

**MINUTES
of the
201st COUNCIL MEETING
Peppermill Resort Spa Casino
Reno, Nevada
May 24, 2023**

Table of Contents

Welcome and Introductions	3
Approval of Minutes	3
Committee Reports	5
Water Resources Committee.....	5
Water Quality Committee	5
Legal Committee.....	5
Executive Committee.....	6
Western Water and Climate Initiatives	8
WestFAST Report.....	11
Federal Water, Forest & Hazards Mitigation Programs Integration.....	13
State Reports	18
Future Council Meetings.....	37
Sunsetting Positions for the Fall 2023 Meetings	37
Other Matters	

**MINUTES
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201st COUNCIL MEETING
Peppermill Resort Spa Casino
Reno, Nevada
May 24, 2023**

MEMBERS AND ALTERNATES PRESENT *(via zoom)*

ALASKA

*Julie Pack
Tom Barrett
Emma Pokon*

ARIZONA

*Trevor Baggione
Amanda Long-Rodriguez
Ayesha Vohra*

CALIFORNIA

*Jeanine Jones
Joaquin Esquivel*

COLORADO

Jojo La

IDAHO

*Jerry Rigby
John Simpson*

KANSAS

Connie Owen

MONTANA

Anna Pakenham Stevenson

NEBRASKA

*Tom Riley
Jim Macy*

NEVADA

*Jennifer Carr
Adam Sullivan
Melissa Flatley*

NEW MEXICO

NORTH DAKOTA

*Jennifer Verleger
Andrea Travnicek*

OKLAHOMA

Sara Gibson

OREGON

SOUTH DAKOTA

Nakaila Steen

TEXAS

Jon Niermann

UTAH

John Mackey
Sarah Shechter
Todd Stonely

WASHINGTON

Buck Smith

WYOMING

Chris Brown
Brandon Gebhart
Jennifer Zygmunt
Jeff Cowley

GUESTS

Christopher Estes, WSWC Alumnus
Anna Johnston, USDA Forest Service
Tim Newman, U.S. Geological Survey
Gabriel Venegas, USDA Forest Service
Stephanie Granger, NASA/JPL-Caltech
Jaron Ming, U.S. Fish and Wildlife Service
Michael Whitehead, Bureau of Indian Affairs
Christian Dunkerly, Desert Research Institute
Renee Moulun, Oregon Department of Justice
Tanya Trujillo, U.S. Department of the Interior
Melissa Roberts, The American Flood Coalition
Erica Gaddis, SWCA Environmental Consultants
Jason Cooper, Nevada Division of Water Resources
Bunny Bishop, Nevada Division of Water Resources
Lauren Bartels, Nevada Division of Water Resources
Hannah Singleton, Southern Nevada Water Authority
Nicole Goehring, Nevada Division of Water Resources
Charley Palmer, Alaska Department of Environmental Conservation
Joe Casola, National Oceanic and Atmospheric Administration
Janell Woodward, Nevada Division of Emergency Management
Kathy Alexander, Texas Commission on Environmental Quality
Chad Stephens, Nevada Department of Conservation and Natural Resources
Kristen Averyt, Council on Environmental Quality, Executive Office of the President

WESTFAST

Lauren Dempsey, U.S. Air Force
Mike Eberle, USDA Forest Service
Mindi Dalton, U.S. Geological Survey
Christopher Carlson, USDA Forest Service
Paula Cutillo, Bureau of Land Management
Forrest Melton, NASA Ames Research Center
Roger Gorke, Environmental Protection Agency (Chair)
Madeline Franklin, U.S. Bureau of Reclamation (Liaison)
John Powderly, Federal Emergency Management Agency
Heather Hofman, NRCS National Water and Climate Center

STAFF

Tony Willardson
Michelle Bushman
Adel Abdallah
Ryan James

WELCOME AND INTRODUCTIONS

WSWC Chair Jennifer Verleger welcomed everyone. Jennifer noted that the Council lost its longest standing member, Roland Westergard, this past year. She read the following: Roland D. Westergard passed away peacefully on Sunday, October 23, at the age of 88. A WSWC member since 1967, Roland served as the Nevada State Engineer from 1967-1978, and then as Director of the Department of Conservation and Natural Resources until 1990. Roland was a life-long advocate for the WSWC and state water resources management. He chaired the Council from July 1988 to July 1990. His passing marks the end of an era, as the last of many that participated in the formative years of the Council. We are grateful for our long association and will miss him!

APPROVAL OF MINUTES

A motion to approve the minutes of the meetings held October 21, 2022, in Sulphur, Oklahoma was offered and seconded. The minutes of the meeting were unanimously approved.

COMMITTEE REPORTS

A. Water Resources Committee

Andrea Travnicek, Chair of the Water Resources Committee, reported that the Committee had a very full agenda and reviewed numerous positions. The positions that were considered and approved by the Committee and now forwarded for the Full Council's approval are found in your briefing materials under Tab C with the numbers as follows: #441 - #445, #447 - #448, #450 - #452. Andrea moved for the Full Council to approve all these positions as modified. The motion was seconded, and all were unanimously approved.

The Water Resources Committee heard presentations on S2S precipitation forecasting, Landsat, OpenET, and the NIDIS Climate Engine. There were also presentations on the Water Supply Outlook and what has been happening with the Great Salt Lake and the Colorado River Basin. In addition, the Committee heard informative reports on the WSWC's Western States Water Data Access and Analysis Tool (WestDAAT) and data collection from the western states in WaDE to help inform water resources planning and policies. She expressed thanks to all the presenters and speakers.

B. Legal Committee

Chris Brown reported on Position #453 and Position #449. There were no suggested changes other than some minor typographical edits. Chris moved acceptance of those positions. The motion was seconded and both positions were unanimously approved.

The Committee heard a presentation from Nevada dealing with some very interesting groundwater challenges that the state is facing. Council staff discussed legal terms and regulatory boundaries for the WaDE data. They will be reaching out to states to get some assistance with descriptions for those terms. The Committee also heard presentations regarding federal programs with potential water rights implications, first, on Stream & Wetlands Restoration and Water Rights from Mike Erbele, and second, Drought Resilience, Pumped Storage, Innovative Projects from Roger Gorke. These programs offer some good opportunities to coordinate and consult with our federal partners to talk about potential impacts to state rights. Paula Cutillo discussed new policy guidance on the BLM Aquatic Resource Program Michelle Bushman provided updates on legislation and litigation.

C. Water Quality Committee

Chair Jennifer Zygmunt reviewed the presentations given during the Water Quality Committee. Martin Lowenfish, NRCS Outcomes Division Director, discussed the Western Water and Working Lands Framework. The NRCS is taking actions with partners to address increasing water demand in the West and address water quantity and quality issues. Brian Frazer with EPA and Stacey Jensen with the Army Corps of Engineers provided updates on Waters of the United States (WOTUS). They discussed the overall status of WOTUS and the various litigation. The Corps is moving forward with implementation and training for the final rule that they approved in

March. We reiterated the interest in seeing engagement moving forward, recognizing that states are in different regulatory regimes right now due to litigation.

Michelle Bushman and I talked about the work our PFAS Subcommittee did, including the roundtable that was held in January 2023 to get feedback on successes and challenges Western states are addressing with PFAS. We received a lot of helpful feedback from that roundtable. The Committee decided that we don't need to pursue a separate resolution for PFAS at this time, but we can work on PFAS related items in other resolutions as needed.

The Committee held a roundtable discussion about two EPA proposed rules regarding tribal water quality standards. There is currently a rule for tribal reserved rights, as well as another rule for promulgating federal baseline water quality standards for tribes that do not currently have them. We reviewed the status of those EPA actions. Someone from EPA helped with that discussion and provided updates on the federal baseline rule.

A position has been presented before the Council's consideration regarding the tribal reserved water rights rule. The Water Quality Committee moved two versions of that draft position for the Council's consideration. The first version is the draft position as presented in the briefing materials, with a few minor edits, but keeping focus solely on the tribal reserved rights. The Committee put together a second draft version that kept the tribal reserved rights language but added in language to speak to the baseline water quality standards. Thus, there are two versions for the Council's consideration. Jennifer entertained a motion on whether the Council wished to move forward with version one or version two of the resolution. Jim Macy offered a motion to move forward with version two. The motion was seconded by Jon Niermann. The motion passed.

Regarding version two of the position, Emma Pokon noted that some of Alaska's agencies are having challenges with how the federal MOU on tribal consultation is being implemented in Alaska. We're a little concerned about having a resolution that may be interpreted as support for that MOU and the approach that the federal agencies are taking. It feels to us like the federal agencies are using the trust responsibility as a way to leverage an expansion of federal authority in the state. I was hoping that it might be possible to either remove the reference to the MOU entirely or shift the language a little bit so that we have a little bit of shelter from the implication that we might support the MOU. Alaska supports the position that federal agencies need to take responsibility for determining reserved rights.

Jennifer Zygmunt: So, would you propose revisions to the first now therefore be it resolved clause stating the Council supports a fulfilment of the MOU obligations, including the establishment of a searchable database? I think the main intent of that is that if EPA is committed or the agencies are committing to developing that searchable database, that is a resource that would be needed. Would you be comfortable trimming that down to say, the Council supports the establishment of a searchable database, as outlined in the MOU obligations, and instead of indicating support for the full MOU, indicate support for the searchable database?

Emma Pokon: I think that the searchable database is a great idea. I think more information being made available more widely is an admirable objective. So yes.

Jennifer Verleger entertained a motion on the revised position. The motion was seconded. With no further discussion, the position as revised was unanimously approved.

The second sunseting position #446 is a resolution on clean and drinking water state revolving funds (SRFs) and State and Tribal assistance grants. The Committee reviewed and discussed the position, making edits to more strongly convey impacts of the federal earmarks on state capitalization grants and how that will affect primacy programs under the Clean Water Act and Safe Drinking Water Act. The edits were shown on the screen. Jennifer Zygmunt moved that the Council approve the revised position. Jennifer Verleger called for a second. The modified position was unanimously approved.

D. Executive Committee

Jon Niermann relayed that the Executive Committee considered two foundational positions for readoption and recommended them to the Full Council. Jon moved that the Full Council readopt Position #449 regarding preemption of state law in federal legislation, and Position #453 regarding water-related federal rules, regulations, directives, orders and policies. Jen Verleger called for all in favor of readopting the two positions. There was no opposition, and the positions were approved.

Tony Willardson reported on the Council's budget. At last year's Summer meetings, the Executive Committee approved an increase in dues to \$36,000 per year. Some state dues for the next fiscal year have already been received. We are still collecting dues for the current fiscal year for some states. We expect to receive full dues from all our member states.

