



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

Chair - Tim Davis; Executive Director - Tony Willardson; Editor - Michelle Bushman; Subscriptions - Julie Groat

WESTERN GOVERNORS/WATER RESOURCES

California/Water Resilience Portfolio

On July 28, California Governor Gavin Newsom released a final version of the California Water Resilience Portfolio, a “blueprint for equipping California to cope with more extreme droughts and floods, rising temperatures, declining fish populations, over-reliance on groundwater and other challenges.” The Portfolio was developed in response to Newsom’s Executive Order (EO) that directed several California agencies to prepare a “water resilience portfolio that meets the needs of California’s communities, economy, and environment through the 21st century” (EO N-10-19).

The portfolio is based on seven principles identified in the EO: (1) prioritize multi-benefit approaches that meet several needs at once; (2) utilize natural infrastructure such as forests and floodplains; (3) embrace innovation and new technologies; (4) encourage regional approaches among water users sharing watersheds; (5) incorporate successful approaches from other parts of the world; (6) Integrate investments, policies, and programs across state government; and (7) strengthen partnerships with local, federal and tribal governments, water agencies and irrigation districts, and other stakeholders.

It recommends four broad approaches to creating resilience: (1) maintain and diversify water supplies; (2) protect and enhance natural systems; (3) build connections, especially to improve infrastructure and enable critical water management through data sharing; and (4) be prepared to address new threats and implement adaptive management measures.

Newsom is quoted in the introduction of the report, saying: “California’s water challenges are daunting, from severely depleted groundwater basins to vulnerable infrastructure to unsafe drinking water in far too many communities. Climate change magnifies the risks. To meet these challenges, we need to harness the best in science, engineering and innovation to prepare for what’s ahead and ensure long-term water resilience and ecosystem health. We’ll need an all-of-the-above approach to get there.” The Portfolio can be found at: www.waterresilience.ca.gov.

ADMINISTRATION

National Environmental Policy Act/CEQ

On July 16, the White House Council on Environmental Quality (CEQ) published its final rule, Update to the Regulations Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) (85 FR 43304). The NEPA process affects many projects and activities, including: water infrastructure; renewable energy production; mining and grazing leases; management of national parks, forests, and fisheries; and environmental restoration projects. The rule is subject to Congressional review, but the anticipated effective date is September 14.

The press release says: “CEQ’s final rule will modernize the NEPA regulations to facilitate more efficient, effective, and timely environmental reviews by simplifying and clarifying regulatory requirements, incorporating key elements of President Trump’s One Federal Decision policy [Executive Order 13807], including a two-year goal for completing environmental reviews. The final rule codifies Supreme Court and other case law, updates the regulations to reflect current technologies and agency practices, eliminates obsolete provisions, and improves the format and readability of the regulations. The rule also exempts certain [agricultural] loan guarantee programs from the NEPA process, which will reduce unnecessary burdens on small businesses and family farms. Additionally, the rule will expand public participation and the involvement of Tribal governments in the NEPA process. The modernized NEPA regulations will accelerate the environmental review and permitting process for development of modern, resilient infrastructure, management of our Federal lands and waters, and restoration of our environment.”

Bureau of Land Management

On August 10, Secretary of the Interior David Bernhardt signed Secretary’s Order (SO) 3382 formally establishing the Bureau of Land Management’s (BLM) headquarters in Grand Junction, Colorado. The formal designation completes the relocation process bringing BLM closer to both the land it administers and to its employees. “This relocation strengthens our relationship with communities in the West by ensuring decisionmakers are living and working closer to the lands

they manage for the American people. This effort will also save a great deal of money that can be reinvested in our field operations,” said Secretary Bernhardt.

“Day after day our BLM leadership team is called on to make decisions that impact the lives of families in the West. There are neither maps nor memos that replace the wisdom gained by putting your feet in the dirt of the land you manage and speaking face-to-face with the individuals who must live with the consequences of those decisions. This is how you build trust with those we serve,” said Casey Hammond, Principal Deputy Assistant Secretary of the Interior for Land and Minerals Management.

