

WRAP Meeting Minutes
Tuesday July 23-24, 2002
Denver, CO

Tuesday, July 23

1. Dianne Nielson called the meeting to order at 1:05. Second Lt. Gov. Randall Vicente of the Pueblo of Acoma provided the invocation. Dianne asked the Board to allow for public comment on the agenda items. The Board concurred.

2. Business and Administrative Items

- Dana Mount moved, Tom Chapple seconded that the minutes from the November 2001 Board Meeting be approved as written. The motion passed unanimously.
- Patrick Cummins advised the Board on the by-laws modification to remove the Public Advisory Board and add the Air Managers Committee. Dana Mount moved, Kesner Flores seconded approval of the changes. The motion passed unanimously.
- Patrick Cummins described the interim appointments to the IOC, TOC, and Communications Committee. This included Rick Sprott as co-chair of the IOC, Angel McCormick as co-chair of the Communications Committee, and Jay Littlewolf and Mary Velarde as members of the Communications Committee. Kesner Flores moved, Doug Lempke seconded approval of the appointments. The motion passed unanimously.
- Bill Grantham noted that NTEC has appointed a Tribal Caucus Coordinator, Bob Gruenig.
- Patrick Cummins reported that Don Arkell has been hired by WESTAR to coordinate activities of the State Caucus of the Air Managers Committee. He also noted that Lee Alter and Tom Moore have been hired as policy and technical analysts respectively for the WRAP. He stated that Pat Murdo has been retained to assist with the work of the Communications Committee. He alerted the Board to the semi-annual RPO meeting in North Carolina on September 25 and requested that states interested in having staff attend let him know. He reported that the WRAP has been working with other RPO's to identify projects on which they could collaborate. He noted that we have already agreed to collaborate with the other RPOs on the VIEWS ambient monitoring data project being done by Colorado State University. He noted that the WRAP will be putting together a work plan for the next grant application. He stated that much of the work over the next few years will be focused more on the preparation of the Section 308 SIPs. He reported that WESTAR and the Air Managers Committee are involved in the development of the State and Tribal Implementation Planning process to bring together SIP/TIP writers and bring together common information.

3. **Status of Annex and EPA Rule Making**

Ira Domsky and Colleen Delaney, co-chairs of the Market Trading Forum, reported on the status of the Annex and EPA's rule making. Their report covered the WRAP's comments on the Annex and EPA's rule making, and ongoing Forum work on allocations, model rule and MOU, a "critical mass" study, other Class I areas, and the NOx and PM elements of Section 309. The presentation is available on the WRAP web site.

Dennis Hemmer said that states cannot enter into enforceable MOUs between themselves without an act of Congress and this needs to be clarified with regard to the work of the WRAP. Peter Maggiore asked why MOU's would be the preferred option. Colleen Delaney said that the basic issue is that the program needs to be enforceable and that the enforceable mechanism would exist within the SIP/TIP, but that the MOU itself did not need to be enforceable. Dianne Nielson asked if there was anything else the WRAP Board could do to deal with the issue. Dennis suggested that the Board needs to make sure that the issue is adequately resolved before SIPs are submitted and that some legal review be completed.

Doug Lempke asked about comments submitted by the public as part of the Annex docket. Patrick Cummins said EPA has provided WRAP with a copy of all the public comments and that they will be posted on the web site in the next day or so. There were about a dozen entities that submitted comments to the docket. Doug also asked about the timing of approval for the Annex. Patrick Cummins responded that a final rule is likely in the 1st quarter of 2003 because of the need to have a review by OMB.

Bill Grantham mentioned that the tribes are looking at a follow up to the ICF study to examine tribal set-asides.

Doug Lempke asked if the MTF had discussed whether there really was a critical mass necessary for 309. Ira speculated that at least one of WY, AZ, or CO would probably be necessary for a program to work, but that as the study showed, there are benefits to any trading program and the more states that participated the greater the benefits.

4. **Discussion of Circuit Court Decision; Impact on RH Rule; WRAP next steps**

Lea Anderson from EPA discussed EPA's position that the Annex and Section 309 plans can move forward notwithstanding the recent decision by the DC Circuit Court of Appeals. A letter from EPA Assistant Administrator Jeff Holmstead detailing EPA's position was distributed to the Board.

