



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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WESTERN STATES WATER COUNCIL Summer Meetings – Rohnert Park, CA

On June 27-29, the WSWC met for the 184th time in Rohnert Park, California. Six sunseting positions were revised and re-adopted that: (1) oppose any federal legislation intended to preempt state water law; (2) support federal research and the development of updated hydroclimate guidance for floods and droughts; (3) request Congress fully appropriate receipts accruing to the Reclamation Fund for their intended purpose; (4) request Congress maintain federal authorization and financial support for the U.S. Geological Survey (USGS) State Water Resources Research Institutes program; (5) request Congress and the Administration acknowledge state authority over “waters of the state,” and provide clear and recognizable limits to Clean Water Act jurisdiction consistent with sections 101(b) and 101(g), as well as robust and meaningful state participation and consultation in their development and implementation of any rule; and (6) emphasize state primacy over water resources and request that federal agencies establish and implement appropriate procedures and processes for substantively consulting with the states. A position that requested the withdrawal of a proposed interpretive rule regarding certain agricultural exemptions to the Clean Water Act was allowed to sunset, as the proposed rule was withdrawn.

Edgar Ruiz, Executive Director of the Council of State Governments (CSG)-West addressed members. Washington State Senator Sam Hunt is the current CSG-West Chair, and will host their annual meeting in Tacoma, Washington on August 15-19. Edgar noted the close working relationship with the Western Governors Association (WGA) and the WSWC. CSG-West’s Water and Agriculture Committee is focusing on water rights adjudications, as well as the WOTUS rule. There is also a Legislative Council on River Governance that includes the Northwest States of Idaho, Oregon and Washington that is looking into water supply, hydropower relicensing and water infrastructure financing issues. CSG has created a Federalism Task Force, and is also working with others (see WSW #2246), including House Speaker Paul Ryan’s Task Force on Intergovernmental Affairs.

Jeanine Jones, California Department of Water Resources (CDWR), and WSWC Vice-Chair welcomed members and noted that it has been a very busy water year for California, wrapping up a drought emergency, coping with a flood emergency, and dealing with the Oroville Dam spillway incident. The state has been working on implementing the 2014 Sustainable Groundwater Management Act (SGMA), with the formation of local Groundwater Sustainable Agencies (GSAs) from various specialized districts with water supply responsibilities. These local agencies are to manage subsidence, collect data, and increase groundwater storage, with the state agencies providing assistance with enforcement, regional planning, and technical and financial needs. Jay Jasperse, Chief Engineer and Director of Groundwater Management, Sonoma County Water Agency, provided additional details about local GSAs’ authority and flexibility, enabling them to implement the sustainability program while accommodating projects that are important locally. There has been some question as to what groups and districts qualify to participate as GSAs. There are other questions, such as how the GSA authority to set well spacing requirements, monitor wells, regulate extractions, and assess fees to cover costs will impact the county well permitting programs and setback requirements.

During the Water Resources Committee Meeting, Tom Farr and Cathleen Jones from the NASA Jet Propulsion Laboratory demonstrated measuring land subsidence using Interferometric Synthetic Aperture Radar (InSAR) data collected from satellites and aircraft radar. InSAR can provide information on groundwater levels by measuring surface deformation caused by the withdrawal and recharge of aquifers over time. Analysis of the continuous data over several years shows the development of hot spots where subsidence reaches levels that can cause damage to aqueducts, wells, and other infrastructure. Data have been analyzed for the Central Valley and Los Angeles Basins, and they are beginning to process data for other basins in California. CDWR has incorporated InSAR into their geographic information system (GIS) for operational decision making.

Sonya Jones, USGS Water Availability and Use Science Program Coordinator, updated members on water mission activities and plans for the coming fiscal

year. Since the budget structure change in 2016, Cooperative Matching Funds (CMF), which support both local science needs and federal programs, have been separated into: (1) the Groundwater and Streamflow Information Program; (2) the National Water Quality Program; and (3) the Water Availability and Use Sciences Program. Congress has increased funding, but has been very specific about how those funds are applied. Ten western states are participating in the groundwater monitoring network, with additional state participation expected. The national water use compilation for 2015 is underway, and the full report should be completed by 2018. Water Use Data and Research (WUDR) grants will be distributed in coming months. USGS has started new regional level groundwater studies, with metamodeling of California's Coastal Basins. There is also a pilot project on coupled surface-groundwater flow models and the Colorado Plateau. A report was released on brackish groundwater showing geographic distribution and water chemistry. See <https://pubs.er.usgs.gov/publication/pp1833>.

