



## **Government Relations Division – Winter 2020 Report**

### **Liaison – Mel Damewood – Past Chair PNWS**

The Government Relations Division has a total of 6 committees, consisting of the Water Utility Councils (WUCs) of Oregon, Washington and Idaho, and the Water/Wastewater Agency Response Networks (WARNs) of Oregon, Washington and Idaho.

Communications have been primarily through emails and occasional phone calls. I have not been able to attend any meeting this fall and winter.

There will be a meeting at the Section Conference in Spokane for the WUCs and WARNs on Thursday, April 30<sup>th</sup>, from 12:15 to 1:15pm in Room 205 at the conference center.

The budget will be approved by the Board this fall, the WUC's are self-sufficient since they collect dues and have other means to collect money for legal, regulatory and other issues that come up from member utilities. The same is true for the WARNs, and a nominal amount was allocated for website development for ORWARN, which is planned to be reimbursed. The following are reports from the individual committees for both WUCs and WARNs, submitted respectfully by the listed chairs of those committees.

### **Utility Council Report**

## **2020 PNWS-AWWA Winter Trustees Report Oregon Water Utilities Council**

*Chair:* Mike Grimm, West Slope Water District

*Vice-Chair:* Joel Cary, Tualatin Valley Water District

*Sec/Treasurer:* Wally McCullough, Eugene Water & Electric Board

*Past Chair:* Karen Kelley, Eugene Water & Electric Board

The Oregon Water Utilities Council monitors legislation, regulations, and court actions that could impact the water industry, giving members the ability to engage in and help shape these kinds of issues. In addition, it provides its members with the ability to network with other water utilities of all sizes across the state to share information, discuss issues of importance to drinking water providers, and to engage in solutions. The legislative activities are closely

coordinated with policies of the AWWA when applicable. Here is an update of what OWUC has accomplished over the past few months:

### **Review of Activities and Accomplishments**

#### **State Legislature**

The short session of the Oregon Legislature opened February 4, 2020. OWUC members are actively tracking bills affecting utilities through the course of the four-week session.

#### **Oregon Water Resources Department Budget**

OWUC has begun working with other stakeholders to help OWRD frame the Department's 2021-23 biennial budget. OWUC has participated in initial meetings to provide direction to the Department on goals and strategies deemed most important by the stakeholders group.

#### **Governor's 100-Year Water Vision**

OWUC members participated in several community meetings and stakeholder workshops during 2019. The result of input from OWUC and other stakeholders was a recommendation to fund the top three priority asks in the 2020 Legislative Session.

#### **OWUC Subcommittee Work**

OWUC continues to work state legislators, state agency staff, and other stakeholders on the Harmful Algal Bloom and PFAs issues.

#### **Revised Lead and Copper Rule**

OWUC members have been working with national WUC members to review the EPA's proposed Revised Lead and Copper Rule. Besides providing comments to AWWA legislative affairs staff through the WUC to be used in a formal response to EPA, OWUC has assisted with developing a template letter that can be used by utilities to submit individual utility comment to EPA.

#### **2020 Water Matters Fly-In**

OWUC Chair Mike Grimm and Vice Chair Joel Cary will attend the AWWA Water Matters Fly-In on April 29-30, 2020 in Washington D.C. OWUC is preparing fact sheets and position papers to share with the Oregon delegates. Unfortunately, the Fly-In takes place at the same time as the Section Conference in Spokane. Past Chair Karen Kelley and current Secretary/Treasurer Wally McCullough will lead the OWUC portion of the Tri-State meeting at the Section Conference.

## Washington Water Utilities Council Winter 2020 Committee Report

Doug Quinn, Chair

### Activities and Focus for 2020

The WWUC continues to monitor and participate on behalf of the water industry in relevant litigation, regulation, and legislation. The significant areas of focus over the past several months since our last report are noted below.

