WSWC Chair Jeanine Jones welcomed those in attendance at the meeting and expressed appreciation to Council staff and members for their support in her role the last few years as Chair.

Jeanine went over a few housekeeping items. Adel will be sending out a survey during this meeting to gauge how this meeting went virtually. We may follow up with a subsequent document depending on how that turns out. Jeanine discussed the Council's website and how it needs some work, as well as how to improve the website experience for members. She asked Council staff to put some website analytics on it and see what the traffic patterns were like - who was using this site, what they were accessing, etc. Tony and Adel had shared the results with her about a month ago which she felt is a useful first step. Also, the staff are in the process of migrating the website to one that has more bandwidth.

I am going to take the prerogative of the chair and try to do this as efficiently as possible. Since we are not meeting in person over several days, and we have all been here to hear the resolutions approved with changes in each of the Committees, I would like to entertain a motion to take all of the resolutions that were forwarded to the full Council for consideration, and vote on them together as a group, unless there is an objection or someone wants to pull out a particular resolution to discuss separately. I do not think we have any that were what I would call highly controversial in this bunch. Jennifer Verleger second the motion and it was approved virtually by members.

Resolutions of Appreciation were approved for Patrick Pfaltzgraff (Colorado), who announced that he had accepted a new position with a law firm in Arizona, and other recently retired or replaced members, including: David Barfield (Kansas); Maia Bellon (Washington);

Garland Erbele (North Dakota); Jeff Fassett (Nebraska); Eric Millis (Utah); and Maria O'Brien (New Mexico).

APPROVAL OF MINUTES

Jeanine did not move forward with the approval of minutes since the meetings held last in Breckenridge, Colorado on October 17, 2019, were a while ago. Due to COVID-19, the WSWC Spring 2020 (192nd) Meetings and Washington, D.C. Roundtable were cancelled, so there were no minutes from the Spring.

WESTFAST REPORT

Pat Lambert, Western States Federal Agency Support Team (WestFAST) Chair offered an update on WestFAST activities. He provided background on the creation of WestFAST for those who were new to the group. Steve Bartell from DOJ has been a *de facto* member, and will hopefully soon be fully included. They are now 21 members strong. We like and encourage having a member from each agency located in the West, as well as a member that is attached to the agency's headquarter office.

New members since our last meeting: Michael Eberle, National Water Rights Program Lead, U.S. Geological Survey (USGS); Heather Hoffman, National Resources Specialist, Natural Resources Conservation Service (NRCS); and welcoming back Bob Boyd, Chief, Assessment and Monitoring Branch, Bureau of Land Management (BLM).

The WestFAST core mission is to promote and facilitate coordination among federal agencies, and between the states and federal agencies and to help plan and implement collaborative efforts. WestFAST priorities include: continuing to develop and enhance lines of communication, awareness of the need for and opportunities for proactive collaboration, and to develop effective working relationships; open and integrated data; drought resilience and infrastructure; facilitating work plans/action plans related to the Presidential Memorandum on Water in the West; enhancing communication from state partners to WestFAST agency principals; and building WestFAST governance and a sustainable funding model.

With COVID-related restrictions, we have really emphasized continuing to communicate remotely. All of the federal meeting presentations that were scheduled in past spring were delayed or canceled, but were eventually done remotely, including all the webinars. Those have been really good. They have been well attended, excellent discussions, and really relevant topics. We want to get in front with our state partners on activities and projects so that we can get input from them, not just to communicate, but actually gain input from states, and then use those working relationships in program planning, etc. We really encourage our federal agency members to engage in these opportunities and we play a big role in getting the right people to participate and facilitate the development of the agenda, etc. I am looking forward to getting back to doing those face-to-face meetings as soon as we can.

There has also been enhanced communication between state partners and our WestFAST agency principals. We appreciate the letter from Tony and WSWC to the WestFAST principals.

Deb Lawler's term as federal liaison ends in January 2021. The new funding model is a two-year liaison starting at the beginning of the calendar year, which really helps our federal agencies with the ability to fund that position. We appreciate the opportunity to participate in these meetings. We are always bugging our liaison to make sure that we are being proactive with Tony and the WSWC staff on the establishment of the agenda so that we have an opportunity to not just speak on certain issues, but also to get in front of everybody and tell them about new things that are coming up.

Jerry Rigby commented that he has listened to several of the webinars and he has found them very relevant and good.

Tony added the Council's appreciation to WestFAST for all their efforts. The collaboration has been very beneficial.

Tim Davis expressed his appreciation to Pat and the WestFAST team.

Jeanine Jones echoed her thanks and gave a shout-out to Deb Lawler for her efforts.

NOMINATION AND ELECTION OF OFFICERS

Jeanine Jones was recognized and commended for her efforts as Chair over the past two years. New Council officers elected at this meeting were: Tim Davis, Montana Water Quality Division, as Chair; Jennifer Verleger, North Dakota Office of the Attorney General, as Vice-Chair; and Jon Niermann, Texas Commission on Environmental Quality, as Secretary-Treasurer.

STATE REPORTS

Nine states provided reports in writing, which can be found in the briefing materials.

