

**MINUTES  
of the  
198th COUNCIL MEETING  
Doubletree Hotel – Washington, DC – Crystal City  
Arlington, Virginia  
April 6, 2022**

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198th COUNCIL MEETING  
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April 6, 2022**

**MEMBERS AND ALTERNATES PRESENT** (*\*via zoom*)

**ALASKA**

**ARIZONA**

Amanda Long-Rodriguez  
Ayesha Vohra

**CALIFORNIA**

Jeanine Jones  
Joaquin Esquivel

**COLORADO**

Jeremy Neustifter

**IDAHO**

John Simpson  
Jerry Rigby

**KANSAS**

Connie Olson  
Earl Lewis

**MONTANA**

**NEBRASKA**

Tom Riley

**NEVADA**

Jennifer Carr  
Micheline Fairbank

**NEW MEXICO**

Rebecca Roose

**NORTH DAKOTA**

Jennifer Verleger

**OKLAHOMA**

Sara Gibson

**OREGON**

**SOUTH DAKOTA**

Nakaila Steen

**TEXAS**

Jon Niermann

**UTAH**

Erica Gaddis  
Todd Stonely  
Norm Johnson  
Candice Hasenyager

**WASHINGTON**

*Mary Verner*

**WYOMING**

*Chris Brown*  
Jeff Cowley  
Jennifer Zygmunt

**GUESTS**

*Travis Yonts*, Bureau of Reclamation  
*Shelly Lemon*, New Mexico Environment Department  
Kathy Alexander, Texas Department of Environmental Quality  
*Nat Chakeres*, New Mexico Office of the State Engineer

**WESTFAST**

*Heather Hofman*, Federal Liaison  
*Chris Carlson*, U.S. Forest Service  
*Lauren Dempsey*, US Air Force  
*Roger Gorke*, Environmental Protection Agency

**STAFF**

*Tony Willardson*  
Michelle Bushman  
*Cheryl Redding*  
Adel Abdallah  
*James Ryan*

**WELCOME AND INTRODUCTIONS**

WSWC Chair Jennifer Verleger welcomed everyone.

## **APPROVAL OF MINUTES**

Jon Niermann moved to approve the minutes of the meeting held on September 16, 2021, in Deadwood, South Dakota. Norm Johnson seconded, and they were unanimously approved.

## **COMMITTEE REPORTS**

### **A. Water Resources Committee**

Micheline Fairbank provided an overview of the Water Resources Committee. Positions No. 432 and 433 both passed out of the committee with the edits that were presented under Tab C. We had a presentation and roundtable discussion with representatives from NIDIS, the National Water Climate Center and the National Drought Resiliency Partnership. We heard an update on the Sub-seasonal to Seasonal (S2S) Forecasting. We reviewed the committee work plan. There were four states that raised concerns with respect to permitting pumped storage projects - Nevada, Oklahoma, Washington and Wyoming – and would like to have further discussions on this topic.

Micheline moved that the Full Council approve Positions No 432, as it relates to rural water infrastructure needs and projects, and No. 433 as it relates to renewable hydropower development, with the edits reflected under Tab C. The motion was seconded and the positions were unanimously approved.

### **B. Water Quality Committee**

Erica Gaddis reported that the committee heard an update from Chris Carlson on the WestFAST wildfire webinar series and provided a brief overview of the rest of the agenda. She reviewed the recommended changes to Position #472 on Clean Water Act jurisdiction. She entertained any questions on this position. Joaquin Esquivel commented that the Supreme Court docket decision today (granting the *Sackett v. EPA* petition) may introduce some uncertainty and asked how that may impact our work on this position. Erica moved that the Full Committee adopt #472 with those edits shown on the shared screen. Jon Niermann seconded. The motion was approved without opposition or abstaining. Erica expressed appreciation for everyone's good work and collaboration on this position.

She noted that there may be a workshop on regional WOTUS implementation at the Summer 2022 meeting to help carry out some of the provisions of the re-adopted position.

### **C. Legal Committee**

Jen Verleger provided an update. The committee voted to recommend Proposed Position No. 470 regarding endangered species with some modified language. Jen asked for a motion to pass the position. Norm Johnson moved for the vote, which was seconded and approved.

#### **D. Executive Committee**

Jen Verleger noted that the committee reviewed the budget and discussed the potential of a 10% increase in dues. For states that need budgeting information prior to the summer meetings, Cheryl will send out a letter in the next month or so which will mention that we are considering it. Jen encouraged everyone to take a look at the workplans to be approved at the next meeting, as well as the following sunseting positions: Position No. 434 - Preservation of Radio Frequencies for Weather forecasting and Water Management; Position No. 435 - Resiliency of Our Nation to the Impacts of Extreme Weather Events; Position No. 436 - Regarding Hydraulic Fracturing; and Position No. 437 - Supporting Water Research Department of Energy National Laboratories.

The committee had one action item, to recommend approval of some modifications to the Rules of Organization, which is under Tab E. Jen provided a recap of a discussion held during the Deadwood meetings on the WOTUS position that was scheduled to sunset. Our original rules of organization say that any member state could ask for a delay in voting on a position until the next meeting, however, there was no provision to deal with the circumstance of a sunseting position, where the requested delay would effectively enable one state to cause the position to sunset. In the case of the WOTUS position, not all states were in agreement on the language, and some states wanted more time to find some common ground. Thankfully the states were able to work out a compromise at the Deadwood meeting and continued to work on the position again for this meeting. Had the position sunsetted, WSWC would not have been able to submit comments to the Administration on various federalism concerns related to the new WOTUS rulemaking process.

