



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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ADMINISTRATION **EPA/Groundwater**

On July 30, the Environmental Protection Agency (EPA) announced proposed amendments to coal ash regulations, "Enhancing Public Access to Information: Reconsideration of Beneficial Use Criteria and Piles." In 2015, EPA finalized regulations for the disposal of coal ash as solid waste, "Hazardous and Solid Waste Management System; Disposal of Coal Combustion Residuals from Electric Utilities," (80 FR 21302). Subsequent lawsuits resulted in settlements with voluntary remands to reconsider certain provisions of the rule, and issues raised by administrative petitions provided new information. Legislation passed by Congress provided additional authorities in the WIIN Act to address these concerns.

Changes include: (1) revising the annual groundwater monitoring and corrective action report requirements to make the data easier to understand and evaluate; (2) establishing an alternate risk-based groundwater protection standard for boron, using the same methodology used for other coal ash constituents; (3) revising the public accessibility requirements to ensure that relevant facility information is immediately available to the public on the website; (4) revising the coal ash beneficial use definition to replace mass-based numerical thresholds with specific location-based criteria (so that placement in a wetland, floodplain, seismic zone, or unstable area would trigger an environmental demonstration rather than the amount of coal ash); and (5) creating consistent environmental and human health requirements applicable to all temporary piles of coal ash regardless of whether they are located on or off site, or whether they are destined for disposal or beneficial use. The pre-publication version of the proposed rule is available at: <https://www.epa.gov/coalash>.

ADMINISTRATION/WATER RESOURCES **NIDIS/NDRP/National Drought Forum**

On July 30-31, the National Integrated Drought Information System (NIDIS) and the National Drought Resilience Partnership (NDRP) co-hosted the Second National Drought Forum in Washington, DC. Attendees included representatives from state, local, and federal

agencies, research institutions, organizations, and the private sector. Participants were welcomed by Veve Dehaza, NIDIS Executive Director, and the Forum Co-Chairs, Bill Northey, USDA, Chuck Chaitowitz, U.S. Chamber of Commerce, and WSWC Executive Director, Tony Willardson.

Willardson quoted the *Presidential Memorandum (PM) on Promoting the Reliable Supply and Delivery of Water in the West*. "To the maximum extent practicable...appropriate bureaus are to promote the expanded use of technology for improving the accuracy and reliability of water and power deliveries." The PM calls for investment in programs that promote and encourage innovation, research, and development of technology that improve water management, using best available science through real-time monitoring. He also quoted President Thomas Jefferson: "Science never appears so beautiful as when applied to the uses of human life, nor any use of it so engaging as agriculture and domestic economy (1798)." Jefferson also said: "Laws and institutions must go hand in hand with the progress of the human mind. As that becomes more developed, more enlightened, as new discoveries are made, new truths disclosed..., institutions must advance also, and keep pace with the times (1816)." We face similar challenges today related to scientific research, infrastructure, institutions, laws and policy.

Speakers discussed lessons learned since the 2012 Forum; past, present and forecast drought conditions; the economics of drought; progress toward proactive drought preparedness, opportunities for coordination, flexibility, resilience and innovation; as well as infrastructure, water management, forecasting and monitoring drought, and national security. There was also a congressional panel.

Senior administration officials released, *Priority Actions Supporting Long-Term Drought Resilience*, a document developed by NDRP. An EPA press release noted that the document outlines key ways that "federal agencies support state, tribal, and local efforts to protect the security of our food supply, the integrity of critical infrastructure, the resilience of our economy, and the health and safety of our people and ecosystems.... While authority lies with the states to manage water resources,

federal agencies play a key role in supporting states, tribes, communities, agriculture, industry, and the private sector owners and operators of critical national infrastructure to prepare for, mitigate against, respond to, and recover from drought.” It provides a framework of systematic support for long-term drought resilience in six categories: (1) data collection and integration; (2) communicating risk to critical infrastructure; (3) drought planning and capacity building; (4) coordination of drought activity; (5) market-based approaches for infrastructure and efficiency; and (6) innovative water use, efficiency, and technology.

