



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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WESTERN STATES WATER COUNCIL Fall Meetings – Albuquerque, NM

On October 18-20, the WSWC held its 185th meetings in Albuquerque, New Mexico. The Council adopted one new position supporting several Farm Bill programs important to Western states. Multiple U.S. Department of Agriculture (USDA) financial assistance programs are particularly important to producers and rural communities, water users and water quality managers, including the Conservation Reserve Program (CRP), Conservation Reserve Enhancement Program (CREP), Conservation Stewardship Program (CSP), Emergency Watershed Protection Program (EWPP), Environmental Quality Improvement Program (EQIP) and its Conservation Innovation Grants (CIG) and Colorado River Basin Salinity Control Program (CRBSCP), and Regional Conservation Partnership Program (RCPP). EQIP funding also covers a number of initiatives, including the Drought, Ogallala Aquifer, National Water Quality, Resiliency to Climate Change, and Water Smart Initiatives. The Council supports prompt reauthorization of the Farm Bill in 2018.

The WSWC also revised and re-adopted four positions: (1) supporting Indian water rights settlements; (2) asserting state primacy on protecting groundwater quality; (3) supporting the Dividing the Waters program for judges; and (4) outlining actions federal agencies should take to expedite general stream adjudications.

During the Full Council meeting on Friday, Charles (Chuck) DuMars, Law & Resource Planning Associates, P.C. and Professor Emeritus addressed members on western water challenges and opportunities. In particular, he noted that there are some complicated challenges associated with water. Chuck commented that the way in which water arrives is changing – as experienced in the recent huge storm events known as Harvey, Irma, and Maria. Furthermore, he noted it will be interesting to find out how the federal-state relationship will play out over time. He cautioned to try to avoid litigation. The easy cases have already been resolved. Outcomes that are win-wins have been reached by collaborating with each other and our federal partners. The cases yet to be heard and settled will be tougher, and may be win-lose situations.

Pat Lambert, Western Federal Agency Support Team (WestFAST), reported agencies want to proactively maintain and enhance collaborative state federal partnerships, which takes persistence and patience. WestFAST will strive to engage with the states early and often on policy and technical programs. Roger Pierce, WestFAST Liaison expressed appreciation to the WSWC staff for a warm welcome. Further, he noted the WestFAST work plan is being updated taking into account WSWC priorities.

The meeting included an informative roundtable discussion on infrastructure challenges and financing, as well as other state water needs and actions.

On Thursday, Tom Blaine, New Mexico State Engineer welcomed members and discussed hot topics on water rights administration and guidelines that have been adopted and developed for evaluation, appropriation, and impairment. He noted the new guidelines provide direction on: (1) general effects; and (2) the effects on points of diversion. The general guidelines are known as the “Morrison” assessments. Some guidelines are still in the process of development.

Greg Ridgley, Chief Counsel, New Mexico Office of the State Engineer provided an overview on legal aspects of the administration of water in New Mexico and described the Aamodt Water Rights Adjudication. This is an historic settlement for New Mexico after 51 years of litigation.

Lucia Sanchez, New Mexico Water Planning Program Manager, noted the state was divided into 16 planning regions in 1987. They are now integrating regional plans and developing their 2nd state water plan, under a new common technical platform using water conservation and use reports. The plan addresses data needs, ground water and surface water monitoring, watersheds, conservation, and infrastructure project and funding needs. Public involvement is important with town hall meetings. Further, New Mexico is look at other states planning efforts.

During the Water Resources Committee, Josh Maxwell and Andrew Vlasaty, House and Senate Agriculture Committee professional staff, addressed the

outlook for the Farm Bill reauthorization. Both Committees are committed to addressing the needs of farmers, ranchers, and stakeholders across the country. The Committees have held listening sessions and hearings on rural infrastructure, the state of the rural economy, commodities, credit, crop insurance, global and local markets, etc. Few changes are expected to the Conservation Title, given extensive changes and consolidation of programs in 2014. The listening sessions evidenced strong support for EQIP, and support for a modest increase in acreage enrollment limits for CRP. Tracy Streeter, Kansas, and Jeanine Jones, California, discussed existing and potential uses of Farm Bill programs for enhanced water management, including water conservation initiatives and transitioning from irrigated to dryland farming in some areas.

