



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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CONGRESSIONAL UPDATE/WATER RESOURCES **Farm Bill**

Once optimistic, Senate Agriculture Committee Chairman Pat Roberts (R-KS) recently said, "We hoped to have made progress, but we have yet to meet in person with what we call the fab four," referring to himself, Ranking Member Debbie Stabenow (D-MI), House Agriculture Committee Chairman Rep. Mike Conaway (R-TX), and Ranking Democrat Rep. Collin Peterson (MN). Staff have been working on H.R. 2 for weeks. The first full conference committee meeting is scheduled for September 5. "I've been urging, along with the others, the staff to find these landing zones where we can compromise and still have a good bill. That's in progress right now," said Roberts. "I think we're going have to meet personally to get that done." Time may be short, if House leadership decides to adjourn earlier in September than planned. Roberts listed crop insurance subsidies, continuation of the Conservation Stewardship Program (CSP), Environmental Quality Incentives Program (EQIP) spending authority, Conservation Reserve Program (CRP) acreage expansion, and CRP payments to farmers as issues.

FY2019 Energy and Water Appropriations/WRDA

House and Senate negotiators are confident they can quickly reach agreement on energy and water spending, part of a minibus package passed earlier by both Houses. "We're on track to have our conference on Wednesday, September 5," said Senator Lamar Alexander (R-TN), Chairman of the Energy and Water Appropriations Subcommittee.

Separately, Senator John Barrasso (R-WY), Senate Environment and Public Works Committee Chair, had hoped to bring S.2800, the America's Water Infrastructure Act of 2018, to the floor in August. The bill was reported out of Committee on July 10 (Senate Rpt. No. 115-294). However, Senator Richard Burr (R-NC) has a hold on the bill pending action on a permanent reauthorization of the Land and Water Conservation Fund (LWCF), set to expire September 30. According to Barrasso, "We have an agreement with the other 99 Senators...but [LWCF is] slowing down the process."

WATER RIGHTS/WATER RESOURCES **Nevada/Groundwater/Water Basin Transfers**

On August 17, Nevada State Engineer Jason King issued a ruling denying groundwater rights to the Southern Nevada Water Authority (SNWA). However, he noted that although he was fully complying with the district court's remand order, he had misgivings about the legality of it.

In 1989, SNWA's predecessor filed 146 water right applications for interbasin transfers of groundwater to the Las Vegas Valley. Several of these applications were approved while others were denied by the State Engineer in 2007 and 2008, and the rulings were appealed. The Nevada Supreme Court required the State Engineer to re-open the protest periods in 2010. Following an additional hearing before the State Engineer, the applications that were granted were subject to certain conditions, including compliance with monitoring, management, and mitigation plans. The subsequent appeal to the state district court resulted in a remand order in 2013.

The court's remand order required: (1) the addition of Utah counties in the mitigation plan for one of the groundwater basins; (2) a recalculation of water available for appropriation "assuring that the basin will reach equilibrium between discharge and recharge in a reasonable time," taking into account water lost to evapotranspiration; (3) defining reasonable standards for mitigation of groundwater pumping; and (4) recalculation of appropriations to avoid over-appropriation or conflicts with down-gradient, existing water rights. Several of the applications which had previously been approved were denied on remand under issues 2 and 4.

In the summary of his decision, the State Engineer noted: "All water right applications subject to this Ruling are denied as a result of the analysis mandated by the District Court.... The State Engineer respects the District Court's remand order and has ruled accordingly. However, it is the State Engineer's statutory authority to conserve, protect and enhance the water resources of the State in accordance with Chapters 532, 533, and 534 of the Nevada Revised Statutes, and it is his belief that these two remand instructions run counter to those

duties and represent poor water policy for all Nevadans. Although the State Engineer believes there is water to appropriate in the four subject groundwater basins...he is precluded from doing so as a result of the scope of those remand issues, which imposes new water policy into the science of water appropriations in Nevada.”

