



# Western States Water

## Addressing Water Needs and Strategies for a Sustainable Future

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### **WESTERN STATES WATER COUNCIL** **Virtual Summer Meetings**

Due to COVID-19, the WSWC Summer (193<sup>rd</sup>) Meetings were held virtually on July 22. Jeanine Jones, was recognized and commended for her efforts as Chair over the past two years. New Council officers were also elected at this meeting, with Tim Davis, Montana Water Quality Division, as Chair; Jennifer Verleger, North Dakota Office of the Attorney General, as Vice-Chair; and Jon Niermann, Texas Commission on Environmental Quality, as Secretary-Treasurer.

The WSWC revised and re-adopted five sunseting positions that: (1) oppose any federal legislation intended to preempt state water law; (2) support National Oceanic and Atmospheric Administration (NOAA) data, forecasting, and research programs; (3) urge Congress to appropriate receipts accruing to the Reclamation Fund for their intended purpose; (4) support federal authorization and financial support through the U.S. Geological Survey (USGS) for State Water Resources Research Institutes; and (5) emphasize state primacy over water and call for cooperative federalism and substantive consultation by federal agencies regarding water-related rules, regulations, directives, orders and policies. The Council also adopted a new position supporting dam safety programs for federal and non-federal dams.

Pat Lambert, Western States Federal Agency Support Team (WestFAST) Chair, presented the Council with a summary of WestFAST efforts over the past year and shared their priorities going forward, including improving state and federal communication.

In the Water Resources Committee, states shared their experiences adapting to remote working conditions; adjustments to collecting field data on water quality, dam safety, and water diversions during drought; and limitations due to closed labs. Many states are seeing significant economic and budgetary impacts and are prioritizing critical water needs.

Tony Willardson, WSWC Executive Director, discussed the status and substance of current water infrastructure bills pending before Congress. He referenced letters and policy positions that the WSWC

sent to Congress in support of various infrastructure programs.

Jeanine Jones, WSWC Chair, provided an update on seasonal to subseasonal (S2S) forecasting efforts. She noted meetings that are planned or have been postponed, as well as work that has continued forward. NOAA is working to comply with the Weather Research Act of 2017, developing a report on S2S to deliver to Congress. The Committee also discussed and approved its FY2021 workplan.

The Water Data Exchange (WaDE) program team updated progress on WaDE 2.0 and plans for the next steps. The WaDE 2.0 data system now contains a mix of both water rights and aggregate basin-wide water use data for eleven member states. Efforts are underway to connect seven more states and their data by early 2021. The team demonstrated a basic WaDE 2.0 portal that provides streamlined access and analysis to water rights and water use data across state boundaries. Currently, the team is discussing plans to advance the WaDE portal to the next level to allow farmers, decision makers, managers, and researchers to access, filter, and analyze water rights and water use data in the West. The team is assisting member states in accessing grants from the U.S. Geological Survey (USGS) Water-Use Data and Research (WUDR) Program, which provides up to \$250,000 for each state to improve their water use data collection, management, and sharing.

Deborah Lawler, WestFAST Liaison, noted that the pandemic situation has been conducive to participation in a webinar series. Topics have included: (1) Natural Resources Conservation Service's (NRCS) Regional Conservation Partnership Program (RCPP); (2) Environmental Protection Agency's (EPA) National Water Reuse Action Plan (WRAP); (3) NRCS's Snow Survey and Water Supply Forecasting Program, and the National Soil Climate Analysis Network (SCAN); (4) U.S. Forest Service (USFS) on leveraging watershed management; (5) FAST-41 and the Federal Permitting Improvement Steering Council (FPISC) for infrastructure project permitting; (6) USGS programs: Next Generation Water Observing System (NGWOS), Integrated Water Prediction (IWP), and Integrated Water Availability Assessments (IWAA); and (7) NOAA, U.S. Bureau of Reclamation (USBR) and USGS discussing

implementation of the Presidential Memorandum on Promoting the Reliable Supply and Delivery of Water in the West.

WestFAST also hosted several webinars in lieu of the presentations federal agencies were scheduled to give at the cancelled WWC-ICWP-NWSA Washington, D.C. Roundtable. Topics included: (1) Endangered Species Act (ESA) Section 4 revisions; (2) USGS Water Mission updates on water resources availability and water observing systems portfolios; (3) PFAS Action Plan; (4) National Integrated Drought Information System (NIDIS), National Weather Center, and the National Water and Climate Center program updates; (5) NRCS program updates; and (6) National Aeronautics and Space Administration (NASA) Water Applications Office and USGS National Land Imaging program updates.