Of note, at times Council staff have struggled to identify which state agencies are making the dues payments. For example, with an electronic funds transfer, it just comes from the State of Nevada. We would recommend that for those states that are splitting their dues among different agencies, it would be helpful if maybe one agency pays \$18,000 and one cent, so that we can determine where the payment is coming from. Alaska is splitting the dues three ways, and we'll let you decide who pays the extra one or two cents. Hopefully this would make it easy for us to identify which agency is paying.

Since Cheryl's retirement, our former office manager who retired last July, we have not filled that position. We also have an open position for a policy analyst, which will leave some unexpended funds this fiscal year. We intend to fill those positions. The Executive Committee approved the FY2024 budget with the direction that the Management Subcommittee can make changes as needed, and with the understanding that we intend to fill the vacant staff positions in this next fiscal year.

We have divided the budget between the Council's core functions and our WaDE program. We have a total of \$1.3 million roughly in philanthropic funding. We currently have a \$200,000 WaterSMART grant for Applied Sciences supporting WaDE. The funding we currently have is sufficient for the next fiscal year. We are working with the Bureau of Reclamation, USGS and

with some of our philanthropic sources to see if we can ensure that we have more long-term funding.

One other thing I would mention relates to Cheryl's retirement. We paid her out a little over \$23,000 for her annual leave and accrued sick leave as allowed by our policies. In the past, the Council did not have a sinking fund to cover such expenses, although we do now. Thus, when the day comes that I retire, there will be sufficient money for the Council to pay my retirement benefits without having to impose on our operating budget. Similarly, we have an equipment sinking fund which can be used to cover large expenditures such as a Xerox machine.

Several years ago, the WSWC purchased the office space, so we own one-half of the building in an office complex. That has saved about \$20,000 a year over the cost of renting, however we do still have to pay to keep it maintained. In the long run, it has been a cost savings.

Tony commented on the reserves – funds that are not currently required for operating expenses. The WSWC reserve funds are held in the State of Utah Public Treasurer's Investment Fund, which are the same investments in which Utah state agencies hold their money. Since most member states pay their dues early in the fiscal year, those funds cause a spike in our revenue, which is drawn down throughout the year as meet our operating expenses. The reserves and the revenue spike have allowed us to continue WaDE operations as we wait for reimbursement payments and other income from philanthropic sources.

WESTERN WATER AND CLIMATE INITIATIVES

Kristen Averyt, Director, Drought and Western Resilience, White House Council on Environmental Quality thanked the WSWC for the opportunity to talk about the Administration's priorities related to drought, as well as partnerships and investment opportunities. It shouldn't come as a surprise that the Administration's top priority right now relates to drought on the Colorado River. Her powerpoint presentation is available [here](#).

On Monday, the Department of the Interior announced that the seven basin states reached consensus on a proposal to reduce the use of Colorado River water by 3 million acre-feet through 2026. This is really a tremendous accomplishment. That said, we fully recognize that this is a short-term alternative and that the hard work really lies ahead as negotiations proceed towards agreement on the 2027 interim guidelines as we prepare for diminished water resources in the future on the Colorado River. I want to thank anybody in this room that played a role in those negotiations. We know how difficult and how challenging they were. The stage has been set for what needs to happen moving forward. She noted that drought, and water resource issues more broadly, really does have the attention of those in the White House. The President issued a statement, his first ever on the Colorado River, on Monday in the wake of this announcement. He recognizes that this is an important step forward in efforts to protect the stability of the Colorado River system in the face of climate change and historic drought conditions.

I also want to emphasize that the work on the Colorado River is proof-of-concept of the whole governmental approach being taken to address issues that are related to climate change and what is being done with respect to the river. A staff group from different sections of the White House focusing on this issue. They meet regularly with leadership from the Department of the Interior, USDA, EPA, the Corps of Engineers, and others that play a role. This issue is not particular to any one agency. It is about braiding, layering, and making sure that we're bringing resources to bear on these issues and not leaving any gaps.

The principals across the White House leadership cabinet members as well as the President and the Vice President have been on the ground in the Colorado River Basin, talking to people to try to figure out what needs to be done. Are enough resources being deployed? Are they meeting the needs of the folks who are on the ground? The Chair of CEQ is on the ground this week in the Colorado River Basin. Again, we're not done yet. It is important to ensure that we are talking to people now and engaging to make sure that we are effectively deploying the resources that are available through the Bipartisan Infrastructure Law (BIL) as well as the Inflation Reduction Act (IRA). The BIL is the largest investment in the history of the United States in terms of building resilience of our physical and natural systems. It is not just about ensuring that our that our investments in bridges, highways and physical infrastructure are resilient to the increasing frequency and intensity of extreme events, but also ensuring that our communities are resilient to the impacts of climate change. Take drought for example. We need to make sure that we are prepared for what lies ahead, because these kinds of resources might not become available yet. See slide #7 for a listing of some of the BIL dollars that could be deployed to address drought, though it is not comprehensive. Looking at these buckets of resources, there is a common theme that these are nature-based solutions or ecosystem services. I understand that WSWC members went on a field trip earlier this week, and as we think about the connections between healthy watersheds and healthy water resources, there are opportunities to protect wetlands and look at wildfire protection measures to ensure the resilience of water resources. I would encourage people to look at these resources that you can bring to bear on the issues in your communities and in your states. Additionally, there are a lot of resources available in the BIL simply for fixing leaky pipes.

The IRA marks the largest investment in history in clean energy and addressing climate change. This legislation, again, is unprecedented. When we look at the IRA dollars, there is \$390 million for NOAA, specifically for weather and climate research and forecasting. There are also dollars included for computing and for data centers. The big winner was USDA. USDA received \$18 billion in additional resources for system conservation programs. This is a plus up for the conservation programs that they already have in place, particularly for the Regional Conservation Partnership Program (RCPP) and Automated Standard Application for Payments (ASAP).

I would point out that there is \$4.6 billion available to the Bureau of Reclamation that is specifically allocated to address the Colorado River Basin and other basins that are experiencing similar levels of drought. Slide 12 notes several of the contracts across the basin that have already received funding as part of the efforts of Department of Interior, USDA and others to allocate resources to address the short-term issues in the basin. There are more resources to come. A White House fact sheet came out on April 6, and it contains more specifics about the dollars that have been allocated already. Looking across all the resources available in IRA, there are about \$15

billion specifically that can be used for drought resilience. Other programs also have touch points on drought that could be leveraged.

We are learning that the whole-of-government approach being used in the Colorado River Basin can be used as a model for addressing water resource issues in other basins. The White House is figuring out how to take the lessons they are learning and share across the different federal agencies and how to collaborate. We are building a spreadsheet, which grows almost by the day, of the different agencies and interagency groups working on water. The list currently consists of 52 different entities, including WestFAST. We are trying to identify what each of the entities are doing and what their authorities are, so we can become more efficient and streamline the different entities so that leadership is paying attention and policy development is taking place at the highest levels through the tiered structure and to ensure that information is bubbling up to the highest levels. Resources need to be deployed to the people on the ground so they can address both short-term and long-term resilience issues.

Questions

Tony Willardson: Kristin, can you mention a bit about the new Water Policy Committee for the Floods Act and how that fits into the whole-of-government approach?

Kristin Averyt: Roger Gorke works with the Water Policy Committee. The Floods Act that passed late last year really codified the water sub-cabinet that was established by a prior administration. That Water Policy Committee is now essentially trying to identify how they want to coordinate across the different agencies and at that level of government. That is a very important component for identifying what this constellation of interagency working groups looks like. How do we make sure that we braid and stitch them together? I think that is a keystone. I look forward to sharing where we land with that.

Michelle Bushman: I noticed that WestFAST is on your list of different agencies and interagency groups working on water. WGA and WSWC helped create WestFAST and we have a vested interest in them. So, I just wanted to put a plug in for keeping WestFAST as you look at authorities and how to streamline entities.

Kristin Averyt: Thank you so much for that. We want to hear what is working. I want to hear your input. The last thing we want to do is break something that's working, particularly when it comes to water. So that kind of input is incredibly helpful. My email is in the presentation, so please shoot me an email and let me know.

Buck Smith: I don't know if you have an answer to this but given the Lower Basin Colorado River states have committed to saving water, do you have any idea how they plan to backfill that water?

Kristin Averyt: In the press release and in the reporting, a little over \$1 billion is going from the IRA resources towards that short term conservation. I think that is roughly 2 million acre-feet in conservation that is tied to those dollars. The additional conservation measures are agreed upon by states and they are "going to figure it out." I don't have details that I can share beyond that.

Connie Owen: In Kansas, the western third of our state is in severe crisis with the depletion of the Ogallala Aquifer and we're also at ground zero for severe drought in the country right now. This is our third year running. I'm very interested in the concept that the Colorado whole-of-government approach is something you're interested in applying in other basins. I wonder if there is a way that we can advance that conversation?

Kristin Averyt: The more that we hear from people that you wish to apply that approach to your basins, the better off, we're going to be to make sure that we can address that. We are certainly paying attention. It's about figuring out how, through the current government structures, make sure that we can necessarily expand this framework. We are paying attention to the Klamath of course, to the Rio Grande, to everything in the Mississippi and the Missouri -- I mean, ACF, ACP, all of it. We recognize that there are issues in different places, and there are going to be different folks that need to be at the table to address the issues, right? So we have different agencies and different programs. How do we harness all of that so we can do precisely that?

Connie Owen: I hope it's okay if they reach out to you afterwards.

Kristin Averyt: Certainly.

WESTFAST REPORT

Roger Gorke, WestFAST Chair (EPA), noted that WestFAST previously consisted of 12 agencies. Now there are 15 agencies, which shows that the team is growing. We continue to get more members, many of which are attending this meeting. It is important to coordinate and leverage federal programs and efforts regarding water resources. We want to partner with you. There is a robust group of folks with a national perspective, and with on-the-ground regional perspectives, and that really adds to the value of WestFAST. Roger showed a list of the current WestFAST agencies. Also, under Tab C in the briefing materials there is a list of the federal agency support team with everybody's name, email and phone number.

Thanks to our former liaison's work, WestFAST has spent the last year and a half presenting a webinar series highlighting the impacts of and ways to protect water resources from wildfire. Many thanks to Heather Hofman for her efforts during this series. Additional webinars are pursuing water issues around pumped storage and stream restoration.

Roger commented that it seems like with each of the changes in the liaison position, the team gets better and better. The liaison's shoes become bigger and bigger to fill. There also seems to be a pattern such that once a liaison comes in, they become affixed to WestFAST. You may remember that Pat Lambert from USGS came in as liaison, then he became a WestFAST member, and then he became WestFAST Chair. That is a pattern we hope to continue. The point of the liaison is to come in, get experience in making connections with other federal agencies, and take that experience back to their own position where they do their usual, normal work. This is intended

to be something that sticks with the liaison for the rest of their career. Our new liaison, Madeline Franklin, has been with us now for six months.

