



# Western States Water

## Addressing Water Needs and Strategies for a Sustainable Future

682 East Vine Street / Suite 7 / Murray, UT 84107 / (801) 685-2555 / Fax 685-2559 / [www.westernstateswater.org](http://www.westernstateswater.org)

Chairwoman - Jeanine Jones; Executive Director - Tony Willardson; Editor - Michelle Bushman; Subscriptions - Julie Groat

### **WESTERN STATES WATER COUNCIL Summer Meetings - Leavenworth, WA**

The 190<sup>th</sup> meetings of the WSWC were hosted by the State of Washington in Leavenworth on July 16-18, 2019. The Council adopted a new position supporting interagency coordination between the Federal Communications Commission (FCC), the National Oceanic and Atmospheric Administration (NOAA) and other state and federal agencies, to preserve radio frequencies necessary for weather forecasting and water and emergency management. The FCC is considering auctioning more bandwidth for expansion of 5G communications, raising concern over possible interference.

The WSWC revised and re-adopted three sunset positions that: (1) support current and future needs to improve S2S forecasting and extreme events response and resiliency; (2) state that the WSWC “opposes any and all efforts that would diminish the primary and exclusive authority of states over the allocation of water resources used in hydraulic fracturing”; and (3) urge support for water research at the Department of Energy National Laboratories.

In the Water Resources Committee, Mindi Dalton, Program Coordinator, Water Availability and Use Science Program, U.S. Geological Survey (USGS), talked about Integrated Water Availability Assessments (IWAAs), a new activity stemming from provisions of the SECURE Water Act. USGS is working toward water use data that is nationally consistent. Chad Wagner, Program Coordinator, Groundwater and Streamflow Information Program, USGS, provided an update on the Next Generation Water Observing System (NGWOS), which will provide high temporal and spatial resolution in real-time for both field and remote sensing data, including snowpack, evapotranspiration, rainfall, soil moisture, and other information. USGS will implement NGWOS pilots in ten medium-sized watersheds that are representative of larger water resource regions, augmenting the existing streamgauge network with modest enhancements. The IWAAs and NGWOS programs will build on each other in a collaborative and iterative process.

Tom Tebb, Director, Office of the Columbia River, Washington Department of Ecology (DOE), provided an overview of the water-related issues Washington faces, from aggressively pursuing water supply development and investing in infrastructure to restoring native fisheries and pursuing environmental justice. DOE is working to address declining groundwater levels in the Odessa aquifer through conservation and developing surface water resources, and continuing efforts to implement the Yakima Basin Integrated Plan. DOE is also exploring potential uses of aquifer storage and recovery. Updating aging infrastructure and technology is another challenge. Mike Gallagher, Water Resources Section Manager, DOE, talked about variations in annual precipitation, the current drought, groundwater depletions and geologic constraints on aquifer recharge. It is challenging to work within various state and federal laws and meet diverse water needs across the state. They manage water rights alongside instream flows, tribal treaties, endangered species, infrastructure needs, and exempt wells.

In the Water Quality Committee, Heather Bartlett, Water Quality Program Manager, DOE, described the Clean Water Act (CWA) §401 certification process in Washington, and the significant adverse impacts that the Millennium Bulk Terminal coal export project would have on water quality, leading to certification being denied with prejudice. Ward Scott, Policy Advisory, Western Governors' Association, provided an update on recent efforts to communicate with the Environmental Protection Agency (EPA) on the importance of protecting states' authority under CWA §401 to certify that any federal license, permit or other action will comply with state water quality standards. Jessica Kramer, Office of Water, EPA, confirmed that a proposed rule on §401 procedures is currently at the Office of Management and Budget for review, and is expected to be released on August 8.

The Committee discussed EPA's Water Reuse Action Plan, and decided to update the Council's 2011 report on water reuse. Additionally, members expressed interest in continuing the pre-meeting workshops on the water quality-water quantity nexus, incorporating the state water reuse update. There was a discussion on state and federal efforts to promote Good Samaritan cleanups of abandoned mines within existing laws.

Several states also provided updates on addressing harmful algal blooms with guidance and advisories.