### Legislative Activities

The WWUC serves as a state legislative monitoring, information, and coordination resource for its member utilities. The 2020 session of the Washington State Legislature has seen introduction of several bills addressing concerns about contamination of drinking water by chemicals such as PFAS and lead. Another area of interest for legislators is the transfer of water from one watershed to another, and how such transfers can affect the economy and environment in the watershed from which water is taken. The Department of Ecology is promoting a bill to modernize its drought preparedness and planning law, which was drafted with input from a WWUC representative.

As it has done for more than 20 years, this session the WWUC is tracking and monitoring legislation of interest to water utilities, providing weekly written updates and legislative hearing calendars for bills of interest to WWUC members, and holding weekly member conference calls to share information about legislation and help coordinate water utility response and testimony when needed.

### Regulatory Activities

The WWUC routinely analyzes proposed Washington State agency guidance and policy documents, as well as rules and regulations, for their impact on WWUC members. We also regularly discuss proposals with agencies and provide informal and/or formal review and comment. In addition, the WWUC participates in or tracks stakeholder processes convened by state agencies to address pressing water issues. Below are some of the major activities underway:

The WWUC is tracking the Department of Health's rulemaking for PFAS. Mike Means, Director, Office of Drinking Water for DOH, has presented to the Board of Health proposed rulemaking on compounds, including but not limited to PFAS. The current proposal is for the Board to adopt a PFAS state advisory level, not an MCL, to help determine the timing of possible remedial action. The informal comment period ended on January 30, 2020 considering revisions to set regulatory standards for PFAS chemicals. DOH and the State Board of Health will develop a rule proposal allowing for formal public comments planned for spring 2020, followed by a response to comments along with rule adoption anticipated in the fall.

The WWUC is also tracking Ecology's implementation of the 2003 Municipal Water Law and particularly the definition of "municipal water supply purposes" following last year's court decision in the *Crown West* case. The WWUC continues to have concerns that Ecology's interpretation of the definition shifts risks, costs, and uncertainty to utilities, and the WWUC continues to track administrative developments and to maintain open dialogue with Ecology.

The WWUC continues to monitor new regulations on matters such as installation of Underground Injection Control (UIC) wells, use of reclaimed water in water utility service areas, drought response, and replacement of lead components in water systems.

### **Judicial Activities**

The WWUC monitors court cases and appeals involving water rights and other relevant legal issues. A considerable amount of both committee and meeting time is dedicated to this work.

Late in 2019, the state Supreme Court issued a decision in favor of the state's largest county to charge rent to utilities under its franchise authority. Along with other utilities, the WWUC had filed an amicus brief in this case arguing against the county's claim of authority to charge rent for use of rights-of-way for utility facilities. The case involved a declaratory judgment action by King County to validate its recent ordinance to charge private and public utilities "rent" for underground facilities in the rights-of-way of county roads. King County named several water-sewer districts as defendants and several additional districts intervened in the trial court proceeding in Seattle. Because this is a case of "first impression," the final decision in favor of King County could have statewide consequences for some or all counties, and the expectation is that other counties will now seek to adopt similar ordinances.

The WWUC is also tracking several other court cases relevant to water utilities. An appeal by Ecology to a successful challenge to state instream flow rules in the Spokane area has been accepted by the state Supreme Court. A new class action lawsuit against the City of Spokane is proceeding in Spokane County superior court in which water customers who are not residents of the city are challenging the lawfulness of "outside" rates.

The WWUC is continuing to track appeals arising from, or in the context of, water right actions following a small system water system consolidations, which relates to the inter-agency effort described in prior reports. The WWUC continues to be concerned about how the Department of Ecology is implementing provisions of the 2003 Municipal Water Law and is monitoring agency steps and any appeals.