Roger sees the WestFAST team as being infused in the different committees of the Western States Water Council for multiple reasons. He believes it is important for members of the WestFAST team to provide information about their agency programs, what's new, and how to access them, etc. This provides opportunities to collaborate and talk about our programs and determine if there are any barriers, and then find ways towards resolution. Thus, if there is something happening with an agency that you don't know, for example, you're trying to get a permit, it gets submitted to an agency, and then you don't know what is happening, (is it sitting on someone's desk?), we can help figure it out. You can contact any one of us on the WestFAST list. It is important for us to determine how we can create connections and collaboration between the Feds on a state or basin level.

Jeanine Jones: Following up on Kristen's comments about the whole-of-government approach, as I mentioned yesterday, there is an upcoming Council workshop in San Diego in August on S2S. Maybe we can get a panel of the WestFAST agencies there and talk about how they can participate in S2S or specify what their agencies and doing in this regard. The heavy lifting needs to be done by NOAA, but there are other agencies that could help out.

Roger Gorke: I think that is another example for where it may not be a specific WestFAST member, but we can get to whom that might be within our agencies to make sure that you have the right people there.

Jason Cooper: I want to give a shout out to Roger Gorke and WestFAST team. He noted that the Nevada Department of Environmental Protection recently reached out to Roger and the team to help with a water system situation that was in a dire situation. The Moapa Valley Water District has one water line from sources 12 miles out of town and across BLM land. They submitted permits to the BLM in 2016, which have been sitting without any notification since that time. They are in desperate need of rehabilitation. We were unable to figure out what was going on, so I reached out to Roger and the WestFAST team. Through email circulation, I have recently heard that the permits are now under review. So, I want to say thank you very much. It works. WestFAST is a great tool. Please don't break it.

Roger Gorke: Thank you, Jason. Yes, that's a great example. I wasn't going to mention names, so as not to throw anybody under the bus. But, you know, it happens. We're all understaffed. Jennifer Carr has talked about workforce issues at the state level in Nevada. Well, there are also workforce issues at the federal level. Things keep coming in such as permits or grant applications, etc. We cannot quickly fill job positions. But I'm glad you found WestFAST a helpful tool. If you find that we don't have a federal agency on our team that you need to work with, please let me know. The Bureau of Indian Affairs is an agency we've begun to work with to get a name to add to the list.

FED. WATER, FOREST & HAZARDS MITIGATION PROGRAMS INTEGRATION

A panel discussed Nevada's recent experiences in working with federal agencies to find ways to address drought resiliency and mitigation by updating their hazard mitigation plan to qualify for funds under a FEMA program. Participants on the panel were Jason Cooper, Director, Nevada Department of Environmental Protection; Bunny Bishop, Chief, Water Planning & Drought Resiliency, Division of Water Resources; and John Powderly, Federal Emergency Management Agency, Region 9. They shared a joint PowerPoint presentation.

Roger Gorke noted that this effort has been a success story of collaboration between federal agencies, and then collaboration at a state level. Frankly, the state did the work. It was a matter of the WestFAST team helping get the group together.

Bunny Bishop thanked the Council for inviting the panel to share their experiences. Drought impacts multiple sectors of society and can last multiple years, or as we've seen in some areas, you can have flash drought, making it a very challenging natural disaster to address. Since drought is complex, it leads to mitigation across multiple agencies at the federal, state, and local levels. To integrate with federal funding sources, states need to coordinate with federal agencies to access the increasing sources have been coming online. Many of these sources require planning documents. Thus, states must make sure your planning documents are in place and that all the elements check the boxes needed so that you are eligible for drought mitigation projects.

Roger listed a few of the state plans that are required for federal program eligibility. For instance, for EPA State Revolving Funds, at the state level there must be an intended use plan in place. For FEMA mitigation grant programs, you must have a state hazard mitigation plan in place. For Forest Service, there must be a State Forest action plan, and so on. Often, planning done at the state and local levels is somewhat siloed. Aligning these state plans across all state agencies and with the eligibility for federal programs in mind can make a huge difference.

The impetus for this planning is all the federal funding that has recently been made available. Work to ensure you have the proper elements in your plan so that you can access these funding sources for projects and to get boots on the ground. Find answers to questions such as: What projects are eligible? Do we have the elements in our plans that we need in place to be eligible for this funding? Which funding sources are appropriate for which projects? That is what spurred on much of the coordination.

John Powderly commented that the best thing about being here is that this is his first WestFAST meeting and first Western States Water Council meeting. I apologize that I did not know about the existence of this entity. I'm going to recommend to folks at FEMA and other individuals that we have a stronger presence at these meetings going forward because, as you all know better than I, things are a little bit different in the West, especially when it comes to water.

From a FEMA perspective, we are in the realm of trying to provide the resources and technical expertise necessary for the states to maintain drought resilience. We help the locals to build up resilience at their level. It all builds from the ground up. FEMA Region 9 reached out to

the state of Nevada initially through Janelle Woodward, State Hazard Mitigation Officer. We call them SHMOs, and that is not an insult. It is an acronym. They are a one-way route to FEMA mitigation programs and preparedness efforts. We had a solid relationship with Janelle, and we had heard concerns about the Colorado River drought. The funding that has recently come through has increased the number of resources available through the Hazard Mitigation grant program, building resilient infrastructure and community grants, and flood mitigation assistance grants. All three of those programs have received increases.

Janell brought in a whole bunch of folks with the Division of Water Resources, the Department of Environmental Protection, and then we became linked with Roger Gorke and his efforts to help coordinate. From there it has taken on a life of its own. Nevada initially did not have a drought component to their hazard mitigation plan. They have now gone through the process. However, for example, take the state of Florida which is the most hurricane hit state. If they do not have hurricanes and wind damage in their state hazard mitigation plan, FEMA, by statute, cannot provide assistance for hurricanes to the state. You need to make sure that the hazards that you want to address are addressed in your state hazard mitigation plan. Work with your local communities to make sure the components are addressed in their hazard mitigation plans as well.

Bunny then noted that FEMA identified an element in Nevada's State Hazard Mitigation plan that was lacking. Drought was listed in the hazard mitigation plan, but it was not listed as high risk. Drought had been listed as a medium significant risk. In order for drought projects to be eligible for FEMA funding with the hazard mitigation grant plan (HMGP) programs, we had to do an amendment to elevate that risk to high risk. We had to amend some of the tables and add a goal and some strategic actions, so that we could start moving in the direction of identifying projects and reaching out to communities to make it known that it can use HMGP funding and grant funding to address drought concerns as well.

We looked at other plans and got input from FEMA Region 9, took all this together, and then made an amendment to the state hazard mitigation plan. We added about 20 drought specific mitigation measures to our hazard mitigation plan. These include planning in mitigation, goals and strategies, as well as drought monitoring, identifying gaps, providing support for identifying projects, providing technical assistance for water system improvements, like reuse etcetera, identifying outreach and education for water conservation. They amended the plan to identify drought as high risk which is important to obtain funding. An excerpt on some of the strategic actions they took is also included.

We also want to address strategic actions and water utility concerns. I'll hand the microphone to Jason Cooper who played a big role in meeting with us and identifying some projects that were eligible for both Hazard Mitigation funding through FEMA as well as through SRF.

Jason Cooper, Program Manager from the Division of Environmental Protection for the State Revolving Fund (SRF) addressed the group by stating that first, he wanted to thank the WSWC very much for your earlier passage and the additional language to make sure that people

are understanding about the impacts of the earmarks to SRF programs. While we do have a great opportunity right now with all the extra money from the bill, it is only five years. We need to know that the base programs are going to be around to help support our systems as much as possible. Nevada has been partnering and talking with various funding agencies. A lot of our water systems need grant money because they can't afford to do loans, like the SRF funds. We have had a committee we call the Infrastructure for Nevada Communities. This consists of USDA, Indian Health Services, Division of Environmental Protection, and regulatory bureaus from water and wastewater. We meet once a quarter. Now we're bringing in our FEMA partners and our Department of Emergency Management to make sure that the projects on my priority list and the projects that they know about can be funded entirely at an affordable level for the communities.

From an SRF perspective, we also make sure that our intended use plan is publicly noticed. We must tell the public how we are spending our money and tell EPA what the grant money will be used toward. The SRFs can fund new sources or storage facilities. These are considered drought mitigation efforts, especially when groundwater aquifers are depleting or surface water levels are dwindling. This is also true for wastewater. One of the efforts that has emerged is trying to recapture septic system fluids back into a treatment plant to be reused. Nevada's middle name is drought. We have been doing reuse for a long time. As I have attended national conferences, EPA would try to sell us on reuse. But we are already doing it, although reuse is expensive and time consuming. We found one plant in Nevada that is not doing reuse. We are capturing, reusing, and doing what we can. We will be putting in an indirect potable reuse project in the northern part of the state, although it is still in the early talking stages.

We are moving forward with several projects from the funding made available through this effort. The Las Vegas Wash is a big channel that captures effluent, runoff, stormwater, anything that comes through the valley and brings it back to Lake Mead. They can take the water that goes back into Lake Mead as a returnflow credit which offsets the amount of water used and increases the amount that they are able to draw from Lake. There are 18,000 septic systems in Las Vegas still. They are provided Lake Mead water and then it goes into the ground, so we are trying to recapture that. The Las Vegas Wash is unlined, and it is in bad shape. It runs through parts of town that are impoverished, with homeless encampments along the Wash. It is kind of a dangerous place. We are trying to get funding to rehabilitate the Wash. For the next couple of years, they are designing a new lining for the Wash to recapture as much of the water as they can to bring it back. In about three years we will start a \$47 million construction project to put the lining in place. That is in addition to a project we are working with the Southern Nevada Water Authority on to recapture the septic systems.

We are looking at all the money made available in the BIL, as well as including the emerging contaminants money -- the pots of money coming through from various programs -- to see how we can possibly use those dollars to recapture water to serve multiple purposes. Also shown on the slide is a small community that is impacted by drought. Walker Lake sits in the middle of the state and was primarily fed by the Walker River. Most of the river water has been allocated to irrigation. Thus, it is drying up and becoming very saline and unpotable. Fish have died. Walker Lake was also supplying a groundwater aquifer, which is also drying up. This little town keeps drilling wells and losing water. We are currently working to figure out a project for

them -- to find a better source that is sustainable. They are also dealing with a significant water loss within their pipe structure. So, a basic pipe rehabilitation project will go far in trying to mitigate drought. Meters can also help with mitigation efforts as they are the first place you will find water loss. The board that governs drinking water projects really likes to see those kinds of projects move forward.

