

**DRAFT W2ASACT MEETING NOTES**

Meeting on December 12, 2017, 9:30 am to 12 pm

Dept. of Natural Resources & Conservation, 1539 11<sup>th</sup> Ave, 2<sup>nd</sup> floor conf. room 225

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**Members and participants present:**

Paul LaVigne	DEQ/ENG/WRF	Kari Smith	DEQ/WQD
Mike Abrahamson	DEQ/ENG/WRF	Sarah Robbin	RATES
Anna Miller	DNRC/FDB	Brad Catron	DNRC/RDB
Lindsay Volpe	DNRC/RDB	Elisa Prescott	Great West Engineering
Mark Bostrom	DNRC Administrator	Amy Deitchler	Great West Engineering
Denise Cook	DNRC/RDB	Erinn Zindt	MAP
Tom Erskine	Interstate Engineering	Craig Erickson	Great West Engineering
Bryant Higgs	Avdd Pump & Equip	Bryan Vanderloos	KLJ Engineering
Sonja Hoeglund	DNRC/RDB	Cathy Duncan	Legislative Services
John Camden	MRWS	Laura Sattler	USDA-RD
Donna Wadsworth	MRWS	Steve Troendle	USDA-RD
Rika Lashley	Morrison-Maierle	Karen Sanchez	USDA-RD
Alice Stanley	DNRC/RDB	Charles Robinson	USDS-RD

**Via Conf. Phone:** Kevin Dorwart, Operations Superintendent, City of Glendive. Joined during meeting by Michelle Turville, Bear Paw Engineering.

DEQ – Montana Department of Environmental Quality  
 DRF – Drinking Water State Revolving Loan program  
 WRF – Wastewater State Revolving Loan program  
 FDB – Financial Development Bureau  
 RDB – Resource Development Bureau  
 MBOI – Montana Board of Investments  
 MAP – Midwest Assistance Program  
 MRWS – Montana Rural Water Systems

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**Call to Order, Sign-in Sheet, Agenda Changes**

Alice Stanley called the scheduled meeting of the Water, Wastewater and Solid Waste Action Coordinating Team (W2ASACT) to order at 9:33am, on Tuesday, December 12, 2017. The sign-in sheet was routed and the meeting agenda and draft minutes from the September 12 meeting were distributed. Those present briefly introduced themselves including Kevin Dorwart. Alice asked if there were any revisions to the minutes from the September 12, 2017. Tom Erskine made a motion to accept the minutes and Paul LaVigne a second and the minutes were approved and adopted.

## Guest Speaker:

### Cathy Duncan – Senior Fiscal Analyst, Montana State Legislature

Cathy is involved with the Long Range Planning Committee. She explains infrastructure and funding to the Legislature. She talked while guiding us through a spreadsheet on infrastructure funding, which is used by her office to track projects. The committee looks at a variety of programs. The Legislature hears testimony from applicants and typically does not change recommendations made by the committee via the spreadsheet. Her staff looks at funds available as does the Office of Budget and Planning (OBPP). She said there are competing estimates, which form parameters of what gets funded. TSEP allows for about 3 projects to move forward if revenue estimates are higher than anticipated.

Opponents to projects are rare. If there are some, the Legislature listens carefully and does research to make a determination on project funding. Cathy's subcommittee works with 8 bills and she makes sure the bills look good and include necessary information, etc. Then the committee watches bills move through the process. The committee tried to give the Legislature a better sense of project funding. The table looks at proposed funding. The table being DNRC's "Hope Table". The table looks at many programs besides TSEP. It also has county information. This spreadsheet is from early in the session from all communities hoping to receive financial help.

Anna said there is some conflict between the House and Senate, but the Senate did pass one infrastructure bill. Mark Bostrom asked what the scope of infrastructure is? And he asked if DEQ funds were included? Anna added that if someone didn't apply, we would not know about them. Alice added some funding was "bunched". Mark Bostrom said that in that case, it appears in the category "other" on the spreadsheet. Alice continued saying which county gets projects – that is how the Legislature looks at things. Alice added that we did not get the Legislature this table. Steve Troendle asked if we could get a copy of this table/spreadsheet. He said that funders don't always communicate with RD. If possible, Steve would like the future version. Alice added that it is not a "truth table". Steve said that he is not made aware of an applicant's interest in funding, so this spreadsheet would help him help communities. Alice said that many of those projects will not get funded.