### **Water Rights Issues**

With the passing of SB 6091 in 2018, several actions were initiated. Now known as the "streamflow restoration" act, SB 6091 authorized an expansion of Ecology's administrative programs to offset impacts to small domestic wells and a pilot program for processing water right applications that rely on non-standard mitigation. A Water Resource Mitigation Joint Legislative Task Force was formed and Bob Hunter was selected to serve on this task force on behalf of the WWUC. To guide his participation, the WWUC developed a Water Resources Mitigation Issue Paper, which articulated the utilities' position on water right mitigation situation both in-kind and out-of-kind. In addition, Watershed Restoration and Enhancement Committees (WREC) were formed for many of the state's watersheds. Their primary purpose is to develop plans for instream resource enhancements that would allow for small domestic (or "permit-exempt") wells and result in a Net Ecological Benefit (NEB). WWUC members serve on these WRECs throughout the state.

### **Membership and Financial Situation**

Overall, we continue to have good attendance at meetings and active participation in decisions. The work of the WWUC is well appreciated and respected throughout the water community in

Washington State and also by affected stakeholders. We anticipate staying active throughout the 2020 legislative session and engaging in litigation that pertains to our mission.

## **Idaho Utility Council Report**

John Wiskus – Chair

The Idaho Water Utilities Council monitors legislation, regulations, and court actions that could impact the water industry, giving members the ability to engage in and help shape these kinds of issues. In addition, it provides its members with the ability to network with other water utilities of all sizes across the state to share information, discuss issues of importance to drinking water providers, and to engage in solutions. The legislative activities are closely coordinated with policies of the AWWA when applicable. Here is an update of what IWUC has accomplished over the past few months:

### **Meeting Participation**

Meeting participation is up over the last quarter, with about a dozen representatives participating in our meetings. IWUC is getting good participation from multiple agencies including, Association of Idaho Cities (Environmental Analyst), Idaho Rural Water Association (Executive Director), Idaho Department of Environmental Quality (Drinking Water Bureau Chief), and Idaho Department of Water Resources (Deputy Director).

One item to note is the Utah is now forming a WUC through the Intermountain Section, and so they are calling into the Idaho meeting to get ideas of how to set up the UWUC.

### **Fly-In**

Nate Runyan, Deputy Public Works Director for the City of Nampa will be participating in this coming year's AWWA Water Matters Fly-In and representing IWUC.

### **Legislative Matters**

The Governor is issuing an executive order for the State of Idaho Agencies to begin a “Zero Based Budgeting” exercise that will challenge all agencies in their work. IWUC is concerned about IDEQ and IDWR getting wrapped up into that rather than conducting much needed field work. At risk are programs that IWUC supports, such as Idaho’s cross-connection program and well construction and sealing standards.

There is a 2020 legislative session that IWUC is also monitoring.

## Water/Wastewater Agency Response Network Reports (WARNs)



### Chair – David Brown, City of Yakima

The WAWARN Committee is still struggling. The network works fine but committee structure could be better.

WAWARN has 153 member utilities, still growing. Five of our members have not signed their Mutual Aid Agreement, attempts have been made to get them to correct this. The web site is operational. Many notices relating to security or emergency planning were sent this quarter including some on cybersecurity. The members were asked to update their contact list.

We will attempt to have an ID – WA – OR joint Committee Meeting at the annual Conference.

The WAWARN is mostly a web site with a process to track the Mutual Aid Agreements and where members can request assistance. There appears to be little or no interest in having meetings. I remain open to ideas about how WAWARN can be more than it currently is.

Last call improvement teleconference from our Functional Exercise at the Brightwater Wastewater Treatment facility planning group with Horsley Witten was in September. Some commitments from members to engage in the WAWARN committee structure. EPA indicated they would help update our operational plan last year but noting yet. Last year Ned Worcester from SPU attended the National WARN Chairs meeting in St. Louis. Not much new on the attempt to develop a nationwide WARN agreement.