We have worked hard to try and make sure we are using as much federal money as we can by partnering with other agencies. If the SRF doesn't have enough money to be able to help, we want to make sure we are bringing in other folks. I'm meeting with USDA tomorrow and we are planning on meeting with the emergency management team soon about these projects, as well to try and see how we can partner to make sure we are getting as much of the money as possible to make it affordable for the local community.

Bunny Bishop then added that once SRF funds are loaned out and returned to the State in the form of low payments, they lose their federal stamp. So, that is a potential source of funding for communities who have a hard time meeting the matching requirement. The match can be a sticking point for some communities.

Take aways: States interested in looking at their drought components need to make sure they have the proper elements in their state hazard mitigation plan. The plans need to be updated every five years. Make sure that the drought mitigation measures in your plan are appropriately aligned to be eligible for funding. As John stated, reach out to your SHMO and ensure there is a good mix of state agencies from across all sectors. That is important in identifying needs and sharing what is going on at the federal level. Make sure that you include your federal agencies in the discussions. They know their programs and they are willing to help. If they don't know something, they often know who to contact and can help you connect with the right people. Collaboration is key. We are all in this together. If we want to move towards drought resiliency, we need to all work together to move in the same direction.

Given the many grants and funding opportunities, having a multiuse project is a real benefit. Nature based solutions are seen as important towards addressing some of these problems. With multiuse projects, you get more points, meaning that your PCA analysis becomes easier with more benefit added to a single project. Other agencies can help you identify and bring other groups to the table that have an interest in a project.

Collaboration that works: Roger Gorke related that the Western States Water Council, Interstate Council on Water Policy, and the National Water Supply Alliance gave a presentation to the Water Subcabinet deputies in December 2019. When the Feds get together and row in the same direction supporting state needs and priorities, good things happen. Examples of effective collaboration include Western Federal Partnership and the National Estuary Program. Collaboration isn't free. It takes time and effort, and it needs champions to get it done.

We have all likely heard that FEMA doesn't do drought, but that is not true. Just because there have not been Stafford Act declarations of drought does not mean that FEMA programs

cannot actively and effectively mitigate drought. When the Feds are working together to support your needs, good things can happen.

Who is next? WestFAST would like to start working with other states to try to get your emergency management or emergency services to work with you all from the water resources and water quality perspective, to use the FEMA funding that is available through HMGP and things that John mentioned, to be able to uplift drought projects. That's the pitch. We'd love to replicate this in other states.

Questions

Jeanine Jones: California is in the process of updating its SHMP now, which is done through our Office of Emergency Services. Drought is a category in the plan, along with about 40 other categories, including climate change. Frankly, a lot of our drought impacts right now are more due to climate change than drought per se. Setting that issue aside, in the last two years, DWR and our sister state agency have expended more than \$2 billion of state general fund in emergency drought grants – that is drinking water projects, water conservation, etc. The federal money involved here, the usual USDA payments to producers and some small dollar amounts in the WaterSMART grants, but we have not seen any significant federal money that matches the \$2 billion we have spent. So, I'm curious about how going through the FEMA process brings anything to the table knowing that there hasn't been a presidential disaster declaration for drought in the contiguous states since about 1980ish.

Roger Gorke: The quick answer is whenever there is a disaster in a state, and as an example I'll use fires in Northern California. \$100 million goes to California for that disaster, that Stafford Act presidentially declared disaster. A portion of that, about 10-15%, goes into the Hazard Mitigation Fund that can be used anywhere in the state for disaster mitigation and pre-disaster mitigation. There was about a half-billion dollars for the states from COVID – or in that range. A good portion went to California. That can be used anywhere in the state for resilience, such as the lining of the Las Vegas Wash or the septic to sewer conversion. They didn't have the details in their plan stating that this project meets this part of the plan. Whenever there is a disaster, that money is sitting there, but the clock is ticking. That is what we are trying to show -- getting the planning part done in advance helps make it so much easier to get projects funded, of which 75% is grant, and the other part can be matched with non-federal dollars.

John Powderly: Jeanine, you bring up a good point. There was a communication that said there will be no disaster declaration for droughts. However, for Hazard Mitigation programs, once the funds exist, they need to adhere to the Hazard Mitigation Assistance Guidance. Drought mitigation is clearly listed in the hazard mitigation assistance guidance. As Roger mentioned, once the hazard mitigation assistance money for HMGP is issued, it is eligible throughout the entire state. That is per DR. RIC and FEMA are nationally competitive, but they tend to come out once every year, so it's regular. It provides a well-known regular window of opportunity. Hazard Mitigation assistance is available for drought mitigation plans.

Chris Carlson: This is an incredible template that could be followed in other states. I think it can be grown, because there are more of these kinds of intersection points around water. We talked about the wildfire crisis strategy and all the resources that are going into that. Much of that is going into helping to restore watersheds to improve the resilience of our water supplies. There is a nexus with the state wildlife action plans, because that covers fish and wildlife habitat statewide. There is federal funding through the Fish and Wildlife Service associated with those wildlife action plans and connecting those with the State Forest action plans. There are opportunities to bring a focus on water through these variety of different federal funding mechanisms. We encourage the water organizations in the states to think broadly about those intersection points.

STATE REPORTS

Colorado

Jojo La: I would like to thank the host state of Nevada for the great programming, agenda items, and the tour. I have learned a lot. I think I especially learned more because I randomly sat next to Jeanine and got a mini history from her. She has a wealth of knowledge. Thank you, Jeanine, for being my personal host for the meetings. I have learned so much about the water in this area. This whole meeting has been very inspiring.

I have matched the theme of my talking points to what we have heard throughout this meeting. We started the week with a great tour and saw the natural area and the Truckee River Basin. This reminded me of work we have done recently in Colorado. The state just adopted very stringent and low numeric nutrient standards for all lakes and reservoirs in Colorado. Colorado is now paving the way for promulgating total phosphorus, total nitrogen, and chlorophyll standards. This was a very difficult and controversial feat. For Colorado, that means that water quality in our lakes and reservoirs is now more protected. It also prevents future toxic algae blooms, especially to protect our beneficial uses, including recreation, drinking water, and aquatic life.

On the tour, we got to see an innovative wastewater treatment facility that was utilizing a One Water approach for water reuse in Nevada. In Colorado, we have also been working on one water approach for reuse and seeing how we can reuse water especially in this time of drought and conserving water. Last fall, we adopted a rule for direct potable reuse of water in our state. This new rule sets clear standards to protect human health if communities choose to use this treatment. Colorado is the first state in the Nation to set a rule of this kind and it applies to all communities with water systems. They can choose to use reuse and now it is protective of human health. This is another tool in the toolbox they can use during drought conditions.

During the committee meetings, we heard about funding and the Bipartisan Infrastructure Law (BIL). The Colorado general assembly passed a bill to allow us to match BIL funding for critical drinking water and clean water treatment infrastructure through our state revolving funds. With this bill, we secured the state match for four to five years.

Yesterday, we heard from Mike Eberle about stream and wetlands restoration and how that pertains to water rights. Mike referenced what we were doing in Colorado, but I want to provide a little bit more information. A bill was passed that makes it easier for stream restoration projects to be constructed in Colorado. The bill that was passed concerns projects and activities that restore the environmental health of natural stream systems without administration. The general assembly determined that a project designed and constructed within a natural system, e.g., stream restoration projects, that are limited to certain minor restoration activities or have obtained any applicable permits, those stream restoration projects do not cause material water rights injury to any vested water right.

Like every state here, Colorado is facing very similar drought conditions and issues. Colorado is addressing this through the general assembly. A bill was passed creating a Colorado River Drought Task Force. The task force is supposed to develop recommendations for our state legislature and to our Colorado Water Conservation Board that provide additional tools in the Colorado River Basin to fulfill our interstate commitments through the conservation of Colorado River and its tributaries. The task force has less than a year to figure out what their recommendations will be and produce a final report by December 15.

North Dakota

Andrea Travnicek reported that North Dakota had a very successful legislative session. The Department of Water Resources received some funding for water infrastructure and \$605 million for new water projects over the next two years. The state is continuing to move towards permitting flood protection, especially in the Mouse River area. Regional water supply projects are still extremely important. We continue to make progress on Red River Valley water supply. In the past, we have talked a lot about the Northwest Area Water Supply (NAWS) as it was under litigation for about 17 years. Hopefully within the next two years, we'll be getting water out of Lake Sakakawea.

We have been reviewing work related to dam safety. Beginning in January, our definitions were updated through the administrative code. We are updating dam design and guidelines that have not been updated since the 1980s. We are looking at a legacy dam policy with all the dams that are currently in place, as definitions for high and medium hazards change.

We were successful in getting more funding for remote sensors to get real time data out in the field. Currently we have about 350 throughout the state gathering data on atmospheric pressure, temperature, soil moisture, and of course, water levels. The goal is to get over a thousand, but by the end of the biennium, we hope to have over 600 such sensors across the state. Legislation was passed related to Water Resource Districts, where water is managed at the county level. We have some joint water resource boards. We must work toward watershed management, and a working group will develop that management over the next year or two and recognize the importance at the county level as well. Across the state, we will be looking at aquifer recharge and homing in on research the agency has done so we can prioritize opportunities for potential pilot projects. Phase one of that approach will take six months.

The WSWC has held discussions related to budget, staffing, and workforce. The governor put together an equity package and proposed it to the legislators. He submitted a \$90 million package, looking at market-based salaries since we have been losing people to the private sector. His package ended up at \$82.5 million. The Water Resources Department has 93 FTE, and we are going to have close to \$560,000 to spread amongst the agency. We are specifically looking at hydrologists and engineers, though we are getting feedback from division directors before moving forward. It was important to receive that equity. Next year, we will receive a 6% increase.

The legislature also discussed the importance of openness and transparency. A bill was passed related to Wild and Scenic Rivers to make sure that each of the natural resource agencies is at the table for those discussions, as well as legislators that might be impacted within the districts, and county commissioners. The county board and the governor must sign off on it before we move forward.

Washington

Buck Smith related that Governor Jay Inslee has decided not to run for reelection. He is a very popular governor. He has been in for three terms and was first elected in 2012, then in 2016 and 2020. However, he will not be running in 2024, so it will be interesting to see what happens. The governor selects the agency directors. A few years ago, he selected Laura Watson as the Department of Ecology Director, and then she selects the program managers. The Department of Ecology has ten different programs: water resources, water quality, nuclear waste, hazardous waste, those sorts of things. For the past five or six years, the Program Director for Water Resources has been Mary Verner. Mary held that position for about five or six years and retired on November 30. She hasn't entirely gone away. Mary took a job with the Snoqualmie Indian tribes, so I still get to see her on occasion. The Water Resources Program Manager is now Ria Berns. Ria started in my office as a water right report writer. She started out at a lower level, worked her way up to the section manager, then deputy program manager, and now she is the program manager.