Anna added that this represents health and safety issues. If DEQ says a water system/lagoon is out of compliance. This also means jobs to the State when a project is funded. The importance of this work is not lost on the Legislature. Kari Smith asked what questions the Legislature asks when the committee is educating them? Cathy said that local governments don't provide local funding for their projects. One Legislator asks "what's their skin in the game?". Some local governments have some of their own money. Funding comes from many different sources. Local governments' debt is "skin". They are paying part of their projects. Debt = taxes.

Alice mentioned the Rate Study that DNRC conducts every two years. Sonja added that the study also includes Median Household Income. Cathy continued saying that TSEP provides information on target rates and shows how local governments are paying for these projects. They are limited on where they can go for funding. Tom said this shows that there is a need for funding statewide. The next DNRC Rate Study Survey has received

60% replies so far. Anna added that DNRC will follow-up in January so that by February/March 2018 we can post the Rate Study results on the WASACT website.

Alice said that the “Hope Table” is built on applications. Anna added that May is the deadline for applications, which is the same as TSEP’s deadline. Steve said the table is a combination of TSEP and DNRC. The other table was built from 2015 data and shows how much money goes to what type of projects and where funding comes from. All TSEP projects were funded, but the November 2017 Montana Special Legislative Session took away \$7.5 million of each and put it in the General Fund. This means a number of projects in TSEP will not get funded.

Kevin Dorwart from the City of Glendive, who was on the phone commented on a wastewater treatment plant project for Glendive. The project was completed after two years and there were problems with construction and with funding agencies. Kevin provided some solutions to the problems.

- 1) Prevailing Wage – paid and monitored, is usually required. There was 3,500 lines of Prevailing Wage data that was monitored. One subcontractor failed to pay \$2,200. City went to Department of Labor.
  - a. Solution: In supplemental conditions, a provision could be added to say that if a contractor is not up to date on Prevailing Wage, the city can withhold funding.
- 2) Lien Releases – The contractor gave conditional lien releases. It took 2 and ½ months to get proof of payment. When Kevin did get the documents, some were dated the day before, so they weren’t paying them.
- 3) Warranty Work – Going on 2 years this month, there has been a design/maintenance issue. Both the engineer and contractor say it’s not their problem. They get paid and don’t want to come back to fix issues. They ignore requests until it is past the warranty and then they don’t have to do anything to fix a problem.
  - a. Solution: These could all be in the supplemental conditions. We could hold a percentage back until all work is done. As far as warranty work, the contractor is responsible for charges for the engineer.
- 4) Blackout Period – Mentioned in the supplemental conditions or in the pre-construction meeting before starting a project.

Kari Smith said that communities need good legal assistance.

Items should be in EJDC documents

1 year from final payment

Deductions are allowed in Art 15 in EJDC documents

Kevin added that the items are in contracts, but we have no “teeth”. How do you make them do it? How do engineers enforce contracts? Alice will have Standard Documents Committee look at Kevin’s suggestions and make the proposal to WASACT. Alice said that Mark Smith and Paul LaVigne can look into this. Paul added that retainage is in the MCA’s. Bob Fischer, who retired this year, was on the Standard Documents Committee.

10:35 - 10 minute break

## Program Updates

Anna Miller with DNRC - Anna said that during the Special Session of the 65<sup>th</sup> Legislature, HB 6, which covered water and wastewater projects, was passed. The Governor's Office has a plan in place to increase state revenues. The Legislature had a "rosy" view of the budget revenue projections. As part of the plan, we could see increased rates on rental cars and lodging. These items would help the revenue shortfall.

Anna said the Governor mandates agencies to cut 10%. The Dept. of Justice, the Attorney General's Office and the Office of Public Instruction are out of the Governor's control. There will be a 10% cut on General Funded agencies/programs. State Special Revenue funds have seen revenue coming in low.

Anna continued by saying that HB 6 is the transfers bill. We will take \$2 million out of the renewable project account, which leads to a shortfall. We were going to fund 26 projects, but now we can only fund 19 projects. RIT and O&G have interest income through November 30<sup>th</sup>. There is no O&G report. Projects will have to wait until money comes into that account at the end of December and then we will see about O&G funds. This has an effect on payment contracts.

With the cuts, we won't be able to fund as many projects. \$14 million was appropriated. The FY 18 and FY 19 budget cuts include \$172,000 out of the CARD Division. Anna noted that in the Independent Record's financial page, the price of oil for the previous day is listed at the top of the page. She said we may be better off in the second year of the biennium. We cannot deficit-spend. The federal government is under continuing resolution, but we still don't know how much federal money will come to Montana.