## **2020 Board Members**

Current Board members are:

Chris Wanner, Portland Water Bureau, Chair  
Jeremiah Hunt, Eugene Water and Electric Board, Vice-Chair  
Gina Johnson, City of Klamath Falls, Secretary  
Stephanie Penselin, Eugene Water and Electric Board, Treasurer  
Kimberly Anderson, Portland Water Bureau, At-Large  
Dwayne Barnes, City of Salem, At-Large  
Ronnie Mompellier, Portland Bureau of Environmental Services, At-Large  
Ken Vaughan, City of Bend, At-Large

## **2020 Goals**

The Board set 4 goals for 2020. They are:

- Outreach to increase membership
- Host a conference
- Develop new member onboarding documentation
- Website Improvements

## **2019 Functional Exercise**

ORWARN in conjunction with EPA and Horsley-Witten hosted a free one-day functional exercise in Eugene at Eugene Water and Electric Board on November 7, 2019. 34 organizations from across the State participated both on site and via the web. CEUs for both water and wastewater operators were offered.

## **New ORWARN Website**

The new ORWARN website went live in November 2019. Board Members continue to work with the utilities on accessing the new site. For more information, please email [info@orwarn.org](mailto:info@orwarn.org).

## **ORWARN 2020 Conference**

ORWARN is sponsoring a conference to be held October 21-23, 2020 in Newport, Oregon. The conference organizing committee anticipates water and wastewater CEU's will be awarded for Oregon.

## **Membership and Outreach**

ORWARN currently has 146 member utilities and 14 associate members. In order to help facilitate response during emergency times, the Board is working on a plan to bring more associate members into the group, such as local county emergency managers. The Board continues outreach to non-member utilities via ORWARN 101 presentations and direct contact with utilities. Just recently, the current ORWARN Chair, Chris Wanner, presented ORWARN 101/PNEMA/EMAC at the PNWS-AWWA Utility Management Committee Training event.



## Idaho Water/Wastewater Agency Response Network (IdWARN)

Co-Chair: Shelley Roberts

Our current Steering Committee Members consist of the following:

Shelley Roberts, IRWA, Co-Chair  
Kevin McLeod, Star Water & Sewer, Co-Chair  
Dion Holton, City of Coeur d'Alene, Coeur d'Alene Region  
Lonnie Chambers, City of Weiser, Boise Region  
Rob Bohling, City of Twin Falls, Twin Falls  
Region Rich Pierson, City of McCammon,  
Pocatello Region Idaho Falls Region (vacant)  
Lewiston Region (vacant)  
Barbara Jones, DEQ

IdWARN is continuing with quarterly meetings. All meetings are available to meet in person or via teleconference. Two (2) new full members joined WARN since previously reported with the addition of the City of Pocatello and the City of Wilder. So, IdWARN now has 74 full members and 8 associate members. Associate members include utilities that have not signed the mutual assistance agreement, vendors, regulatory agencies and emergency services agencies. Current associate members include: Idaho Rural Water Association (IRWA); Ada County; Bonner County; Madison County; Twin Falls County; the Idaho Office of Emergency Management (OEM); and Idaho Public Utility Commission Infrastructure office.

IdWARN was activated on April 9, 2019, for the City of Stites in Idaho County due to flooding and on July 30, 2019 for the Cave Bay Community Water System in Kootenai County due to unexpected water loss. We are not aware of activations since that time; however, we are not always informed if members within our network reach out to one another for minor needs.

Current activities include:

- IdWARN was represented at the Idaho Emergency Management Association meeting during the week of February 3, 2020. This conference provided a forum for WARN representatives to interact with emergency management professionals from throughout Idaho. We feel we are making progress towards building relationships with county coordinators but much work still remains.



- IdWARN is reaching out to the Idaho State Office of Emergency Management to better understand how WARN and OEM may coordinate resources.
- IdWARN has been working closely with the OEM to utilize their WebEOC (Web based Emergency Operation Center) system for communication. WebEOC is supported by OEM and allows IdWARN members to post significant events including emergencies, trainings and meetings as well as contact information and available resources.
- All activities are being sponsored by local Idaho utilities and Associate IdWARN members, the Idaho OEM and EPA. The only direct costs at this time are teleconference fees for hosting steering committee and regular member meetings as well as the cost of production of marketing material.

Respectfully Submitted,

Mel Damewood – Government Relations Division Liaison