Our legislature passed a \$133 billion operating budget recently. It is on the governor's desk for review and signature. The legislature was generous with the natural resource agencies and included an additional \$312 million over the past budget. The Department of Ecology's operating budget is \$862 million. Our capital budget is about \$3 billion dollars which is mostly pass-through money. Ecology is a large agency with about 2,100 full-time employees (FTEs). In the new budget, we have an additional 231 positions to fill. Currently, the Water Resources Program has about 180 FTEs, and it looks like we will get about 20 new positions. The agency currently has 120 vacancies. With the 231 new positions coming online, there will be nearly 350 positions to fill over the remainder of this year. So, it's going to be very challenging. All our employees are unionized. Our union negotiated a retention bonus which amounts to \$1,000 bonus if you were employed with the State on January 1 of last year and you're still employed on January 1 of this year (2023), you get a \$1,000 bonus. We also negotiated a COVID vaccination bonus. Governor Inslee required all State employees be COVID vaccinated. If you are up to date on your COVID vaccination, you get an additional \$1,000 bonus. The union also negotiated a 7% raise over two years, so 4% this July 1, and 3% next year on July 1.

Regarding water supply in the State, it started out with normal precipitation for October, November, December, January, and early February. The state had about normal snowpack. Through the rest of February and March, our snowpack really diminished, and the state was very dry. In the month of April, we received a lot of precipitation such that by the end of the month, our snow water equivalent was about 111% of normal. Things were looking good. In the middle of May however, we received a heatwave, and our snowpack went from storage of about 34 million acre-feet to 17 million acre-feet. It was cut in half within about a week's time. The heatwave was unprecedented. Seattle was around 90 degrees for three days in a row in May, which is unheard of. I have lived in that area for 32 years and never experienced anything like that in Seattle.

The weather forecast says that we are coming into an El Nino year. We are beginning to get a little nervous given the diminished snowpack and the possibility of heating the environment. Thus, we are watching the water supply very carefully. If you've been watching the news, you've seen that there are a lot of fires in British Columbia and Alberta, Canada. As of last week, about 150 fires were burning. As a result, Washington has had smoky conditions, and some of the other northern tier states have been suffering from the smoke as well.

The legislature provided \$8 million for permanent drought funding. Two years ago, in June 2021, a heat dome settled over the Pacific Northwest. At that time, Seattle had three days in a row of 100 degree plus temperatures. Because of that heatwave, the state went from a normal water supply year to a drought situation within days. When the legislature finished their session that year in April, there was no money in reserve for a drought situation, so funds essentially came out of our budget(s) that year.

Regarding adjudications, the legislature also funded an adjudication in the Upper Columbia Basin. The water behind Grand Coulee Dam is Lake Roosevelt. We will be adjudicating Lake Roosevelt and the tributaries into Lake Roosevelt beginning this year. There is money available to adjudicate the Nooksack River Basin on the Canadian border just south of the city of Vancouver, British Columbia. This adjudication is important to me, because I have been with Ecology for 32 years, and my first job was as a water master in the Nooksack Basin. I spent about three or four years literally going from property to property, farm to farm throughout the basin, and discovered there were about 200 farms that did not have any water rights, and about the same number did not have sufficient water rights. There are two tribes in the basin, the Nooksack Tribe and the Lummi Tribe. We will be adjudicating tribal rights. There are about 2,000 water right permits and certificates, and about 4,000 water right claims. The property owners claim they have either surface water rights predating the water code in 1917 for surface water or predating the groundwater code in 1945. Those claims all need to be reviewed. We will be adjudicating surface water and groundwater and exempt wells. It is going to be a very large adjudication, and we anticipate it will take around 10 to 20 years. As I mentioned, I worked there 32 years ago, and one of the first things I said when I came back to the office was that this basin needs to be adjudicated. I'm glad to see that is now going to happen.

Oklahoma

Sarah Gibson remarked that in Oklahoma, drought is mainly in the northwest half of the state. Some areas in the panhandle got more rain during the month of May than they got for the entire season last year. Hopefully that is the start of a new pattern.

The governor and the legislature activated the Emergency Drought Commission. The Commission is headed by the Commissioner of Agriculture, the head of the Conservation Commission, which is our NRCS Agency, and the Oklahoma Water Resources Board executive director. They have distributed around \$23 million. There is a proposal for another \$40 million as part of this year's budget for the Commission. All of that is going out through our conservation districts to NRCS-approved drought mitigation projects such as pumping out some crop cover and those kinds of projects.

I just received the first draft of our State Flood Plan. We are finally getting some traction on planning for the floods that generally come after drought. The plan identifies what areas as well as what projects will help to prevent flooding damage in the future. For the southwest part of the state on our project with the Bureau of Reclamation, they are close to getting a report from the Bureau. The report will contain a lot of modeling data and information on groundwater and surface water and how to maintain levels for Bureau lakes that provide irrigation water as well as cold water supply, and how to help maintain those levels during drought events. There is also a legal report if anyone is interested.

Finally, for ARPA funds, the legislature has designated the Water Resources Board to distribute almost a half-million dollars in water and wastewater infrastructure money, including money for dam safety projects. We have three programs: (1) a competitive grant program; (2) a tribal cooperation program where tribes will use their ARPA dollars to match dollar for dollar for projects within their boundaries; and (3) a targeted investment where the Water Resources Board will oversee projects which individual communities submitted to the legislature and received funding.

Kansas

Connie Owen noted that the state is dealing with drought. On the Drought Monitor map, southwest Kansas is at absolute ground zero and is growing and growing. We are on the verge of a new drought declaration at the State level. The drought is in its third year, so things are a little daunting.

We have made progress with our local enhanced management areas (LEMAs). This is a state program authorized by state law, where local entities in the groundwater management districts determine how they are going to reduce their reliance on the aquifer. If the chief engineer approves, then it becomes law for five years for that area, and they can seek renewal. Since this program was put in place in 2012, four have been developed and one is brand new. In Northwest Kansas, where they started with the LEMAs, they have reduced their use on average by 24%. Through technology and best practices, they are equally or more profitable than in previous years.

This consists not just of cutting back water use, but it also shows them how to economically go forward with those important reductions. Hopefully those programs will be spreading to other water management districts that also rely on the aquifer.

Connie noted a couple of firsts for the state of Kansas. State laws allow for a request for a water transfer. When you want to transfer a set amount of water a certain distance, there is an additional statutory process to go through. That has been the law for some time. But this is the first time it has been implemented or accessed. About 30 years ago the cities of Hays and Russell, in the northwest part of the state, bought a ranch 70 miles to the south, with the idea of eventually using those water rights to supply municipal water. They have made it through the first stage of regular applications with the chief engineer to change place of use and type of use. The changes were approved conditionally on getting through the second stage, which is the water transfer process. That process has begun. It involves an administrative hearing which will start in July.

There has been a very longstanding problem with Rattlesnake Creek Basin located in south-central Kansas containing the Quivira Wildlife Refuge, which is a very important stopover flyway for migratory birds. The Refuge holds a very old water right relative to the other water users. For decades, the area has been over appropriated, and irrigation has been impacting the Refuge's ability to have enough water. Long story short, they made a claim with the chief engineer. The chief engineer found impairment was occurring. Voluntary efforts were undertaken to address the impairment locally. Those efforts went on for some years and were unsuccessful, though voluntary efforts continue. Meanwhile, the Refuge has renewed their request to secure water. The chief engineer has announced that there will be no administration in 2023 but a durable solution will be in place starting in 2024.

We had a big legislative year, though I hear the numbers that you're all talking about and I'm envious. In Kansas, the legislature has historically severely underfunded water. In the best of years, the water plan fund would receive \$20 million total. This year they passed a law, and we'll get an additional \$89 million. The language in the bill establishes two new grant programs the Kansas Water Office will be creating and administering. It will provide \$5 million for technical assistance grants. The grants will mainly be issued to communities that want to access the federal BIL and IRA funds, but they don't have the local expertise to provide a plan or apply for a grant. This will give them a heads up so they can apply for federal grant money. Another \$12 million grant program is for water projects to build things -- they use the word infrastructure which might mean solid infrastructure, or it might mean green infrastructure.

The legislature also passed a law that I refer to as the groundwater management district accountability act. We have five groundwater management districts and two of them have been doing a great job. The other two have been doing a good job with complaints from some folks. One district has refused to do their job at all for a very long time. Thus, the new legislation requires the groundwater district to come up with a plan. If the plan does not work, or it's insufficient, the chief engineer has the statutory authority to impose an intensive groundwater use control area and mandate restrictions.

South Dakota

Nakaila Steen reported that drought conditions worsened toward the end of last year. Since December, conditions have been steadily improving statewide, with the only remaining areas experiencing drought levels located in the southcentral and far southwest portions of the state. The snowpack was near normal and moisture from the snowpack was primarily absorbed into the ground due to the low soil moisture. Little to no spring runoff occurred in March and April. Recent precipitation has markedly improved streamflow conditions, so there should be no need to issue shutoff orders for the foreseeable future. Given heightened drought conditions in South Dakota over the past two years and national stories of water shortages, a recent influx of federal money has resulted in a heightened water awareness across the state. This has led to discussion among agricultural producers, area water systems, cities, and lawmakers. The focus is to start on the next generation of regional water systems like the Lewis and Clark Regional Water System. They are surveying southeastern South Dakota, including users in the state's largest cities like Sioux Falls, as well as customers in Minnesota and Iowa.

At the forefront of these efforts, three water projects emerged that are in early stages to use Missouri River water for future water needs. First, the water investment in northern South Dakota project (WINS) is a collaborative effort between two existing rural water systems and the city of Aberdeen to supplement the water supply in the northeastern part of the state. Second is the Dakota mainstem which is an effort to supply additional water to the eastern part of the state not currently served by the Lewis and Clark system. And lastly, the Western Dakota Regional Water Supply System to bring Missouri river water across western South Dakota to the Black Hills region while serving communities along the way. Rural water systems primarily serve eastern South Dakota. In western South Dakota, there are more individual systems.

California

Jeanine Jones mentioned that in California, water supply conditions have gone from famine to feast. The water year began with a drought emergency, and now they are undergoing a flood emergency. She commented that in California, the Department of Water Resources (DWR) is essentially an operating utility, unlike other western states in which the agencies regulate and administer water rights and water quality. California DWR handles very little regulation. Rather, their primary oversight is water supply, flood control, and power generation.

