



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

ADMINISTRATION/WATER QUALITY **EPA/CWA §404/Florida**

On December 17, the Environmental Protection Agency (EPA) approved the State of Florida's request to administer the Clean Water Act (CWA) §404 program. Florida is the first state in 25 years to apply for and receive approval, joining Michigan and New Jersey. EPA's approval formally transferred permitting authority from the Army Corps of Engineers to the State, allowing the State to more "effectively and efficiently evaluate and issue permits under the CWA to support the health of Florida's waters, residents, and economy."

EPA Administrator Andrew Wheeler said: "A considerable amount of effort has gone into Florida's assumption of the Clean Water Act 404 program. Federal authorities don't delegate this type of permit often, but Florida has, beyond question one of the greatest environmental records of any state, and I couldn't be happier that Florida has shown it can meet the strict national standards EPA sets to protect human health and the environment." See <https://www.epa.gov/>

Lead and Copper Rule

On December 22, the EPA finalized changes to the Lead and Copper Rule – the first major update to the rule since it was first published in 1991. The final rule implements new testing requirements for schools and child care facilities, new lead service line (LSL) testing and removal requirements, and requires additional information sharing regarding LSLs. In a press statement, EPA Administrator Andrew Wheeler said: "This new Lead and Copper Rule will protect children and families from exposure to lead in drinking water. For the first time in nearly thirty years, this action incorporates best practices and strengthens every aspect of the rule, including closing loopholes, accelerating the real world pace of lead service line replacement, and ensuring that lead pipes will be replaced in their entirety."

Specifically, the rule: (1) requires community water systems to test the drinking water of 20% of the schools and child care facilities in their service area for five years and provide results and recommendations to the facilities in a timely manner; (2) codifies tap sampling procedures for testing for lead in water; (3) establishes a "trigger

level" of 10 parts per billion (ppb) that requires water systems to more rapidly identify, implement or optimize corrosion control treatments, and requires that water systems work with states to begin a LSL replacement program when exceeded; (4) requires water systems to replace 3% of their LSLs per year when 10% of sampling results are above the "action level" of 15 ppb, effectively extending the amount of time for replacement from 14 to 33 years; and (5) requires water systems to develop public inventories of the locations of LSLs, and to notify occupants of a home within three days if their result exceeds 15 ppb. If there is a system-wide exceedance, customers must be notified within 24 hours.

The rule maintains the current "action level" for lead at 15 ppb and does not establish a maximum contaminant level (MCL), both of which have drawn criticism from several environmental organizations. They say science supports a health-based standard of 5 ppb for lead, though they note there is no safe level of exposure.

ADMINISTRATION/WATER RESOURCES **Bureau of Reclamation/California**

On December 18, the U.S. Bureau of Reclamation (USBR) and the San Luis & Delta-Mendota Water Authority finalized the Environmental Impact Statement (EIS) and Environmental Impact Report (EIR) to increase water storage at the San Luis Reservoir. According to a USBR press statement, "This joint proposed project would create an additional 130,000 acre-feet of storage space in San Luis Reservoir, producing additional water supply for 2 million people, over 1 million acres of farmland and 200,000 acres of Pacific Flyway wetlands."

The report assessed the impacts of raising the 382-foot B.F. Sisk Dam, which impounds the San Luis Reservoir, by 10 feet and implementing Safety of Dams modifications. The additional stored water would be used to meet existing demands from "south-of-the-Delta" water contractors and wildlife refuges.

Commissioner Brenda Burman said: "Adding storage capacity to existing reservoirs is one of the most practical strategies for California's water shortage. At San Luis Reservoir, we have an opportunity to meet two objectives

at the same time: implement dam safety modifications and increase water storage. This is one of the most efficient water infrastructure projects we can make happen south-of-the Delta.”