Upcoming WestFAST webinar topics in 2020 include: (1) Water Infrastructure Finance and Innovation Act (WIFIA) Program; (2) WaDE 2.0; (3) Energy-Water-Emissions Dashboard; (4) USBR's prize competition programs; and (5) USBR's transportation program. Many of the webinars have been recorded and are accessible here: <https://www.westernstateswater.org/westfast/westfast-webinars/>.

The Water Quality Committee held discussions on the Navigable Waters Protection Rule (NWPR) and the new Clean Water Act (CWA) Section 401 Rule.

Krista Osterberg, Senior Environmental Program Manager, Arizona Department of Environmental Quality and Jennifer Carr, Deputy Administrator, Nevada Division of Environmental Protection, provided overviews of how their states are responding to the NWPR. Both states have comprehensive definitions of state waters, but they are figuring out how their permitting authority will need to change and if there are gaps. Arizona has many ephemeral streams that they are unsure if and how to regulate. Rebecca Roose, Director, Water Protection Division, New Mexico Environment Department, expressed concern that, as the only state without CWA Section 402 authority, the State does not have an established surface water permitting program in existence that could be modified. They will need to start from scratch at a time when resources are strained. Other states also shared their experiences, and made note that this will be an ongoing issue and all will want to learn from each other.

Regarding EPA's Section 401 rule, Ward Scott, Policy Advisor, Western Governors' Association (WGA), provided a summary of positive aspects and ongoing concerns with the rule changes. Roger Gorke, Senior Policy Advisor, Office of Water, EPA, noted this is an opportunity to improve state-federal collaborative efforts. Many states were interested in this idea and wanted to ensure a better flow of information up to agency principals, as well as back down to state officials.

Gorke also provided a brief overview of the EPA Water Reuse Action Plan, with Council staff providing an update of progress on state responses to a water reuse survey sent out in early 2020. States discussed groundwater permitting authorities and potential changes due to the new Maui Supreme Court ruling. Council staff also provided a brief update on per- and polyfluoroalkyl substances (PFAS). The meeting concluded adopting the Committee' FY2021 workplan, with an interest in reviewing the hydraulic fracturing item and determining steps to move that effort forward.

During the Legal Committee, Clive Strong, Legal Director, Natural Resources and Environment, Conference of Western Attorneys General (CWAG), and Ward Scott, WGA, provided an update on the Army Corps of Engineers' (Corps) withdrawal of its proposed water supply rule. They explained recent coordinated efforts with individual states, WSWC, WGA, CWAG and others to address western state concerns with the rule and potential legislative language.

An update on recent efforts of the WSWC-WestFAST Federal Non-Tribal Water Rights Workgroup led to a discussion on future priorities of the workgroup. Topics of interest and ongoing concern include grazing water rights, state-federal memoranda of understanding, and water rights associated with wild and scenic rivers. The Committee also approved its FY2021 workplan.

Members of the WSWC/Native American Rights Fund (NARF) Tribal Water Rights Ad Hoc Group provided updates on tribal water legislation currently moving through Congress: Navajo in Utah; Aamodt in New Mexico; Kickapoo in Kansas; Fort Belknap and Confederated Salish and Kootenai Tribes in Montana; and Hualapai in Arizona. The Committee also discussed the status of the proposed extension of the Reclamation Water Settlements Fund in the House and Senate.

Given continuing uncertainty related to the pandemic and state travel and meeting restrictions, the WSWC Fall (194<sup>th</sup>) meetings scheduled to be held in El Paso, on October 14-16, will be held virtually.

## PEOPLE

**Patrick Pfaltzgraff**, WSWC Member and Director, Water Quality Control Division, Colorado Department of Public Health and Environment, announced that he has accepted a new position with a law firm in Arizona. Pat was appointment to the WSWC in December 2014 and has served on the Water Quality Committee. We thank Pat for his many years of dedicated service and wish him the best in his future endeavors.

Resolutions of Appreciation were approved for Pat and other recently retired or replaced members, including David Barfield (Kansas), Maia Bellon (Washington), Garland Erbele (North Dakota), Jeff Fassett (Nebraska), Eric Millis (Utah) and Maria O'Brien (New Mexico).

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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.**