To date this season, DWR has given about \$250 million in emergency drought grants to water systems for drought issues. They are now in the process of converting an additional few hundred million dollars for emergency flood grants to be provided to local agencies. Besides operating our own flood infrastructure which the State owns and operates, we also provide substantial assistance to local agencies in parts of the state. DWR's warehouse deployed 707,000 sandbags, 6,072 feet of muscle ball, 17,600 super sacks, 10,860 stakes, and 460 rolls of visqueen. The warehouse is now empty, and it will take the rest of the calendar year to refill given supply chain shortages for some of the products.

As part of the flood emergency response activities, there is a physical connection that allows us to bring flood water from the lower San Joaquin Valley into the California Aqueduct where it can be delivered to State Water Project customers. The water is moved at the rim of the valley floor into the US Bureau of Reclamation's Friant-Kern Canal and flows about 200 miles along the canal to its terminus in the Kern River. DWR has a facility at the other end of the Kern River that allows them to take the water into the Aqueduct. Currently, it is flowing at 500 cfs. The more water that can be taken out above the valley floor from the snowpack, means that much water does not make it into the now wet Tulare Lakebed. The upper six feet or so of Lake Tahoe is controlled by a small dam that provides several hundred thousand acre-feet of storage. Tulare Lake is now almost as big as Lake Tahoe in terms of the amount of water and it is not supposed to be a lake. It is supposed to be farmland. The lakebed is underlain by a substantial area of very thick, as in hundreds of feet thick, clay soils. It will probably remain flooded through next year.

The good side of all that water is that for the first time since 2006, we have 100% water supply allocation on the State Water Project. The maximum physical delivery of the State Water Project is about 3 million acre-feet to our water contractors. As part of flood emergency work, DWR partners with the State Water Resources Control Board help local agencies maximize their own groundwater recharge. The State Water Board handles regulatory water rights in terms of six-month temporary emergency permits. DWR handles the hydrology and technical work to support that.

This is a good example of why S2S forecasting is so important. For a local agency, the permit filing fee alone is about \$100,000 for a six-month permit. If they don't start the permit process until February, and they only have a six-month permit, they must wait a couple of months for the runoff to occur. That means they may have spent money for only a couple of months' worth of runoff. So, it is difficult to get takers for this program due to the decision-making timeline.

DWR also runs an emergency financial assistance program to provide massive pumping capacity by renting pumps from some of the largest suppliers in the West. They make those pumps available to local agencies to use to help turn out water into places they would not normally do recharge on, such as farmland, and even quite a few orchards and vineyards which are flooded for extra groundwater recharge.

Last year, our state legislature enacted the electricity supply strategic reliability reserve program and directed DWR to implement it. We are the fourth largest generator of electrical power in California, because we're the State Water Project. We are the single largest consumer of electrical power to run our State Water Project. This new task directs DWR to create and run a program to help further stabilize the state electrical grid. This year, the legislature provided \$2 billion for that project primarily to contract for and buy power to stabilize the grid. The legislature also provided an additional \$550 million for backup assets, such as large-scale portable generators to prop up the grid. We deployed a bunch of those in the heatwave last summer.

Joaquin Esquivel: I want to thank Jeanine Jones who I know has done incredible work with the Western States Water Council for many years. I'm very fortunate to have been appointed

to the WSWC about a year and a half ago. This is my first in-person meeting with you all. I want to thank you. Things are incredibly intense right now. We are all continuing to experience “once in a generation” situations -- which doesn’t mean what it used to anymore. On the Colorado River, I want to acknowledge and thank the openness of the Upper Basin states to the Lower Basin. It has been great to be able to come back together. Ultimately, we are in far better shape now. I want to acknowledge all the themes around data; about really looking at our water resources as a systems approach and thinking of how it fits into our climate policies. We start to invest in what we know is a generational reinvestment in the infrastructure we have all come to depend on.

The Department of Water Resources is housed at our Natural Resources agency. They run the State Water Project. They are incredible technical experts for water resource management. The State Water Resources Control Board is housed at the California Environmental Protection agency. The Board administers water rights and implements the Clean Water Act. In 2015, the Division of Drinking Water was transferred from the Department of Public Health, so we run the state revolving funds, regulate maximum contaminant limits on the drinking water side and oversee systems. We have an opportunity to connect the drops from the headwaters and to review water quality. We look at the forests, down through our ag users, into the cities, and into the discharge backup solution.

We are in the midst of investing in our water rights system in a way that we have not before. For the state of California, water rights is an area in which we are far behind many other states. We received a \$30 million investment for the Updating Water Rights Data for California (UPWARD) project to improve the way the state collects and manages its water rights data and information. It provides us an opportunity to imagine what a 21st century water rights administration system looks like -- how we better get to the real time administration of rights, and importantly, to ensure foundational decision making. It allows us to do groundwater recharge and other critical work. Agency budgets will be adopted by the end of the year. We set indoor standards, outdoor standards, water loss standards, and tailored to be able to drive conservation. In this latest drought, about 600,000 acre-feet were conserved in the governor’s voluntary call. That tool will continue as we try to right size our expectations, not just on the urban side, but also on our ag side.

We appreciate the Council’s discussions on Indian water rights. WSWC is progressive and has incredible leadership. The State Water Resources Control Board is anxious to continue to contribute.

Wyoming

Brandon Gebhart: This is my first WSWC meeting. This was a very good meeting and I look forward to getting to know everybody and network a little better. Thank you for having me. In Wyoming, we’ve had a decent water year. Most of the state’s precipitation was near or above average. We have been blessed with sufficient precipitation. Given the Colorado River has been in the news a little bit, you’ve heard that a deal was made. It was a very hectic month for the basin states leaders. The Lower Basin had developed a plan or an alternative to submit to the SEIS process. The Upper Basin states have agreed that the alternative be analyzed. This came along

very quickly. The Upper Basin states have not had a chance to review the plan in detail. In a letter signed by the seven basin states, the Upper Basin is not endorsing a plan, but they are asking that Reclamation analyze the plan and give us time to review the details of the plan and what is being proposed. So, there is still more work to go through the SEIS process. I am optimistic that going forward the states can continue to work together.

Also, in Wyoming in regard to the Colorado River, last December the Upper Basin states reauthorized through Congress a system conservation pilot program. It is a voluntary temporary compensated program to conserve water. Folks are being paid not to water. As part of that, Wyoming is trying to get contracts for about 15,700 acre-feet of water through this, or conserve consumptive use through this program. In total, the Upper Basin is around 38-39,000 acre-feet of conserved consumptive use under the program. We have good participation in the Upper Basin. One of the primary functions of the drought response operation agreement is to help protect the critical elevation in Lake Powell. In 2021 and 2022, water was released from the Upper Basin units of Reclamation facilities to send water to Lake Powell to help protect the critical elevations. Late in the 2022 process, hydrology changed for the better, so we shifted from reducing water to the recovery stage. The Upper Colorado River Commission recently approved the 2023 Bureau plan, which focuses solely on recovery. The idea is to recover the water that was sent down to Lake Powell back into the initial units. The hydrology is providing us very different opportunities to recover that water. Projections indicate that by the April 2024 timeframe, all the water should be recovered in the initial units.

Shifting to the Snake River Basin, we are working with Reclamation and Idaho on storage and storage capacity. This water year has been an anomaly that has not occurred in about 30 years. Given the good water year that we have had, locations of available storage, and the desire to capture as much storage as possible, this put Jackson Lake and the releases from Jackson Lake into a bit of jeopardy. Wyoming's preference is to have a minimum flow out of Jackson Lake which protects about a four-and-a-half-mile stretch immediately downstream from Jackson Lake for fish and environmental purposes. Since the idea is to capture as much water as they can, they were going to reduce the releases out of Jackson Lake almost to zero. Wyoming has a storage account with Palisades Reservoir to help prop up and maintain that minimum flow. Reclamation has also stepped up and if we don't have enough in our account, they are going to try to find a way to maintain those minimum flows.

Wyoming is looking at two pumped storage projects. One is on the Platte River which is fully appropriated. We are working with the parties to try to figure out the best way to permit the pumped storage and maintain our obligations under the Platte River Recovery Program, as well as our water rights issues within the state. The other project we are looking at is with Utah on the Bear River. We are watching this because we have water rights that we are trying to make sure are not impacted by what is going on in the Bear River.

This year, our legislature created the Colorado River Advisory Committee. The advisory committee will help us engage with our stakeholders on decisions. The Committee will be set up in July. Our state legislature appropriated about \$30 million dollars to plan new development and infrastructure rehabilitation projects through the Water Development programs. The legislature

also established a position in the Water Development program to help align all the federal funding programs with stakeholders and the projects they have. These funds will create a conduit to help them understand what is available, what a project's best bid may be, and if there is federal funding.

Jennifer Zygmunt mentioned their carbon sequestration under a Class VI UIC program for which Wyoming has primacy. There is a lot of interest in this water quality initiative. Currently, we have applications for five Class VI wells within the state. We anticipate issuing the first permits to start constructing wells this year. The first facility that we think will be out the gate is in the southwest part of the state. It will use carbon dioxide from sources within the area, and then also has a direct air capture component. We expect about 20 additional applications by the end of the year, and potentially up to 40 over the next two to four years.

We were very pleased that the legislature supported our office with a new position this year. We will likely seek additional positions next year to make sure we can keep up with the demand. A hot topic for the legislature is pore space optimization for sequestration, and classification as a mineral under the State's Oil and Gas Conservation Commission. There is a lot of interaction with the Class VI committee, particularly a lot of discussions going on with BLM and how that process works on federal lands.

Nebraska

Jim Macy: I would like to thank the WSWC for your involvement on Position #446. It is important that we organize together on things that affect all the states. One other thing I'd like to mention to Tony and the team is to please keep in mind the coordination of meeting schedules. There are at least three or four WSWC member states that are also very involved in the Environmental Council of the States (ECOS). If there is a way to coordinate scheduling so that we can attend both meetings that would be helpful.

I am really interested in this intersection of FEMA and SRFs and how we might proactively work together on drought issues and other infrastructure issues. I spoke with Roger Gorke and maybe we can get our Region 7 FEMA representative as interested as others seem to be.

We are proactively pursuing Section 404 assumption. We are interested in EPA's new rule, and of course the WOTUS rule. We would be online to fully assume that program in about a year and a half. We got \$1.7 million and staff to develop regulations last year. They are just about done with the regulation development on scoping and size. Why is that important to Nebraska? In 2019, when we had the flood, there was a gentleman that took out a part of the sand hills to drain a tiny wetland that adjoined the Snake River. His action was taken without getting a permit and without working through the right channels. He's got the "Grand Canyon" in the Snake Hills which is very fragile soil. I don't know if the area can be repaired. The State Department of Environment and Energy did not have authority to act on the situation. EPA did, and they did act. There will be some significant mitigation involved. This is an example of why States need to have delegated authority for program assumption, to enable the State to work with landowners and help ensure they take appropriate actions.