She noted that the Court did uphold the basic elements of the Regional Haze rule. However, the Court decision did impact the timing of SIP submittals and the BART provisions. Lea indicated that EPA had already petitioned the full court to

review the decision and would likely be seeking legislative relief on SIP submittal dates by asking Congress to harmonize submittal of the regional haze plans with other plans. She explained that there were implications for states choosing the Section 308 path, and that EPA was considering potential options. She stated that with regard to Section 309, the Court decision did not limit a state's discretion to meet the objectives of the rule. She said the court did not address EPA's allowance of substituting a trading program for BART or using group BART analysis to set a cap as part of the trading program. EPA's position is that the request for rehearing should not affect the timing of the 309 SIPs. She mentioned that the court could take anywhere from one to six months to respond to the rehearing request. (Note: The court subsequently denied rehearing.)

Doug Lempke said that Colorado had asked about extending the date for public comment on the Annex. Lea responded that EPA all comments would be fully considered. She also said that even comments received after the deadline date would be considered by EPA.

Peter Maggiore asked EPA to comment on the SIP due dates. Lea responded that they were probably going to ask Congress to consider the issue as part of the TEA-21 reauthorization.

Bob Saunders asked what happens if EPA doesn't prevail in the request for rehearing. Lea responded that EPA had not yet developed a strategy for revising BART if the rehearing was not granted.

Dennis Hemmer asked about the Court's statement regarding broadly applicable BART. Lea suggested that ultimately EPA would have to provide a mechanism for states to exempt sources from BART. Dennis said that even if the court decision does not affect the 309 SIPs, it is not possible at this point to accurately compare the costs of section 308 v. section 309.

Dianne Nielson asked if there was something more the WRAP could do to help make the evaluation of section 308 v. 309. Lea said that as EPA begins to assess options, they will keep states and tribes informed.

Tom Chapple said that Alaska was very interested in making sure the issue of SIP due dates was tracked to ensure the dates are harmonized. Dennis Hemmer said that it might make sense for the WRAP to take a specific position on due dates. Doug Lempke added that Colorado had requested the deadline date for 309 submittal be extended to make it possible to make a better decision on which path should be chosen.

Chris Shaver said that the existing date was part of a negotiated date that had been known for a number of years and that she would not favor consideration of a date extension for 309 submittal. Peter Maggiore agreed with that position. Doug said that if Colorado does not make a decision by November, the 309 option may not be available. Stephanie Hallock agreed with Chris Shaver's recommendation.

Ric Tobin asked to have some offline discussions to gain a better understanding of Colorado's issues, but that generally Arizona agreed with the position stated by Chris Shaver. Dennis Hemmer said that he favored an extension of the 309 date because of uncertainties. Peter Maggiore asked if the WRAP could analyze the potential outcomes from the court rehearing. Dianne Nielson said that there will always be uncertainties in the process and that there will always be states in different positions and that we need to use the WRAP to find ways to manage the regional haze program and find the most certain positions we can. Lynn Terry noted that California's timing will be different than other states, but that California did want to work on the technical issues with other states. Dianne noted that there was not a consensus on requesting a delay in the 309 submittal date, but there was a consensus on tracking the potential legislation on submittal dates. She left it to the WRAP Co-Directors to keep the WRAP informed and provide issue analysis. Bob Saunders said the Washington would support a SIP timeline that mirrored the previous timeline and asked if the Board was interested in supporting such a position. Dana Mount indicated North Dakota would support that. Tom Chapple said that Alaska would support alignment between regional haze and PM SIP submittal. Lynn Terry said that California could potentially have problems with delays that would impact regional reduction of emissions. Dennis Hemmer said that it was important for states to align the submittal of SIPs. Peter Maggiore said that NM would support the Washington proposal.