As part of that, we also needed to look at organizational change in the rules so that we don't get stuck in that situation again.

Michelle brought up the suggested changes on the screen. "In any matter put before the Council for a vote, other than the election officers, or sunseting positions, any member state may upon request obtain one automatic delay in the voting until the next regular meeting of the Council. Further delays in voting on such matters may be obtained only by a majority vote." This change would avoid any position from sunseting due to any one state's request for a delay in voting leaving it as a standing position for future reconsideration. Jen asked if anyone had any comments on that change.

We also added some language: "The Council will attempt to resolve any objections raised through WGA, and will not distribute any position if a majority of WSWC-member state governors object." We added some language to clarify that sunseting positions will be adopted at the next closest regularly scheduled council meeting so we don't need to worry about as the meeting dates don't always line up with the three-year mark for sunseting positions.

Tony: With respect to our coordination with WGA, just to clarify, we do provide the governors and WGA with the notice of our meetings, proposed changes, or any newly proposed positions for their review prior to the Council meeting. We assume then that you will raise any concerns with your governor's office and that they have input in that manner. This proposed

change to the Rules of Organization relates to external policy positions that may be taken by the Executive Committee in between Council meetings, such as to meet a deadline for comments on a proposed federal rule that arises and ends in between those meetings. Those would not be noticed for the Full Council or the governors in the usual manner, but still go to the governors for a review. This clarifies that a single objection from a governor would not automatically nullify the Council's action, but that we would work to try to resolve those issues. Unless there was a majority of the governors that were opposed to that position moving forward, it would take effect. Obviously, we attempt to ensure that we are consistent with the WGA's positions. I think the only instance that I can think of where the governors do not have a position at this point is on WOTUS.

Michelle: And on Indian Water Rights.

Tony: In that case, the governors, or at least WGA, has chosen to defer to the Council to take the lead on some actions and issues such as Indian water rights.

Jerry Rigby moved that we use the first option in Article 10, and then the changes in Article 11 be adopted. Tom Riley seconded. With no further discussion the changes were approved.

### **NOMINATING SUBCOMMITTEE/ELECTION OF OFFICERS**

Jerry Rigby reported that the Council needs a new Secretary. The Nominating Subcommittee recommended that Erica Gaddis be nominated, and so on behalf of the subcommittee, Jerry moved that she be elected as Secretary of the WSWC. Jon Niermann seconded. The Council approved.

### **RESOLUTIONS OF APPRECIATION**

Jen Verleger noted the following resolutions: Todd Adams (UT); Greg Lanning (WY), John D'Antonio (NM), Greg Ridgley (NM), Cara Hendricks (KS); and one for Norm Johnson (UT). Candice Hasenyager expressed her appreciation for Norm's work and noted that it is a bittersweet time for western water. Tony commented that Norm also served as the WSWC Legal Counsel. Jerry Rigby thanked Norm for all of his efforts. Rebecca Roose added her appreciation for the resolutions recognizing John and Greg.

Jen next read a Resolution of Appreciation for Cheryl Redding, who has announced her retirement effective June 30. This technically will be her last meeting. We want to recognize Cheryl's many contributions and express our heartfelt appreciation for her dedication to us. We recognize her for her inestimable contributions and irreplaceable friendship.

Tony: Cheryl really will be irreplaceable. She's been a good friend as well as colleague and really makes the office run and keeps me in line. And we will miss that definitely.

Jen made a motion for all the resolutions to be approved by acclamation. Erica Gaddis seconded. The resolutions were approved by acclamation.

### **WESTFAST REPORT**

Heather Hofman, WestFAST Liaison, reported on the ongoing series of wildfire webinars, and noted that they are planning to have a related workshop in the Fall that they hope to have all the states involved with. She noted the effort to prepare for the D.C. Roundtable and upcoming meeting with the Water Subcabinet and WestFAST principals, and the plans to discuss strategy based on the things discussed earlier this week.

Chris Carlson noted that Heather's term as Liaison will end at the end of 2022. They are initiating an effort to recruit a new federal liaison from within the WestFAST member agencies and hope to know who that will be by the time the fall meeting comes around.

### **STATE REPORTS**

Given the short timeframe, this was item was skipped over.

### **FUTURE COUNCIL MEETINGS**

Michelle mentioned that members should let staff know if there are specific topics of interest for future meetings. Kansas mentioned WRDA and recent congressional approval of infrastructure spending, and the potential to address state water plan priorities that lack adequate funding, particularly in coordinating existing federal programs. The topic of pumped storage permits was previously mentioned.

The WSWC Summer Meetings (199th) are scheduled to be held in Polson, Montana on August 2-5, 2022, at the KwaTaqNuk Resort/Casino.

### **SUNSETTING POSITIONS FOR SUMMER 2022 MEETINGS**

Tab XYZ of the briefing materials contains sunsetting positions for the 2022 summer meetings. Please review them and get any changes to staff.

### **OTHER MATTERS**

There being no other matters, the meeting was adjourned.