We are working on the Climate Pollution Reduction Grant, as other states are. There are only four states in the Nation that did not. The intersection between water and CO₂ is amazing. It is interesting to learn how each state is doing different activities to help mitigate climate issues. My boss is enthused and thinks we could talk about sustainable agriculture with a very significant emphasis on sustainability in what we practice and how we produce.

Our agency was happy to receive \$1 million in a grant program through our budget. Our agency consists of 267 staff. The grant program will allow us to look at nitrate in groundwater which is a very important issue for Nebraska. This conference has been enlightening. I learned that we may be able to consider reuse in terms of SRF dollars and some other mitigation.

Tom Riley: We have invested a lot of time and effort in drought resiliency planning as a state. Jeanine said something that made me think about my wise graduate student advisor who told me that nobody cares about flooding unless it is flooding. Nobody cares about dry conditions unless it's dry. We have been planning for both situations at the same time. In Nebraska, the large flood event that Jim mentioned occurred in 2019, a bomb cyclone had a huge impact on the state and its resources. That flooding event happened the same year that we kicked off some big initiatives on drought planning. I have been pleased to learn about some other funding opportunities that may help.

Following up on water supply and drought, Nebraska is certainly not in as bad a drought as Kansas, though we have had a few areas in Nebraska that are seldom impacted by drought conditions. Northeast Nebraska continues to be stuck in that drought zone which is something they have not seen in years.

The flood presentation given yesterday made me feel that Nebraska is in a pretty good spot. If you recall, a chart was shown with respect to where people ought to be. We have LIDAR coverage of the entire state so, for floodplain mapping and other mapping issues, that is in place and ready to go. Some portions of the state get a new LIDAR map every year. For the central portion of Nebraska, the Platte River and the Platte River Program get that data all the time. We are very lucky to have that. It has put us in a position to get a jump on 2D modeling and floodplain work.

Nebraska will be rolling out a new product later this year. That will enable us to identify impacts to flooding on the fly and allow communities to see different stages of a flood event and how it may affect their infrastructure. Texas has a similar product. We will begin to tie this to infrastructure costs and cleanup costs as well.

As a result of the 2019 flood, we continue to identify levee issues, primarily identifying where ag and private levees were. They provided a significant amount of assistance, but they are not regulated, and they are not able to provide money to rebuild. We are going through the process of identifying where some of those are located.

The legislature provided \$50 million for critical infrastructure to support infrastructure needs for surface water irrigation. Of that \$50 million, we have either obligated or contracted out

about half so far. In addition, the legislature gave us the authority to retain the interest of that account, which is fairly substantial right now. We will be able to use those funds hopefully to cover impacts of inflation and cost of materials and labor for these projects. We have a \$9 grant for every \$1 that folks put into about 60 different irrigation districts.

We also continue to work on our Statewide Tourism and Recreation Water Access and Resource Sustainability project, also known as Star Wars. The latest piece of that is the Job and Economics Development Initiative, or JEDI. That particular project provided a substantial amount of money for economic components to water in Nebraska. The Department is charged with about \$100 million for evaluating and planning the potential lake area between Lincoln and Omaha. Lake recreation is really shortchanged in our state, so it is an important thing to do. It has been started and will be next to the Platte River. The lake will be about 3,600 surface acres in an area that is all sand and gravel and is mined 40 feet deep. Thus, about 300 million cubic yards of material will have to be removed adjacent to the river. Just to put that into perspective, people familiar with the lakes or the work done in the United Arab Emirates where they made some natural islands, that is about half the amount of material that this will be. We oversee a feasibility study for how to deal with it. The first step is to be certain our water users will not be impacted, and this includes the City of Lincoln and the City of Omaha. They both have well fields there and we want to make sure there is no impact to those particular infrastructure components.

Regarding recent Supreme Court cases, we just completed Spencer Dam which is on the Niobrara River and which failed in 2019. Unfortunately, the incident caused a death. The Department was named in a lawsuit in that particular instance, along with one of the power districts that on the facility. The power district settled. The State took the immunity movement which has been taken to the Supreme Court. That has been set aside. It has been an interesting look at the exposure to the State and our Dam Safety Program, which did not label Spencer Dam as a high hazard dam since it really didn't fit. The case was about the fact that the Department did not have the proper designation, therefore did not have the proper emergency operations components in place. I would encourage other states' dam safety programs to look at that decision.

The state legislature has six more days and counting. The Department got a significant amount of money, most of it pass through. A couple of big projects we are undertaking include market funds that go to a second source water. We received \$10 million for another second source of water in the Lewis and Clark area of Nebraska. We also received \$574 million for planning, design, and construction of a project on the South Platte River where Nebraska is looking to use its 1921 right and build a canal and reservoir system. That is the South Platte Compact. For those on the Colorado River, the primary author of the Colorado River Compact document started the South Platte Compact document first and set it aside. The problem in the Colorado River Basin is water supply. The South Platte River Compact is an agreement between Nebraska and Colorado and is an interesting agreement establishing water rights use.

We received \$1.2 million from the legislature to be used over the next two years to enhance data collection equipment. In my experience over the decades working in Nebraska as a consultant, we kept dropping off data. Numerous times I've heard people say they wish the gauge records for the last 30 years was available. We are identifying a lot of different places where we

will locate or relocate gauging information. Data is needed to make good decisions. Our current governor, Jim Pillen came into office in January 2023. He is a livestock producer. He understands that Nebraska's economy revolves around agriculture. He has a vested interest in having data to make decisions.

Utah

From the water resources perspective, Sarah Shechter shared that Utah has issues to deal with on the Colorado River and the Great Salt Lake. Others have done a good job of covering the Upper Colorado River issues, so I'll focus on the Great Salt Lake. The legislature granted an additional \$200 million for agricultural optimization. That amount has been coupled with \$70 million granted in 2022. From the State Engineer's perspective, the real trick with ag optimization is going to be getting wet water into the lake, and making sure that the savings are actual depletion savings that get to the lake. The governor issued a historic proclamation closing the entire Great Salt Lake Basin to new appropriations. It was a huge decision. There are a lot of rights that have not been perfected in the basin. This stops any more applications from being filed. There could be some litigation filed, so we'll see how that goes.

The State Engineer continues adjudication of Utah Lake and the Jordan River Basin, which drain into the Great Salt Lake. That adjudication effort has really exploded since about 2015. There are over 20 employees working on the adjudication, plus three full-time Attorney General's Office lawyers and one paralegal.

The Water Resources Division got \$380,000 to install water diversion measurements with telemetry. Like Nebraska, the idea is to get better data and more information to make our accounting systems better. The Division is continuing to work on building water distribution accounting models and enhancing existing accounting tools. The Division has partnered with the Colorado River Authority of Utah to conduct a gap analysis of needed measurements in the Colorado River Basin.

The Utah Navajo water settlement was signed last summer, which was a wonderful and important event. For those of you who know my predecessor Norm Johnson, this was the pinnacle of his career. I am assisting the Division in getting that adjudicated through the state court in line with the McCarran amendment. We are hopeful to have a proposed determination submitted to the district court in 2024. Within the Navajo Nation in Utah, we must account for their water, as well as some non-tribal entities within the nation, such as the Trading Post, for example, and some others and we must adjudicate those water rights also.

Regarding Federal reserved rights, Utah has five national parks and multiple national monuments, and some other reserved rights claims. We continue to work through those. The Ute Mountain Utes and Confederated Tribes of the Goshutes are interested in getting reserved rights. The National Park Service is currently focused on Capitol Reef National Park. Capitol Reef is interesting because of an orchard in the middle of the park which is a unique feature. The State is always in litigation with the Ute Indian Tribe on a *Winter's* rights case. The case has a lot of implications. Thank you.

Todd Stonely: Additional legislative funding items are worthy of mention. The State of Utah has a water infrastructure restricted account, which is the 1/16 sales tax that goes into that account. It is intended for the replacement and refurbishment of federal infrastructure, such as Reclamation projects and so forth. This year, they were also authorized to divert \$50 million for four years, so \$200 million total from that account for reuse, desalination, and water conservation projects within the Colorado River Basin. Due to the length of pipeline delays and other challenges on the Colorado River in the St. George area, Washington County needs funding to help with their immediate water needs. That is a significant development.

The legislature is also allocating \$50 million one-time grants and loans for the upgrade of critical aqueducts that are at risk of failure during seismic events. This only meets a portion of the \$170 million requested by the local water conservancy districts to resolve immediate concerns but will help get them going in the right direction. The Division was also allocated \$25 million to supplement the annual \$3.8 million appropriation for dam safety upgrades.

The State of Utah has invested a lot in turf replacement or water intensive landscape replacement with more drought tolerant landscapes. We received \$5 million one-time and \$3 million ongoing for a statewide turf replacement program. This is the first statewide program that we know of in the United States. If that statement is incorrect, please let me know because I'd like to correct that misconception if it's not true. This funding will be matched by water conservancy districts who have already been doing turf replacement for a couple years and will reimburse homeowners up to \$3 per square-foot for turf replaced with landscaping. To be eligible for state funding, one must live in a city that has adopted progressive water conserving landscape ordinances. We don't want people putting in turf in the cities and then a year or so from now coming to us to rip it out and replace it with drought tolerant landscaping. It is intended that they do that with the ordinances upfront.

Just as one dry year did not a megadrought make, one wet year will not the megadrought break. Utah is still very much in drought mode. We are trying to take this great water that we have received, get as much water to the basin lakes, reservoirs and in the groundwater as we can. We want our citizens to continue to conserve for the next drought that comes along.

John Mackey: We have started to get early reports of overflow and flooding. Overflowing sewers have created public health hazards. We put together a communications network and emergency providers to get information out to permittees. Agricultural runoff is sending nutrients into the streams.

We have been working on upgrading nutrient control. The state legislature provided \$30 million additional money of ARPA funds for Utah Lake, which is the state's second largest freshwater lake. It has persistent harmful algal blooms. That \$30 million is dedicated towards nutrient programs and other funds through SRF loan programs, as well as local borrowing of about \$750 million. Early adopters have already started to show significant reductions in phosphorus discharge, as well as the downstream systems. We're very optimistic that this will go a long way to resolving major environmental problems in Utah Lake.

A 2022 integrated report was completed, which is a summation of assessments of all the waters across the state. There is good news and bad news. We have continued to add impaired segments and waterbodies to our list. Almost half the waterbodies listed come from algal blooms. There are more occurrences every year and more warnings issued. A silver lining was that mercury levels in fish tissues have declined. Several of our waters may be removed from the mercury advisories. We are finding some PFAS in some of the waterfowl tissues.