Einev Henenson, Arizona Department of Water Resources (ADWR), summarized their automated Annual Water Use Reporting System. Many different types of reports, with nearly 60 different forms, have to be filed yearly by a variety of water users. In 2007, they started an online reporting process, which now includes well reporting, agriculture schedules and fees (paid online), industrial forms for turf and other facilities. They also automated the internal fee disbursement process. They have experienced a 60% reduction in staff, but have been able to accomplish the same goals with 1/3 the staff they had in 2007.

David Parker, CDWR, talked about the California Data Exchange Center (CDEC) and its objectives and capability to collect and disseminate real-time hydrologic and weather information. The centralized database monitors river levels and water quality. It serves as an early flood warning system, and provides water supply forecasting information for reservoir operations. Information is collected on an hourly basis and pushed to CDEC. There are over a thousand remote data stations that collect satellite transmissions. CDEC also houses electronically transferred information from the National Weather Service, the Bureau of Reclamation, the Corps of Engineers, and other state and federal agencies. The Flood Emergency Response Information Exchange (FERIX) pulls together geo-referenced information on levee status and other flood-related data for integrated management. CDEC staff includes seven programmers and one GIS specialist. See <http://cdec.water.ca.gov>.

In the Water Quality Committee, Kent Woodmansey talked about the unique features of South Dakota's general permits for concentrated animal feeding operations (CAFOs). In 2012, while EPA was

issuing new CAFO regulations, South Dakota made changes to its nutrient management plan standards, based on suggestions from producers, engineers, crop consultants, environmental groups, and others. The South Dakota CAFO permit now includes state and federal requirements to ensure that manure management systems are properly designed, constructed, operated and maintained to protect both surface and shallow groundwater. Any nutrients used as fertilizers must be applied by trained producers, in compliance with an approved nutrient management plan. All CAFOs must have a general or individual water pollution control permit under the state law, including large CAFOs from neighboring states or reservations that stockpile manure or process wastewater within South Dakota's jurisdiction. Unlike an NPDES permit, the state permit does not allow discharge to waters of the state, does not provide an opportunity for a contested case hearing, has different annual reporting requirements, and a different process for updating nutrient management plans, including Endangered Species Action Plans where applicable.

Jim Macy, Director, Nebraska Department of Environmental Quality (DEQ), provided an update on online permitting in Nebraska. In August 2015, they started converting from paper processes. It now takes about four hours to complete a permit. A NEPA process that once took 14 days can be completed in an hour online. Permits between sister agencies used to take months to complete, but now some general permits have reduced that time. Barriers to sharing data across platforms and computer operating systems have been reduced. Over the past two years, DEQ saved almost two full-time employees' work, which represents a significant return on investment. Next, Jennifer Wigal, Association of Clean Water Agencies (ACWA) Vice Chair and WSWC Member, provided an update on the outreach efforts from EPA and the Corps on the development of a new Waters of the U.S. (WOTUS) rule.

Jen Verleger, North Dakota, chaired the Legal Committee meeting and provided an update on legal developments related to the Army Corps of Engineers' water supply rule (still pending), and WOTUS litigation. Rod Walston, Of Counsel at Best, Best, and Krieger, and a former WSWC Member, provided an overview of the *Agua Caliente* case and the potential impact of the 9th Circuit's decision on federally reserved water rights in general, and the potential new application of the doctrine to groundwater. Michelle Bushman updated members on legislation and litigation. The Committee also held a roundtable discussion on groundwater recharge and recovery laws. The Water Rights Protection Act and related WGA testimony were also covered. An upcoming Indian Water Rights Settlement Symposium will be held in Great Falls, Montana on August 8-10, and a Federal Non-Tribal Water Claims Workshop will be held on October 18, in conjunction with the WSWC Fall Meetings in Albuquerque, New Mexico October 18-20.

The WESTERN STATES WATER COUNCIL is an organization of representatives appointed by the Governors of Alaska, Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.