“The BLM strives to be a good neighbor and responsible steward of America’s public lands. Relocating our headquarters West furthers that effort,” said BLM Deputy Director for Policy and Programs, William Perry Pendley. “We also worked hard to ensure that each of those employees unable to move found a job in the Washington, D.C. metro area. And the folks who wanted to move West are – or soon will be – settled in various Western cities.” By the end of August, most assigned staff will be on duty in the headquarters office. <https://www.blm.gov/press-release/The-Bureau-of-Land-Management-Headquarters-Officially-Established-in-Grand-Junction-Colorado>. See WSW #2285.

CONGRESS

House/Water Resources Development Act

On July 29, the House passed the Water Resources Development Act (WRDA). Unlike the Senate’s America’s Water Infrastructure Act (WSW #2399), H.R. 7575 only covers U.S. Army Corps of Engineers (Corps) projects. Title I contains general provisions. Section 112 directs the Corps to review and revise guidance and regulations regarding sea level rise, to ensure that the benefits of the project relating to sea level rise are considered “during the 50-year period after the date of completion of the project.” Section 120 authorizes a program for constructing water development projects to provide flood control and coastal storm risk management for communities subject to repetitive flooding, enabling construction without further Congressional approval if the federal cost share does not exceed \$15M.

Section 121 addresses repair of non-federal levees damaged by natural disasters, with provisions on costs related to deferred or inadequate maintenance prior to the natural disaster. Section 122 directs the Corps to study “natural infrastructure, natural features, and nature-based features in the study of the feasibility of projects for flood risk management, hurricane and storm damage risk reduction, and ecosystem restoration.” Section 125 establishes a policy of beneficial use for dredged materials from Corps projects, and expands the pilot program in 33 U.S.C. 2326 from 20 to 30 projects.

Section 128 authorizes a demonstration program to detect and treat harmful algal blooms associated with water resources development projects, in consultation with states and federal agencies.

Section 134 directs the Corps to identify engineering and maintenance deficiencies and describe recommended remedies for all levees included in the National Levee Database, in consultation with relevant non-federal interests. Section 135 makes changes to the Federal Emergency Management Agency’s High Hazard Potential Dam Rehabilitation Program, and makes hydropower dams that generate less than 1.5 megawatts eligible for the program. Section 137 extends the non-federal project implementation program through 2026. Section 142 requires Corps construction and rehabilitation contractors to purchase American steel.

Title II covers studies and reports on project feasibility, comprehensive plans, mitigation efforts, water contaminants, conservation, and environmental considerations. Section 201 authorizes feasibility studies for 35 new projects. Section 202 directs the Corps to expedite 33 studies already underway, and section 203 modifies four studies. Section 217 directs the Corps to report on the “benefits and consequences of including municipal water supply and water conservation as a primary mission of the Corps when carrying out water resources development projects.” The Corps is directed to analyze how adding these to the primary mission might impact future water resources development projects.

Title III includes deauthorizations of inactive projects, project modifications, and directs the Corps to study the potential for reauthorizations of projects previously deauthorized. Title IV authorizes 34 new water resources projects with primary purposes of navigation, hurricane and storm damage risk reduction, flood risk management, water supply, or ecosystem restoration. It also authorizes four water resources development and conservation projects with non-federal project sponsors.

LITIGATION

NEPA/Wild Virginia, et al. v. CEQ et al.

On July 29, a group of 17 environmental organizations challenged the final NEPA rule in *Wild Virginia, et al. v. CEQ et al.* (#20-cv-00045, U.S. District Court for the Western District of Virginia). The plaintiffs requested that the court vacate the new regulation for various violations of the Administrative Procedures Act and reinstate the 1978 NEPA regulations.

The 181-page complaint includes many allegations regarding the history of the rule, CEQ’s rulemaking process, and the more than one million public comments during the 60-day comment period that plaintiffs assert should have been considered more carefully.

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.