Vickie Patton noted that most of the fine particle nonattainment areas in the West are in California and that any delays could put the West in the middle of a debate that is not principally applicable to most states. She said we could address regional haze sooner without really affecting submittal of fine particulate SIPs. Patrick Cummins said that it would be important for regional haze planning to follow what is needed to comply with PM 2.5. He said EPA was really working to harmonize the regional haze SIPs with PM 2.5 SIPs. Lynn Terry said that California is already in the process of defining control strategies for PM 2.5 through 2010 and beyond and that California's approach should not delay regional haze planning in the West. Patrick Cummins clarified that the fix to the statute was intended to preserve what is already in the regional haze rule, not create some further delay. Vickie Patton re-emphasized that PM 2.5 SIP submittal is not an issue in most states, and that there is not a compelling public policy justification to delay submittal of regional haze SIPs. Bob Saunders said that there was a public policy issue in terms of being able to adequately analyze technical issues, and that with more time, there would be stronger technical data. He also noted that there could be a number of states where harmonization could become an issue. Dennis Hemmer suggested that the IOC should most seriously consider keeping the submittal date for regional haze SIPs at 2008. Kesner Flores stated that the IOC should be given latitude to make the best decision possible and not be directed to analyze a particular outcome. Mike George asked that the TOC be equally involved in the analysis. Tom Chapple wanted to make sure that any decision gave enough time to impact the consideration of legislation. Doug Lempke offered his agreement with Dennis Hemmer's position on timing. Chris Shaver asked if EPA knew what they would request with regard to submittal

dates. Lea Anderson said that while she was not completely certain, they would probably ask for a date similar to what was in the existing regional haze rule. Dennis Hemmer requested that staff keep the Board apprised of any EPA actions. If EPA is going in a direction the Board generally supports, then no issue analysis would be necessary. However, if EPA goes in a different direction, the IOC and TOC would be directed to examine options.

Greg Schaeffer asked if the Board took a position regarding the delay in the deadline for submitting 309 SIPs. Dianne responded that there was no consensus from the Board on that issue. Greg said that it sounded like because the Board did not take a position to request additional time to resolve issues brought up by the Circuit Court, it would force Wyoming and Colorado to take the 308 route. Doug Lempke said that Colorado had not made a decision to go 308, but that additional time to resolve issues would make it easier for Colorado to determine the best path. Dennis Hemmer echoed the Colorado comments.

5. Air Pollution Prevention Forum Report on Energy Efficiency & Renewables

Jeff Burks gave a presentation describing the work and structure of the Forum. A slide presentation is available on the WRAP web site.

Tom Acker presented the tribal renewables report and the tribal energy efficiency report. A slide presentation is available on the WRAP web site. Draft reports are also available on the web site.

Bjorn Dahl asked about whether there have been any successes in using biomass. Tom said that it was part of the report, but there were not specific success stories in the report. Kesner Flores suggested that it would make sense to place a greater emphasis on biomass. He also said that programs had to be profitable to tribes in order to make them more viable, especially in the sense of being able to put surplus electricity on the grid. He suggested that an effort be made to make the report as complete as possible in order to make the reports more valuable to tribal leaders. Chris Shaver said that many tribes are located contiguous with federal lands and that there might be barriers that should be removed in order to increase use of renewables. Ric Tobin noted that there needs to be a continuous source of biomass supply in order to make programs more viable and that tribes might have an advantage over federal land managers in terms of keeping a supply of biomass flowing.

The meeting was adjourned for the day at 5:40.

Wednesday, July 24

Jeff Burks continued with a presentation on renewable energy programs for states. The presentation is available on the WRAP web site. Stephanie Hallock asked if the Forum was requesting the Board to take specific action on the recommendations of the Forum. Jeff said that many of the policies are most effective on a regional basis, and to the extent the WRAP could endorse or recommend the policies, it would help to get states to incorporate those strategies into the regional haze SIPs. Chris Shaver asked if the Forum had considered environmental dispatch (use of the cleanest power as opposed to the cheapest). Jeff replied that it was not specifically considered by the Forum. Bjorn Dahl asked about the inclusion of biomass. Jeff said that it was identified as one of the energy sources that should be developed, but wasn't emphasized because of cost effectiveness considerations. Bjorn continued that the WRAP should seriously consider the use of biomass material, especially because of the enormous supply of such fuel.

6. Report from Fire Emissions Joint Forum

Pete Lahm and Rick Sprott presented the work of the Fire Emissions Joint Forum on Recommendations for Enhanced Smoke Management Plans, Alternatives to Burning, and Other Fire Policies for Section 309 plans. A slide presentation is available on the WRAP web site.