Federico Barajas, Executive Director of the San Luis & Delta-Mendota Water Authority, said: “San Luis Reservoir plays an important role as a lynchpin of California’s water system. The reservoir’s water storage capacity is increasingly important to respond to a changing climate. Increasing water storage is a critical component of building water resilience. We are glad to partner with Reclamation to investigate expanding San Luis Reservoir – increasing water storage capacity and improving multi-year water management for the urban and rural communities, ecosystems, and agricultural production that are reliant on water stored in San Luis Reservoir.” See <https://www.usbr.gov/>

On December 22, the USBR released the final feasibility report for the North-of-the-Delta Off-stream Storage Investigation, which identifies the costs and benefits of the Sites Reservoir Project. The Project was initially authorized by Congress in 2003 to evaluate new off-stream surface water storage options north of the Sacramento-San Joaquin Delta, where most of California’s rainfall occurs.

According to a USBR press release, “The proposed reservoir would provide additional water supply for agriculture and municipal and industrial purposes, [Central Valley Project]-operational flexibility, anadromous fish benefits (migrating fish that return from the ocean to spawn), wildlife refuges, Delta ecosystem enhancement, flood damage reduction, and recreation.”

Commissioner Burman said: “California is in dire need of additional storage, and projects like Sites Reservoir will provide operational flexibility and more reliable water delivery to benefit farms, communities, and the environment. The Sites Reservoir Project is an important opportunity for additional storage in northern California.” See <https://www.usbr.gov/>

WATER QUALITY **Arizona/Waters of the State**

On December 15, the Arizona Department of Environmental Quality (ADEQ) Water Quality Division hosted a stakeholder webinar to obtain feedback on draft legislation and the proposed ADEQ program to ensure that waters of the state will be protected following changes to the definition of “waters of the United States” under the recent federal Navigable Waters Protection Rule. Over 550 stakeholders attended the webinar.

ADEQ proposed a list of protected waters that includes 787 of the 912 perennial and intermittent waters, but does not include ephemeral tributaries. The

meeting minutes noted: “In instances where the ephemeral is a channelized conveyance to a protected water, the discharge would need to be permitted. In instances where it is uncertain whether the discharge would reach the protected water, ADEQ can issue a permit.” ADEQ sought feedback on: (1) waters that should be added or removed from the list; (2) what refinements are needed to ensure legislation reflects the program intent; and (3) whether best management practices should be used for construction activities in protected waters. A variety of existing state programs will be used to continue to protect the state’s water quality, and the program is designed to not be duplicative of federal programs. The agency also noted that Arizona is no longer seeking CWA §404 authority. Meeting minutes and materials, including draft legislation, are available at <https://azdeq.gov/permittee-meeting-resources>

WATER RESOURCES **Texas/Regional Flood Planning**

The Texas Water Development Board (TWDB) recently designated boundaries for 15 flood planning regions and adopted rules for regional flood planning and Flood Infrastructure Fund financing. TWDB’s flood planning website notes: “In the wake of historic flooding in Texas, the 2019 Texas Legislature passed legislation to create Texas’ first-ever regional and state flood planning process and provide funding for investments in flood science and mapping efforts to support plan development.” In October, the 15 regions met, including representatives from counties, municipalities, water districts, water utilities, electric generating utilities, river authorities, flood districts, small businesses, industries, agricultural interests, environmental interests, and members of the public. TWDB designated the initial voting members for each of the regional flood planning groups, which are responsible for developing Texas’ first regional flood plans by January 2023, to be approved as the first state flood plan by 2024. <https://www.twdb.texas.gov/flood/planning/index.asp>

PEOPLE

Anna Pakenham Stevenson joined the Montana Department of Natural Resources in November as the new Water Resources Division Administrator. She previously worked in Oregon, managing the Water Program at the Oregon Department of Fish and Wildlife, where she handled water right permit reviews, flow studies to establish new instream water rights, FERC hydropower permit conditions, settlement agreements, assessing hydro-climatic impacts, and addressing future scarcity issues. Anna holds a B.S. in Biology and Environmental Science from Connecticut College and a M.S. and Ph.D. in Resource Management and Water Policy from Oregon State University. She replaces **Jan Langel**, who retired in December 2020.

The WESTERN STATES WATER COUNCIL is a government entity 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.