Tim Petty, Department of the Interior Assistant Secretary for Water and Science, said: “Under the leadership of President Trump, we are taking unprecedented steps at the federal level to coordinate and empower states, tribes, local communities, and water users to promote drought preparedness and resiliency and ensure reliable water supply throughout the West. The U.S. Geological Survey (USGS) and Bureau of Reclamation (USBR) play integral parts in this, whether it’s the science or infrastructure piece of this equation.” David Ross, EPA Assistant Administrator for Water, said: “The impact of drought on public health and the environment is far reaching because it reduces both water quantity and water quality. Through EPA initiatives, such as the National Water Reuse Action Plan, we are working to ensure a sufficient supply of clean water for the American people.”

Bill Northey, Department of Agriculture Under Secretary for Farm Production and Conservation, said: “These priorities are a large part of our game plan to how we can protect our food and water supply, and to build resilience on our farms and ranches and in our communities and businesses.” Brenda Burman, USBR Commissioner, said: “The Western states have experienced intense drought with the potential to severely impact agriculture, municipal water supplies and hydropower production. We’ve demonstrated that infrastructure investments, innovative approaches to conservation, and collaboration build drought resiliency and reduces risks.”

R.D. James, Assistant Secretary of the Army for Civil Works, said the NDRP is essential to collaboration between the federal agencies, and added, “I am committed to this partnership and will ensure the Corps’ support to other agencies as they work drought-related issues and coordinate to reduce duplicative and redundant efforts.” Daniel Simmons, Department of Energy Assistant Secretary for Energy Efficiency and Renewable Energy, said NDRP is inspiring federal action. “DOE is pleased to collaborate with other agencies to stimulate American innovation and technology solutions that address drought resilience through the Water Security Grand Challenge and other activities.”

WATER RESOURCES

Nevada/Groundwater/Beneficial Use

On July 31, Nevada Acting State Engineer, Tim Wilson, temporarily suspended the requirement for Diamond Valley groundwater users to submit an application for an extension of time to prove beneficial use. The basin is designated as a critical management area. The water right holders developed a Groundwater Management Plan (GMP) to voluntarily reduce pumping in order to avoid curtailment by priority. The GMP only applies to groundwater rights that serve irrigation purposes, and mining and milling water rights if they have irrigation base rights, as well as imported groundwater injected or infiltrated into the aquifer. Any unused allocations of groundwater are banked under the terms of the GMP and may be pumped in a successive year after subtracting amounts to account for natural losses. The GMP goal is to stabilize groundwater levels in Diamond Valley within 35 years, and reduce the consumptive use to not exceed the perennial yield.

The State Engineer may grant any number of extensions of time for a water right holder to prove beneficial use and perfect a permitted water right, for good cause shown, but no single extension may exceed five years. The relevant statute does not address circumstances where groundwater use is restricted by a GMP. Water conservation under the GMP requires that some water rights holders pump less than their full permitted or certificated duty until the GMP is lifted. The State Engineer is empowered to make rules and regulations as needed for the proper and orderly execution of the law, and the order provides that permitted rights will not be cancelled for failure to submit extensions of time to prove beneficial use through 2024.

New Mexico/Water Data

On July 23, the New Mexico State University, the New Mexico Water Resources Research Institute, and the West Big Data Hub held a workshop in Albuquerque to “discuss how incorporate data science into water research and science-based water decision-making to meet the needs of New Mexico.” The water data of interest is “so large and complex that traditional database management tools and data processing applications cannot handle the demands of data analysis and storage.” Participants addressed the challenges of data relating to state water budgets, produced water, modeling, and community engagement. New Mexico is only the second state to enact an open data water bill, in 2019 (WSW #2347). California was the first state, and presenters offered lessons learned since passage of the California legislation in 2016. Speakers also emphasized the importance of data that is findable, accessible, interoperable, and reusable. For further information see <https://nmwri.nmsu.edu/big-data-for-new-mexicos-water-is-on-the-rise/>.

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