Washington – Mary Verner said the state of Washington Water Resources Program is just wrapping up a report to our legislature regarding adjudications of water rights. We recommend we should come back when state resources are more readily available, which of course they are not right now. We want to get back on track with adjudicating the Spokane Basin which, of course crosses into Idaho, which I want to make clear in the interest of full disclosure, especially to my colleague, Jerry in Idaho. A part of our report on this adjudication assessment will be identifying interstate basins. As Tom Byler is aware, we have considered an adjudication in the Walla Walla Basin, which straddles Washington and Oregon. I also wanted to share with this group that our incentive for recommending to the legislature that we proceed with adjudications, in spite of the pandemic and our huge general fund hole, is noteworthy. We have three tribal governments that have petitioned the State of Washington to adjudicate their senior tribal water rights in state court.

Of course, we do not take those petitions lightly. One of those petitions are from two tribes in a basin on the Canadian border in Far Northwestern Washington. Another is from the Colville Confederated Tribes, also with land touching the Canadian border and including Lake Roosevelt, the huge reservoir behind Grand Coulee Dam. Of course, federal water rights (tribal and non-tribal) will be foremost if we in fact pursue an adjudication in the Upper Columbia. We have enjoyed bi-state coordination in the Walla Walla basin with our colleagues in Oregon. Thank you very much, Tom Byler and the staff in Oregon Water Resources Department. We are continuing to pour more effort into an area where we have conflicting past adjudication decrees with irrigators on both sides of the state border and local leaders who really want local control, which is probably a scenario that sounds familiar to many of you. Lastly, Washington is currently commenting on EPA's TMDL proposal for a Columbia River temperature TMDL [total maximum daily load].

Nebraska – Jim Macy expressed concern over meeting scheduling as several members on the Council have conflicting duties. For example, Jim is the President of the Environmental Council of States (ECOS) and has not been able to attend Council meetings for the last year or so due to schedule conflicts. He offered a reminder that we have meetings that overlap sometimes and made a few suggestions for consideration.

Utah: Todd Stonely announced that Todd Adams is the new Director of Water Resources and the new State Engineer is Teresa Wilhelmsen.

Montana: Tim Davis noted that Jan Langel asked him to provide some highlights from the Department of Natural Resources and Conservation. We have the St. Mary's Canal Project, which is a 100-year-old Bureau of Reclamation project. It takes water from the St. Mary's River just before it goes into Canada, and sends it all the way to the Milk River. We had a major canal blowout at two of the drops this year, which put at risk water resources for several communities, the Fort Belknap Indian Reservation, and over 140,000 acres of irrigation. We have talked about this project at past Council meetings and so I just wanted to let people know that this is what happens when you do not fully fund project maintenance and rehabilitations. Many of our water projects, or especially these legacy projects like the St. Mary's canal, are getting quite old. We are working with our congressional delegation to hopefully be able to secure funding for repairs and to switch the funding responsibilities from a 25/75 federal/non-federal split to a 75/25 split. We are quickly running out of water on what we call the Highland, which is basically central Montana, east towards North Dakota.

The Confederated Salish and Kootenai Tribes (CSKT) water compact with the State of Montana was passed. The first hearing in front of the House Indian Affairs Committee was in June and will be in the Senate Indian Affairs Committee on July 29.

While we are in the middle of the pandemic, and a recession, Montana has seen an incredible uptick in interest in development, new subdivisions, new requests for groundwater wells, and for water right permit applications. Just within Jan's programs, we saw a 50% increase in subdivision applications this June over June last year. The demand for water and for discharge permits is increasing, as it seems people may be looking to move to more remote locations.

We are in the process of reviewing the Keystone XL pipeline §401 application and we are also in the process of developing a site-specific international water quality standard on the Kootenai River for selenium. We are also working with a number of tribal nations, as well as British Columbia, the U.S. Geological Survey (USGS) and the Environmental Protection Agency (EPA) on that.

Nevada: Micheline Fairbank noted the Southern Nevada Water Authority has withdrawn 127 water right applications on their pipeline project. We issued Order 1309 in June. That decision was appealed by about eight separate affected water right holders and other interested parties within the basin. Micheline explained the hydrologic area has a connection that discharges to the Warm Springs area and Muddy River, which has an endangered species. We are continuing to work on the Humboldt River, which many of you have heard quite a bit about. We are also in the process of doing an administrative rulemaking. In Nevada, we allow any number of extensions of time for the perfection of a water right and the statutory standard is somewhat non-specific. So at the last legislative session, we were directed to develop regulations to clarify the criteria for those extensions of time. So that is what we are in the process of doing, and unsurprisingly, it has been not well received.

FUTURE COUNCIL MEETINGS

Due to the uncertainty of the COVID-19 pandemic, the Fall (194th) Meetings will be held virtually.

SUNSETTING POSITIONS FOR FALL 2020 MEETINGS

Tab XYZ of the briefing materials contains sunseting positions that will be brought up at the 2020 Fall meetings. There are two sunseting positions the Council will be considering.

OTHER MATTERS

Adel mentioned that twelve participants had responded to the survey with an evaluation for virtual meeting. We have received some good responses that will help us better organize the meeting in the Fall. For the rest of you, if you would please fill out the survey, it should not take too long.

There being no other matters, the meeting was adjourned.