Various state water management efforts were reviewed. Julie Cunningham, Oklahoma, and Duane Smith (a former WSWC member) described work on the Southwest Oklahoma Water Plan prepared in response to an historic drought that threatened water supplies and the economy. The plan calls for specific short, medium and long-term actions to achieve sustainability. A number of federal agencies, under the WestFAST umbrella, and as part of the National Drought Resiliency Partnership (NDRP), are working to provide financial and technical assistance. Roger Gorke, EPA, addressed NDRP efforts.

Mathew Weaver, Idaho, and Jason King, Nevada, addressed respectively, aquifer recharge and recovery efforts on Idaho's Eastern Snake Plain, and conjunctive groundwater and surface water management rules and activities in Nevada's Humboldt River Basin.

Jeanine Jones and Roger Pierce, described discussions about a possible seasonal to sub-seasonal (S2S) pilot proposal for improving water supply predictions in the Upper Colorado River Basin.

Sara Larsen provided an overview of progress with the WSWC's Water Data Exchange (WaDE), and its genesis. With respect to the latter, Vince Tidwell, Sandia National Lab, described ongoing studies on energy and water needs in the western United States. WaDE is a continuation of efforts initiated through the Western Governors' Association in cooperation with Sandia and other national labs.

During the Legal Committee, Peter Nichols provided an update on the EPA Water Transfers Rule. Several states and organizations filed petitions for certiorari with the U.S. Supreme Court, appealing the 2nd Circuit decision in *Catskill Mountains Chapter of Trout Unlimited, Inc. v. EPA* (see WSW #2262).

Several states described their processes for adjudicating or otherwise addressing water rights claims

priorities and disputes during a roundtable discussion, including Arizona, Colorado, Idaho, Montana, New Mexico, Utah, and Wyoming.

The Legal Committee also discussed tribal water codes with respect to management and administration of water rights on Indian reservations, particularly in cases where the native land is intermingled with non-native land. States with some experience in this area include Oregon, Utah, Montana, and Wyoming.

Roger Pierce, WestFAST Liaison, summarized the WSWC/WestFAST Federal Non-Tribal Water Claims Workshop, which was held on October 18. Case studies included state and federal efforts to protect federal water resources at Crater Lake in Oregon, Devil's Hole in Nevada, and Quivira National Wildlife Refuge in Kansas. He noted three overarching themes that emerged as a result of the case studies discussed: (1) communication; (2) economics; and (3) smart use of new technologies. The workgroup will continue furthering their efforts on non-tribal federal water rights.

In the Water Quality Committee, Roger Gorke provided an update on the Environmental Protection Agency's (EPA) new waters of the U.S. rule, noting the EPA is still in drafting mode and asking states to share with the agency what they think a new rule should look like. Roger also described a workshop held about a month ago and hosted by the EPA Water Finance Center to discuss the idea of a Water Innovation Fund. Roger also stated that EPA has been approached by a group in California to do a Good Samaritan abandoned mine clean up, which an internal EPA team is looking into.

The Water Quality Committee held roundtable discussions on three topic areas, namely: (1) State Revolving Funds (SRFs) and Water Infrastructure Finance and Innovation Authority (WIFIA) Projects; (2) state water quality authorities; and (3) the Bureau of Land Management hydraulic fracturing rule and state authorities. The Committee plans to send out surveys to inventory how each state defines "waters of the state" and how they use their state and delegated federal authorities to manage water quality.

Erica Gaddis, Director, Utah Division of Water Quality, updated members on the coordinated federal, state, and tribal efforts following the Gold King Mine spill to improve interagency and public communication and watershed-level water quality for ongoing legacy mine issues.

The WSWC Spring (186th) Council Meetings and Washington Roundtable, co-sponsored jointly with the Interstate Council on Water Policy (ICWP), will be held in Arlington, Virginia on March 14-15, 2018 at the Crystal Gateway Marriott.