

December 5, 2016

TO: NRECA Board of Directors  
Distribution CEOs  
Statewide Managers  
G&T Managers

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***Larry Watkins a Passionate Electric Co-op Leader, Mentor and Gentleman***

The electric cooperative family shares a deep sense of loss with the passing of [retired Oklahoma Statewide Manager Richard Larry Watkins](#), who died last Tuesday after a prolonged battle with cancer. Our thoughts and prayers are with Larry's wife Natalea and their family. Funeral services were held Friday in Purcell, his hometown. Larry was a passionate co-op leader and advocate and influential statewide manager. Many current and former statewide managers, co-op CEOs and NRECA staff recall his kind and gracious manner, and describe him as a friend, leader, mentor and gentleman.

***Congress in Final Push***

The House and Senate are in the final push on the top priority to pass another FY17 continuing resolution (CR) to keep the government funded before the current CR expires this coming Friday. Lawmakers are negotiating a short-term package that would extend into March or April to allow time to negotiate a final spending bill with the new Trump Administration for the rest of this fiscal year.

House and Senate energy bill conferees are still working to complete a final compromise that has several provisions electric co-ops support, but a conference report must move early next week to have a chance.

The House and Senate are also working to finalize a Water Resources bill for possible floor votes next week. We're pushing to keep two provisions: Co-op relief from Army Corps of Engineers easement renewal fees, and providing state environmental departments the authority to enforce EPA's final non-hazardous coal ash rules.

We're also pushing for legislation (H.R. 5167) to extend the residential and commercial tax credits for geothermal heat pump technology and a bill to protect NRECA's [Retirement Security Plan](#) (RS Plan) from increased future costs.

***FWS to Review Lesser Prairie-Chicken for ESA Listing***

The Fish and Wildlife Service (FWS) issued a [notice](#) for a 90-day review on whether the lesser prairie-chicken should be listed under the Endangered Species Act (ESA). The agency is taking comments on the [docket](#) until January 30, 2017. We'll follow up with affected electric co-ops on filing comments by the January 30 deadline. This latest action was expected. Last July, the FWS withdrew a proposed "threatened" listing after a federal court ruled in 2015 that the agency failed to account for positive effects of voluntary conservation measures, including a five-state

range-wide conservation plan in which many co-ops participate. At the same time, the agency [announced](#) it would do a new status review.

### ***FWS Urged to Consider Grid Impacts of ‘Endangered’ Listing for Bumble Bee***

NRECA filed [comments](#) to the FWS to emphasize electric co-op concerns with a [proposed “endangered” listing](#) for the rusty patched bumble bee. Our comments urged the FWS to consider the electric utility impacts of any ESA listing of the rusty patched bumble bee. The FWS should work to ensure such a listing would not prevent electric utilities from maintaining grid reliability and safety. This bumble bee could be the first of several pollinator species to get ESA protections in the next seven years, according to the FWS’ [National Listing Workplan](#).

### ***Labor Department Overtime Rule on Hold by Federal Court Stay***

The Labor Department’s [new overtime pay rule](#) is temporarily stayed by a federal [court order](#) that blocks the December 1 effective date. The Texas Eastern District Court issued a nationwide injunction requested by 21 states and industry groups in a lawsuit that claims the agency has overstepped its authority in an arbitrary rulemaking that would more than double the salary threshold for overtime pay eligibility to \$47,476. The court found the lawsuit has a likely chance of success based on the merits and the plaintiffs would suffer irreparable harm if they had to comply with the rule during their challenge. As a result, businesses do not need to take steps to comply right now.

### ***House Democrats Elect Leadership; Committee Posts Shuffling as Congress Organizes***

House Democrats overwhelmingly reelected House Minority Leader Nancy Pelosi (D-CA) to lead their conference in the 115<sup>th</sup> Congress. The conference also voted for Minority Whip Steny Hoyer (D-MD) and Assistant Minority Leader James Clyburn (D-SC) to continue in those roles. Rep. Joe Crowley (D-NY) will serve as conference chairman and Rep. Linda Sanchez (D-CA) will be conference vice-chairman. The conference also expanded its leadership structure to include more junior members. Those positions will be elected by the conference.

Notable in congressional committee leadership elections, Rep. Greg Walden (R-OR) was elected to be House Energy and Commerce Chairman to take over for the term-limited Rep. Fred Upton (R-MI). Committee Ranking Member Frank Pallone (D-NJ) was reelected. Republicans are also considering a replacement for Budget Chairman Tom Price (R-GA) when he is officially nominated as Health and Human Services Secretary by President-elect Trump.

### ***Approval for Dexsil PCB Test Kits in Vehicles Re-issued***

The Transportation Department has re-issued an [approval](#) needed for vehicles carrying [Dexsil PCB test kits](#) through September 30, 2021. This is a long-standing practice for vehicles carrying the test kits, which some electric utilities may use to do field screenings for polychlorinated biphenyl (PCB) levels in electrical equipment. Electric co-op crews using Dexsil PCB test kits in the field are required by federal hazardous materials regulations to have a copy of this nine-page approval document in each vehicle carrying a test kit. Please carefully review the document, because it is very specific about what test kits and refills are covered. The approval document replaces the previous version that expires December 31, 2016.

### ***Corps of Engineers Website Outlines Jurisdictional Determinations Process***

The Army Corps of Engineers issued [regulatory guidance](#) to all district offices about jurisdictional determinations on whether a project requires a Clean Water Act permit. The [guidance](#) explains when and how “approved” or “preliminary” jurisdictional determinations should be issued. Several agency references posted under “[Current RGL on Jurisdictional Determinations](#)” include: [Questions and Answers](#), [Quick Reference Chart](#), [Sample Questions](#) and forms for a [jurisdictional determination request](#) and [Preliminary Jurisdictional Determination](#). The action is a response to the U.S. Supreme Court’s [ruling](#) last May that found Approved Jurisdictional Determinations are final agency actions that may be challenged in court. NRECA was part of the coalition that filed a friend of the court brief supporting the challenge.

### ***RUS Limited English Proficiency Compliance Webinar Next Week***

Electric co-ops have another opportunity to participate in the Rural Utilities Service (RUS) Limited English Proficiency Guidance [webinar](#) sessions on Tuesday, December 6, at 10 a.m. and 4 p.m. (EST). The webinar will explain why the [agency is taking action](#) to ensure that borrowers and participants provide “meaningful access” to their programs for people with limited English skills. If your co-op has not participated, we recommend you sign up to get additional clarity and context. For questions, contact RUS Equal Opportunity Specialist [Darren G. Kaihlanen](#).

### ***January 5 FEMA Workshop Focus on Minimizing Denials, Deobligations***

NRECA is offering a January 5, 2017, [workshop](#) on Federal Emergency Management Agency (FEMA) program requirements and minimizing denials and deobligations. The one-day session at NRECA’s headquarters will be presented by NRECA staff with agency experts on FEMA program rules and procurement requirements. [Workshop registration](#) includes an evening reception on January 4. For questions, contact NRECA’s [Martha Duggan](#) or [Perron Nicholas](#).