Lindsay Volpe with DNRC – Lindsay began by saying that there is \$400,000 for the first Planning Grant cycle. She handed around copies of the spreadsheet for 2017 Planning Grant Applications Round 1. The Planning Grant (PG) applications include solid waste issues. There are also forest health issues. The question raised is how do projects compete for funding? Craig added that it is difficult to make arguments for the need on solid waste projects. Steve said you can do a biomass project, but you don't always recover funds that the community needs bonding to repay a loan.

Steve Troendle with Rural Development – Steve reported that Rural Development had a situation on a Planning Grant (PG) where they asked to fund a PER again. RD will be able to fund 4 projects – RPGs. We can go up to \$30,000, but we have not heard from applicants. They need the EA and PER to apply. RD needs to have dialog with 3 or 4 projects to determine a community's steps. Timing is not as succinct as previous cycles/sessions.

Steve introduced Charles Robinson who is the state director for Rural Development. Charles, who previously helped Greg Gianforte with this campaign, says it is exciting to join and be a part of WASACT. He said Montana has the ability to form relationships with funders and with communities.

Steve continued his update saying that in FY 16 RD did \$75 million in projects. In FY 17, we did \$25 million in projects. Steve also has 4 fewer employees. He is still trying to find projects that are ready.

#### Anna Miller with DNRC - Regional Water

Anna reported on the 4 regional water systems: Fort Peck Tribes/Dry Prairie, Rocky Boys Reservation/North Central, Dry Redwater and Central Montana Regional Water Authority. She said 20,000 people will be on the Dry Prairie system. Mayor Bonderud was not re-elected to the city of Shelby, which is an interim water source for North Central Regional Water System. Water was brought from Conrad to Brady. Rick Duncan will provide more details at the next WASACT meeting.

#### Erin Zindt with MAP – Midwest Assistance Program

MAP is short one technical assistance writer since one retired. Later she will provide an update on the WASACT workshops.

Paul LaVigne with DEQ – Their office is busy with SRF projects. Mark Smith is doing double-duty as he is also acting Bureau Chief.

Sarah Robbin with RATES - Sarah's staff is looking into rural and tribal environment solutions. Also, they are looking at additional funding. They'd like to get DES funding for emergency situations.

John Camden with MRW – John said that by the end of April, the “Sugar Writer” (sic) program could be done. Anna added that technical assistance is helpful once a project starts. Also, we can do source water protection. John said that is funded through the EPA. John said the annual conference is February 21<sup>st</sup> through the 23<sup>rd</sup> at the Best Western Heritage Inn in Great Falls. Rural Water is giving 2 rooms to WASACT for the conference for the funding workshop.

### **Committee Updates**

#### Uniform Application and Standard Documents

Lindsay Volpe reported that February 1<sup>st</sup> the application will be available. The deadline is May 15<sup>th</sup>. Sarah volunteered to temporarily serve on the committee. Mike Abrahamson said that he would chair the committee. Michele with Bear Paw Development asked if the committee has a grant writer. She then volunteered.

Workshops – Alice asked for ideas on the workshop agenda. Erin offered to put out a conference call notice. Steve asked for suggestions on locations. Lindsay offered to be the liaison for DNRC.

#### Internet Website

Lindsay reported that the WASACT video that on utube is now on the WASACT website. If you have updates on meeting minutes, please send them to Lindsay and she can update them on the website. Do we want the WASACT brochure on the website?

**Congressional Update** – No representatives in attendance.

**Rural Development** – Karen Sanchez began by informing the group about ideas concerning American Iron & Steel.

- 1) Requirements
- 2) Testing electronic PER
  - a. Bring back American jobs. Identical to SRF program. Its applicable to iron and steel and valves. Work with the EPA. Refine and modify our guidance. Any project after May 5<sup>th</sup>, 2017, the requirements are in effect. Should be next fiscal year funding. The owner, engineers and contractors are responsible. Reach out to funders, have webinars and a field guide.
  - b. Does not connect to rural development. Results in pdf form.

Karen showed us on the projector screen, the landing page for RD. It follows the Uniform Application. The tabs follow RUS Bulletin. You can see the population in a drawn area. The program generates a pdf PER. RD is asking for input from Engineers. They will also present this at the MRW conference in February. Lindsay asked what the charge will be to use this?

End of Updates

#### Election of a new WASACT Chair

Erin and Sarah nominated Anna Miller. Anna said she is happy to do it and Lindsay offered her support of Anna as chair.

Next meeting was set for Tuesday, March 13, from 9:30 to noon at DNRC. Topic for next meeting is "What's up with Montana's water, fire and zebra mussels.

Meeting adjourned at 12:02.

Minutes taken by Denise Cook