Doug Lempke asked if the FEJF could put more detail into how the ESMP links into 308. Pete responded that it was the intent of the FEJF to make that linkage and thought the report did do that. Doug also asked if the FEJF could put all the policies into one document. Pete said that some of the policies were pertinent to both Sections 308 and 309, and might be best staying separate. However, there may be potential for combining documents eventually. Ric Tobin asked if some policies were ready for adoption before the November meeting, could decisions be made sooner. Dianne said that the Board could take action sooner by putting information out to all the Board members and requesting concurrence. Stanley Paytiamo asked if there was a need to include any policy statements on hazardous materials. He said that it was an issue during the Bandolier Fire last year. Pete said that situation was not addressed in the smoke management program, but was addressed in emergency management plans.

Dianne asked about whether the Board could accept the two pages of policy statements. Doug Lempke indicated Colorado's support. Chris Shaver suggested doing a tentative approval, giving the Board members time to look at it, and if no one objects, making the approval final. Dianne suggested that Board members comment on the policy statement within 30 days, provide comments to the FEJF, and then after that point send it out for consensus. At some point after it is sent out, the Board will act on the report and recommendations. Ric Tobin said that if we could get consensus by September, that would work well for Arizona. The Board accepted Dianne's suggestion.

7. **Report from Mobile Sources Forum**

John Kowalczyk presented preliminary recommendations from the Forum on defining significant impact from mobile sources and road dust. The slide show is available on the WRAP web page.

Dennis Hemmer asked if we had a good idea of the contributions of various non-road emissions sources. John responded that construction equipment is the largest contributor. Dennis said that an issue in Wyoming is locomotive engines and that it would be good to characterize emissions and provide necessary control. Bill Grantham asked if consideration has been given to places where tribal areas are contributing to state problems. John responded that the Forum was not considering moving forward with strategies until there was better information on contribution. Doug Lempke asked about the inclusion of Greeley as part of the CMSA for the Denver region. Patrick Cummins explained that it was a formal definition from the census bureau, but that analysis could be broken down more finely. Doug also asked about the statement that significance determinations would only be made once. John clarified that it was only done if a state elected to go section 309, but that if a state went the section 308 route, it would have to evaluate mobile source emissions as part of its reasonable progress determination.

Patrick Cummins stated that the Forum will put together an analysis paper for consideration in a few months that will allow the states to make better determinations on significance.

8. The next meeting was set for November 12-13 in Phoenix.

9. Dianne Nielson presented the Pueblo of Acoma with a recognition award for the work they have done in supporting the efforts of the WRAP.

10. **Report from Clean Air Corridors Working Group**

Bruce Polkowsky presented the section 309 clean air corridor requirements. A slide presentation is available on the WRAP web site. Chris Shaver noted that a big part of the corridor is in Nevada which is not a part of the WRAP. What would happen if Nevada did not adopt the tracking mechanism? Bruce responded that EPA would have to make sure that the Nevada SIP was consistent with the other states. Bruce Polkowsky pointed out that the Nevada SIP still has to show that the best 20% days were not degraded.

11. **Report from TOC**

Patrick Cummins mentioned that the WRAP recently held a technical conference and wanted to point out that the technical forums are doing exceptional work and wanted to recognize them for it. Bobby Ramirez and Mike George presented the technical analysis and results to date that came out of the technical conference. A slide presentation is available on the WRAP web site. Bobby Ramirez said that the Grand Canyon Commission noted that it would be necessary to fill the data gaps in the Western Region. He specifically mentioned the development of software to be used by tribes to catalogue emissions and support the work of the WRAP. He mentioned that the software should be ready for use by the tribes by next summer.

12. **Federal Multi-Pollutant Legislation**

Patrick Cummins distributed the Policy Resolution from the WGA annual meeting and a letter to Sen. Baucus on S.556. Pat discussed the options for preserving the WRAP's SO₂ Annex in Federal Multi-Pollutant Legislation for Electrical Utilities. The IOC issued a discussion paper outlining two options for doing that. The first option was to make the Annex the federal SO₂ program for the West. Option 2 was to have Western utility sources participate in the national SO₂ program, but have the legislation require utility SO₂ emissions in the nine state region to meet the level expected of these sources under the annex. Pat also noted that the Policy Resolution addressed the issue of how a national program should affect sources in the West. He mentioned that the Congress had made some attempt to include special provisions for the West, but they are not consistent with the WRAP analyses. He then mentioned that Sen. Baucus's staff had found the options paper and was interested in meeting the needs of the West as identified in the paper met.