During the Legal Committee, Alan Reichman, Assistant Attorney General, Ecology Division, Washington State Attorney General's Office, talked about trends in Washington's case law. He noted the significant milestone of completing the Aquavella general adjudication of over 22,000 water rights in Yakima County. The state is evaluating which basin is most appropriate for the next adjudication. He shared the details of two recent cases dealing with a state instream flow rule. In *Bassett v. Ecology*, the court validated the rule and said that instream flows were not subject to the same requirements as other water appropriations. In *CELP v. Ecology*, the court determined that Ecology erred by focusing too narrowly on fish populations in setting instream flows.

The new Legal Committee Chair, Chris Brown, Senior Assistant Attorney General, Water and Natural Resources Division, Wyoming Attorney General's Office, led a robust discussion on perfecting water rights and proving beneficial use, including, whether or not economic, or drought hardships were allowable grounds for extensions of time and, if permittees are routinely granted extensions to prove beneficial use, at what point does an application become speculative and should be denied. Members talked about metering water use, challenges of abandonment, partial and full forfeiture of water rights, and reopening adjudications and decrees.

The Committee also discussed the Columbia River Treaty, and compared the hands-on participation of the Colorado River Basin states in the Mexico Water Treaty Minute 323 negotiations with the arm's length participation of the Columbia River Basin states through the U.S. State Department in the treaty renegotiations with Canada. There are differences in the way the Bureau of Reclamation operates the Colorado River system and how the Corps of Engineers operates the Columbia River system. Idaho, Washington, and Oregon have different perspectives of ecological considerations of the system, the impacts on their respective water resources, and whether or not they should be included in the Treaty.

During the Full Council, Western Federal Agency Support Team (WestFAST) Chair Kevin Werner, Science and Research Director, NOAA Fisheries, reported on their work plan and activities. He noted that Patrick Lambert, Southwest Region Associate Director, USGS, will become the new Chair, and Kevin will continue to advise in his role as past Chair. The new WestFAST Liaison, Deborah Lawler, Special Assistant, USBR, started working in the WSWC's office on April 28.

A field trip prior to the meetings included stops at Rocky Reach Dam and hydroelectric facilities on the

Columbia River, with its innovative fish passage system for juvenile salmon, Prey's Farm orchards watered with both drip and sprinkler irrigation, and the Leavenworth National Fish Hatchery, which was built and operates with Bureau of Reclamation funds to mitigate the impacts of interrupted fish passage caused by Grand Coulee Dam.

Meeting presentations will be posted as they are made available on the Council's website.

The Council's fall meetings will be held in Breckenridge, Colorado at the Beaver Run Resort and Conference Center on October 16-18.

## **ADMINISTRATION** **EPA/WIFIA**

On July 19, EPA announced that it received 51 letters of interest for the third round of Water Infrastructure Finance and Innovation Act (WIFIA) funding, with \$6B available for loans to leverage \$12B in funding for infrastructure projects. Requests for WIFIA loans included projects for water reuse and recycling, wastewater and drinking water treatment, desalination, stormwater management, and integrated projects.

Prospective borrowers from all three rounds of funding come from 35 states, and include municipal government agencies, small communities, public-private partnerships, and corporations. EPA will evaluate the letters for financial, engineering, and regulatory eligibility, and selected projects that will be invited to submit formal applications this Fall.

EPA Administrator Andrew Wheeler said: "Since the WIFIA program's inception in 2017, EPA has received requests totaling \$21.7B for water infrastructure projects across the country – evidence of the urgent need to modernize our nation's infrastructure." EPA has issued nine WIFIA loans so far from previous rounds of funding, with over \$2B in credit assistance. The most recent loan for \$218M, announced July 17, will help the Silicon Valley Clean Water (SVCW) to upgrade its aging wastewater infrastructure in the San Francisco area, a project costing \$495M. The new pipeline, pump stations, and treatment facility will add capacity to manage stormwater and improve the system's safety and reliability.

## **PEOPLE**

After 44 years of service to South Dakota, WSWC member, **Steven Pirner**, Secretary, South Dakota Department of Environment and Natural Resources, announced his retirement to Governor Kristi Noem. Steven was appointed to the WSWC in June 1998 and has served on the Executive and Water Quality Committees. We congratulate Steven on his retirement and wish him the best in his future endeavors.

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**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.**