Funding an additional \$15 million this year, for a total of \$30 million -- \$15M in ARPA and \$15M state funds from the legislature is going toward reuse reservoirs in southern Utah. Collectively, about \$200 million dollars' worth of construction to be supported with the \$30 million or so from the legislature. There is a lot of interest in implementing reuse projects in southern Utah.

HB 349 was passed in this year's legislative session. Two people can approve reuse projects in the State of Utah: (1) the Director of the Division of Water Quality and (2) the State Engineer. This legislation effectively prevents us from approving reuse projects for any municipal wastewater treatment operation that otherwise discharges to a tributary of the Great Salt Lake. The purpose of this is to get more water to the Great Salt Lake instead of reusing it. There is a lot to shake out with shepherding that water and making sure that it actually gets where it is intended to go. There are a number of offers put in place because facilities were under construction. This has been a big deal for my programs to have to change the paradigm in which we look at reuse and the potential adverse impacts.

Nevada

Adam Sullivan reported that the big news this week has been the heightened snowpack run-off. There have been a number of incidents of people getting rescued or not being rescued and being swept over spillways. There has been a frantic public messaging effort prior to Memorial Day.

Nevada's newly elected Governor Lombardo started in January. With that change came a new director of the Department of Conservation and Natural Resources (DCNR). Jennifer Carr, who is a WSWC member, is now the Administrator of the Division of Environmental Protection (DEP). DCNR oversees DEP, as well as the Division of Water Resources.

Our state legislative session has been underway. Nevada's legislative schedule is similar to Nebraska, as we meet for 120 days every other year. The session is about to wrap up. The state has a budget surplus which is nice. There has been an emphasis on supporting one-time expenses, rather than committing any long-term increases in state resources. There is money in the budget for additional gaging to support the ARPA expenditures; money for counties for updating water resource plans; money for water right buybacks; money for dam infrastructure improvements; and a proposed study or re-study of the PMP for the state of Nevada. Also in the budget, there are ten new positions for DWR, which is huge. We have a staff of about 90, and we have not had an increase in staff for a generation. So, if the increase in staff is passed, it will represent significant

additional capacity for the agency. Similarly, there are pay equity proposals, which are long overdue.

The legislature has taken up about 20 water bills. Far more of these bills have made it this far through the session than anyone expected. If these bills pass, they will have a significant impact on what we do. I see it as reactive or responsive to perceptions or things that have happened in Supreme Court decisions. Part of our mission is to protect critical management areas and senior rights - giving local communities more say in what happens regarding over-pumping, State authority versus local input.

There is a proposed interim study to look at how state agencies administer natural resource issues. I'm thinking about North Dakota and what you guys did recently with restructuring. It remains to be seen if the bill will pass.

One water bill has been signed and was completely unanimously supported. It was for giving tribal entities or tribal nations the same exemptions or opportunities that local governments or federal agencies have within state law.

Texas

Jon Niermann thanked Melissa Flatley and Adam Sullivan for their efforts in hosting the meetings and for the great field trip. Jon reported that Texas is in the last week of its legislative session and provided information on three significant topics. First, the Texas Commission on Environmental Quality (TCEQ) is suffering through a staffing crisis in terms of unprecedented vacancies and plummeting tenure. TCEQ had a significant budget request, and it looks as though they will get a significant amount of money, but not nearly enough. So, there will be some tough decisions to make. Second, this is our Sunset year. It has culminated in a bill that will continue the TCEQ agency for another twelve years. The bill passed both legislative houses yesterday. Third, in terms water-related legislation, the most significant bill is in the conference committee right now and appears it will move out of that committee. It would establish two new funds in Texas: one to address water infrastructure, principally in rural communities, and the other is to develop new water sources. Texas is also fortunate to be in a surplus budget year, so they are committing some of the surplus funds. The numbers being kicked around for both of those funds combined are between \$1 - \$3 billion which will make a meaningful impact in Texas.

Alaska

Emma Polson: I appreciate hearing about the challenges many of you have with drought. In Alaska, we are amid our spring flood season and about ten communities have had disaster declarations around the state.

EPA finalized their 404(c) determination for the Pebble deposit in January, finding that constructing the mine would have unacceptable adverse impacts on a fishery. We are evaluating that decision and looking at what our options are. We are disappointed to see that it has gone

forward without any consideration of the State's regulation of fisheries and how we protect fish habitat.

Our bid for funding for 404 assumption was narrowly declined by the legislature this year. We are regrouping and evaluating what we want to do on that front. I believe we shared the challenge that Arizona had with the concern from legislators about the lack of federal financial support for a federal program. ECOS and some other organizations have put forward resolutions affirming the desire for federal support of programs that are carried out by states. We have been working with Senator Murkowski and others to see if we can shake something loose on that front as well.

We continue working on human health criteria and fish consumption rates regulations. The scoping period has closed. We had been evaluating this for some time. EPA sent a letter requiring us to do it in two years, so we are plugging away on that effort.

We are experiencing some challenges with 401 certifications. Earth Justice explicitly told our team that there is no mine in the state of Alaska that they would not challenge. Thus, we are at odds with statements from the White House and their affirmation of the need for critical mineral development, including specifically in the U.S. Arctic, which is Alaska. In that context, we are seeing appeals of several 401 certifications of 404 permits. An additional challenge is the back and forth with the federal rules. This has generated some uncertainty around what regulations to apply when and what applies by the time something remands and comes back up again.

Charley Palmer: We have a strong, coordinated effort in Alaska using drones in state agencies. Across five different state agencies, we currently have 170 drones with about 190 certified pilots. Within the Department of Environmental Conservation (DEC), we have about 23 drones and 46 certified pilots. We have been seeing a decrease in the number of manned registered pilots and a large increase in the number of remote pilots that have become registered. A story map describes our DEC program that you are welcome to look at to get a feel for our program. Further, our Interagency Hydrology Committee for Alaska (IHCA) meets twice a year to coordinate water data collection efforts across federal, state, tribal, local and academic organizations. Here is a link to their website: <https://sites.google.com/site/ihcalaska/home>.

Idaho

John Simpson reported that the legislature approved some water supply projects for Idaho Water Resource Board. A substantial amount of ARPA money and general funds are being used for aging infrastructure projects. In 2022, the Board had about \$25 million to distribute for aging infrastructure projects, partially funding those projects. The money was distributed evenly to four districts in the state to address aging infrastructure throughout irrigation systems, municipal systems, and other water delivery systems. It was so successful that the legislature provided another \$25 million to the Board. Applications will be accepted in August and December for the funds. Additionally, money was provided for what we call sustainability projects. The proportionate share has not been determined. About 15 projects have been applied for, and are

attempting to receive money from the Board, for sustainability projects to address water supply issues and conservation.

With respect to water supply, this year the south and southeastern parts of the state had almost record snowpack. The Portneuf River Basin in southeastern Idaho received nearly 200% of average. The Blackfoot area had about 190% of average. Interestingly, the north and eastern Idaho areas received lesser snowpack, though it was slightly above 100%. Because of the multiple years of drought, the storage systems were nearly drained in Idaho. It is yet unknown whether Jackson Lake and Palisades Reservoir will fill. That had led to discussions regarding reducing releases out of Jackson in order to optimize fill in Jackson Lake and not impact areas below Jackson Lake. Those discussions have been ongoing.

Last October, the director of Water Resources issued a moratorium for nearly the entire stretch of the Snake River above the mid-Snake. This means that groundwater and surface water applications are being put on hold, as the state now recognizes the inadequate supply for not only new rights but existing water rights on the Eastern Snake Plain. This Spring, the director issued a revision to the Administrative Order for the Eastern Snake Plain between groundwater and surface water which has resulted in multiple filings in district court. We are changing the methodology, changing the baseline year for water demand. The methodology has been court approved to compare supply and demand. If there is a deficit, there is an early injury determination. That determination is reviewed throughout the irrigation season. Secondly, a groundwater model that was developed in Idaho, determined that curtailment date, historically based upon steady state modeling. The director, in my opinion, realized that steady state will not bring water back at the time of need. To bring it back in time of need, it needs to be run in a transient state in time in place in kind. That resulted in an initial determination of curtailment of water rights junior to 1953 absent effectively operating mitigation plans. The oldest rights on the Eastern Snake Plain are about 1946-1948. So, nearly all groundwater rights are implicated if they are not part of an effective mitigation plan. There is a lot of litigation over this issue.

We are starting the Bear River adjudication and the neighboring adjudication in the Curlew Valley, which both drain into the Great Salt Lake Basin. There is a great deal of interest from Utah on that. The adjudications are just getting started with field staffing within the Department of Water Resources on those issues. In northern Idaho, adjudications are ongoing in the Palouse River Basin in the Coeur d'Alene Basin. It seems we are trying to adjudicate the whole state -- trying to adjudicate every water right within state boundaries.

Arizona

Amanda Long-Rodriguez noted it has been a very busy legislative session in Arizona with several water-related measures related to the shared water supply and the groundwater code. The State budget has a surplus and it is anticipated that some of the funds will be set aside for water infrastructure conservation and rural groundwater management.

The Water Resources Department has been very busy with other large tasks. The inaugural Governor's Water Council Policy Meeting was held earlier this month. The Council was formed

by executive order and is tasked with updating Arizona's water management framework, including water management outside the Active Management Areas. It will build upon the work of past Councils.

There were two new groundwater management areas passed in the State. These are the first subsequent management areas under the Groundwater Management Act. As that has never happened before, there is a lot of statute to be interpreted. A new team has been formed to help assist with that establishment. Water supply and demand assessments are required for each of Arizona's groundwater basins every five years. The Department assembled a 10-member team to do this task. The first seven assessments are on track to be completed by December 1.

FUTURE COUNCIL MEETINGS

We are excited to be meeting in Alaska in September. It was determined that there will be no Winter meeting held this year due to meeting scheduling. The Spring meeting was later than typical, and we will be meeting in Alaska this Fall. Thus, we have cut a meeting from this year's schedule. This may help with your travel budgets and allow you to attend the Alaska meetings.

The Spring 2024 meetings will be held in the Washington, D.C. area.

SUNSETTING POSITIONS FOR FALL 2023 MEETINGS

Tab XYZ of the briefing materials contains sunseting positions for the 2023 Fall meetings, Positions #454 - 458. Please review them and get any proposed changes to staff.

OTHER MATTERS

Chair Jen Verleger presented two resolutions of appreciation for the Council's consideration. One was for Jeremy Neustifter from Colorado who served on the Council from October 2020 to December 2022. The other resolution was for Rebecca Roose from New Mexico who served on the Council from March 2020 until December 2022. These were passed by acclamation.

A roundtable on Pumped Storage Hydropower will begin at 1:00 p.m. for those who are able to remain for the discussion this afternoon.

There being no other matters, the meeting was adjourned.