As far as the Annex is concerned, do we have a preference for incorporating the options? Clear Skies includes a specific NO_x program. A question to consider is should we be trying to sort out an answer for NO_x for visibility in the short term, or should we be more focused on the long term? Bill Grantham noted that Governor Chino sent a letter to the President on the Clear Skies Initiative that addresses NO_x. Chris Shaver said that EPA had published an analysis of what impact the Clear Skies Initiative would have on the West. She suggested it might be appropriate for the WRAP to be more involved in the crafting of any legislation. Jack McGraw said that legislation might be introduced after the recess. He also said the EPA is working under the assumption that the Annex will be part of the Administration's bill. Kesner Flores proposed that the WRAP develop language that could be inserted into the legislation. Dennis Hemmer said that while the Administration is aware of where we are, it is difficult to do much more until there is legislation to comment on and that it might be best to wait for the Administration's bill. Ric Tobin suggested that we needed to make sure we followed the bill closely once the language was published. Bob Neufeld from Wyoming Refining asked if there was any working assumption on the effect of

either option on NSR? Pat Cummins responded that the options paper stated that the WRAP was not taking a position on any other existing law or regulation. Duane Yantorno from ASARCO and the Arizona Mining Association said that any incorporation of the Annex into Clear Skies needs to include the non-utility sector. Bruce Polkowsky asked that as the NOx debate starts and interacts with Clear Skies, does the Board support the technical forums getting involved in other analyses. Lynn Terry said that the Board should focus on the issues where consensus is more achievable. Dennis Hemmer expressed a concern that the Clear Skies program not overlay what is already laid out in the Annex. Pat summarized that the IOC would monitor the legislative process and look at how NOx might affect visibility in the West.

Lt. Governor Vicente adjourned the meeting at 2:50.

Board Members in Attendance

Chris Shaver, NPS	Stephanie Hallock, OR	Ric Tobin, AZ
Tom Chapple, AK	Julie Simpson, Nez Perce	Peter Maggiore, NM
Doug Lempke, CO	Dianne Nielson, UT	Randall Vicente, Acoma
Stanley Paytiamo, Acoma	Cisney Havatone, Hualapai	Kesner Flores, Cortina
Dana Mount, ND	Bob Saunders, WA	Jay Littlewolf, No. Cheyenne
Lynn Terry, CA	Dennis Hemmer, WY	Jack McGraw, EPA
Bjorn Dahl, USFS		

Other Attendees

1Patrick Cummins, WGA
Bill Grantham, NTEC
Rich Halvey, WGA
Tom Moore, WRAP staff
Bob Gruenig, NTEC
Don Arkell, WESTAR
Karen Deike, WGA
Pat Murdo, WRAP staff
Cyra Cain, Montana DEQ
Al Zemsky, US EPA, Region 9
Lisa Riener, Quinault Nation
Carl Bowman, NPS - Grand Canyon NP
John Bunyak, NPS - Air Resources Div.
Mark Scruggs, NPS - ARD
Ellen Porter, FWS - ABQ
Judy Rocchio, NPS - Pacific West Region
Bruce Polkowsky, NPS - ARD
Susan Johnson, NPS - ARD
Reuben Plantico, Attorney (Rep. for PacifiCorp)
Bill Edmonds, PacifiCorp
Greg Schaefer, Arch Coal, Inc.
Marius Gedgaudas, USAEC
Richard Long, EPA, Region 8

Dan Clark, Wyoming DEQ
Rick Sprott, Utah DAQ
Steve Frey, EPA, Region 9
Collen McKaughan, EPA, Region 9
Tom Webb, EPA, Region 9
Lea Anderson, EPA HQ OGC
Dan Olson, Wyoming DEQ - Air
Darla Potter, Wyoming DEQ - Air
Mark Komp, EPA, Region 8
Chris Hockett, US Forest Service
Lee Gribovicz, Wyoming AQD
Wayne Leipold, Phelps Dodge
Ira Domskey, ADEQ
Colleen Delaney, Utah DAQ
John Nielsen, Land & Water Fund
Duane Yantorno, ASARCO
Vickie Patton, Environmental Defense
Larry Byrum, CENRAP
Jeff Burks, Utah Energy Office
Tom Acker