WATER RESOURCES

Reclamation/Lower Colorado River Operations

On July 26, the Bureau of Reclamation (USBR) released its 24-month hydrology study for August. The study projects Lake Meads January 2019 levels above the 1,075-foot threshold, avoiding a shortage that would cut deliveries to lower basin states. Lake Powell is projected to have water levels above 3,575 feet. This sets the same operational tier for 2019 as the current year, with initial releases of 8.23 million acre-feet (maf) and an expected increase to 9.0 maf following the April 2019 adjustment to balance releases from the two reservoirs. The preliminary observed unregulated inflow into Lake Powell between April and July of 2.6 maf is only 36% of the 30-year average. For more information, see <http://www.usbr.gov/lc/riverops.html>.

Republican River Compact

On August 1, Kansas and Colorado announced that they reached a settlement of claims regarding Colorado’s past use of water under the Republican River Compact, which allocates the waters of the river basin between Colorado, Kansas, and Nebraska. Colorado has agreed under the settlement to pay \$2M to Kansas toward the benefit of the South Fork of the Republican River Basin, and invest an additional \$2M in Colorado to reduce its use on the South Fork. The agreement allows the states to continue to work collaboratively through the compact with each other and Nebraska, without resorting to litigation.

On August 8, Kansas Governor Jeff Colyer sent a letter to Jeff Fassett, Director of the Nebraska Department of Natural Resources, objecting to an interbasin transfer application from the Central Nebraska Public Power and Irrigation District and others. The application proposes to transfer water from the Platte River to the Republican River Basin.

Governor Colyer notes that “...the transfer will provide a pathway for invasive species of fish,” the Asian carp, “to enter the Republican River Basin where currently, no evidence of these species exists.” He noted the safety hazards, environmental impacts, and threat to other fish populations, as well as the economic impact to Kansas and local communities. “The Kansas Republican River Compact Administration team has collaborated with the state of Nebraska to develop strategies providing greater water certainty for our water users and we support water supply strategies to insure compliance with the Compact. However, the invasive

species implications to the Republican River resulting from the Platte River transfer proposal prohibit Kansas from supporting its permit approval.”

The Republican River Compact Administration has launched a collaborative website maintained by Colorado, Kansas, and Nebraska, and is available at: <http://republicanriver.org/>.

Water Reuse/Desalination

On August 14, the USBR announced \$3.5M in funding will go to 16 entities for nine laboratory and seven pilot-scale research projects. Commissioner Brenda Burman said: “Desalination is an increasingly important source of water for Western communities. Investing in innovative technologies to make desalination more affordable and energy-efficient will help many communities across the United States.” The Desalination and Water Purification Research Program works with Reclamation researchers and partners to develop innovative, cost-effective, and technologically efficient ways to desalinate water. The projects include: membrane chemistry to improve water recovery of inland brackish water desalination; closed-circuit ozone-membrane distillation for water reuse; flow cytometric monitoring of waterborne pathogens for direct potable water reuse; fixed bed biotreatment for selenium removal; and a framework for transboundary brackish groundwater desalination. For more information, see www.usbr.gov/research/dwpr.

PEOPLE

The WSWC and WestFAST have selected **John D’Antonio** to serve as the next WSWC Federal Liaison for a two-year detail. Since November 2011, John has served in various senior U.S. Army Corps of Engineers (Corps) positions in: Albuquerque, New Mexico; Atlanta, Georgia; and San Francisco, California. He began with the Corps in Albuquerque in 1990, then joined the Office of the New Mexico State Engineer in 1998, becoming State Engineer in 2003 (and a WSWC member). He also served briefly as Secretary of the New Mexico Environment Department. John will be working with Roger Pierce, National Weather Service, our current liaison, through a transition period until the beginning of the new federal fiscal year. Congratulations John!

Governor Greg Abbott has appointed **Emily Lindley** to the Texas Commission on Environmental Quality (TCEQ). Lindley most recently served as Chief of Staff for the Environmental Protection Agency Region 6 Administrator. She has over 10 years experience at TCEQ where she served as Special Assistant to the Deputy Executive Director. **Toby Baker**, a former Commissioner is TCEQ’s new Executive Director. Commissioner Jon Niermann called Baker a “very capable leader.”

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.