



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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WESTERN STATES WATER COUNCIL

Spring Meetings

The WSWC Spring Meetings (195th) were hosted virtually by the State of Texas on March 23-25. The WSWC revised and re-adopted six sunseting positions that: (1) support forecast informed reservoir operations and innovations; (2) support weather station networks; (3) support water infrastructure funding; (4) regarding integrating water and energy planning and policy; (5) support federal research on climate adaptation; and (6) regarding state primacy over groundwater. Two new positions were adopted. The first relates to support for universal access to clean and safe drinking water for Federally Recognized Indian Tribes and Alaska Native Communities. The second supports updated, consistent national Probable Maximum Precipitation (PMP) standards for extreme rainfall that takes into account recent data, research, models and methodologies.

WSWC Chair Tim Davis left his position in Montana for one in Utah. An election was held with Jen Verleger (ND) elected as the new Chair, Jon Niermann (TX) Vice Chair, and John D'Antonio (NM) Secretary-Treasurer.

Texas, as the host state, provided an in-depth look at their regional water planning and infrastructure funding programs, an overview of their oil and gas National Pollutant Discharge Elimination System (NPDES) permitting program, desalination efforts, and a virtual Rio Grande field trip.

Kevin Moss, Policy Analyst, Western Governors' Association (WGA), described WGA Policy Resolutions #2018-12, Water Quality in the West, and #2018-08, Water Resource Management in the West. WGA will reconsider both during their next virtual meeting on June 30-July 1. Members were encouraged to contact their governors' offices with any suggested changes.

During the Water Resources Committee, Camille Touton, Deputy Commissioner, Bureau of Reclamation talked about the Administration's priorities related to climate and equity, mentioning the Navajo Utah tribal settlement, and Colorado River Tribes. She highlighted extremely low flows in the Klamath River Basin, noting 76% of the West is in drought, and the 5% water allocations for Central Valley Project contractors. (WSW

#2443). Reclamation is considering next steps. She addressed creation of an Aging Water Infrastructure Account, and specifically noted dam safety needs. She mentioned WaterSMART programs, Open Water Data, Agrimet (weather stations), aerial snow observations (ASO), and Forecast Informed Reservoir Operations (FIRO).

Bill McCormick, President, Association of State Dam Safety Officials (CO), emphasized the need to update hydrometeorological reports (HMRs), some not updated since 1973, and the PMP standards. Extreme weather events and outdated HMRs and PMPs impact dam hazard ratings. Caroline Sevier, American Society of Civil Engineers (ASCE), addressed the reintroduced PRECIP and FLOODS Acts, and noted the recent ASCE infrastructure report card gave water a grade of C-.

Jeanine Jones talked about the National Oceanic and Atmospheric Administration's (NOAA) report to Congress on improving subseasonal to seasonal (S2S) forecasts, as required by the Weather Research and Forecasting Innovation Act of 2017 (P.L. 115-25). NOAA recommended four S2S pilot projects, including one on winter precipitation in western states.

Aaron Snyder, Manager, Army Corps of Engineers (Corps) Water Infrastructure Financing Program (CWIFP), talked about alternative financing, including public private partnerships (P3) and funding for non-federal dam maintenance and repairs under CWIFP.

Kathleen Ligon, Special Advisor, TWDB, talked about "State Water Planning, Financing and Infrastructure in Texas." Texas has developed a statewide Flood Viewer (map.texasflood.org), enhanced its mesonet (Texmesonet.org), and published a state flood assessment. She mentioned the destruction caused by Hurricanes Harvey and Katrina, then laid out Texas three pillars for flood risk management - mapping, planning and mitigation.

During the Water Quality Committee, Roger Gorke, Environmental Protection Agency's (EPA) Office of Water, spoke about the Administration priorities, with five EPA focus areas: (1) COVID relief and economic recovery; (2) equity and environmental justice; (3) harmonizing the Clean Water Act and the Safe Drinking

Water Act; (4) addressing water in the climate crisis; and (5) building the water sector workforce.

David Galindo, Director, Texas Commission on Environmental Quality (TCEQ) provided an overview of Texas' new NPDES program for oil and gas, with an eye toward using produced waters. The Committee also heard two presentations on desalination, from Wendy Ridderbusch, Executive Director, CalDesal, and James Golab, Hydrologist, Texas Water Development Board (TWDB).

Two roundtables discussed: (1) the Navigable Waters Protection Rule (NWPR); and (2) Clean Water Act (CWA) §401 state certifications. States are working to fill in any gaps created with the NWPR definition of "waters of the United States" (WOTUS). Arizona has undertaken development of a pre-screening tool for whether a particular water is under federal jurisdiction. Idaho, New Mexico, Nevada, Utah and Washington also weighed in. Several states shared their experiences with the CWA §401 rule. Some expressed concern with the tighter decisionmaking timelines as well as the uncertainty around whether or not EPA will review the rule in a timely fashion. Members also discussed related challenges regarding the need to issue §401 water quality certifications for the Corps proposed nationwide permits, prior to their finalization, and Corps' objections to "reopener" conditions.

During the Legal Committee, Bidtah Becker, Associate Attorney, Navajo Tribal Utility Authority; Anne Castle, Senior Fellow, Getches-Wilkinson Center, University of Colorado; and Rebecca Mitchell, Director, Colorado Water Conservation Board talked about the Colorado River Water and Tribes Initiative (CRWTI). To better understand the scope of the disproportionate impact of COVID19 on tribes without access to indoor plumbing and clean water, CRWTI surveyed all 30 tribes in the Colorado River basin. An upcoming report will detail inequities and highlight existing federal programs in need of adequate funding and interagency coordination. CRWTI is interested in engaging with partners to find practical solutions working toward a whole-government approach.

Erin Chancellor, Director, Office of Legal Services, TCEQ, presented on the nuances of Texas water rights and impoundments. Texas groundwater is subject to the Rule of Capture, with local oversight, but permits are generally required to store, take, or divert surface water, including stormwater once it reaches a watercourse. There are some interesting exemptions for domestic and livestock uses.

A roundtable discussion focused on water conservation and the use of saved or salvaged water. Washington State irrigators are becoming more efficient, and they want to irrigate additional acres or use water for

drought mitigation, rather than relinquishing it back to the State. Oregon's program requires a minimum 25% of the conserved water be converted to instream use. Oregon offers public funding to help with improvements and conservation; funding is tied to the percentage of water dedicated to instream use. Nevada is working on legislation to tie a program like Oregon's with a water banking program similar to Utah's. Utah is still in the pilot program stage. New Mexico has various tax incentives for water conservation, but they have found that the more efficient use of water actually increases plant consumption and does not result in water savings. North Dakota, Wyoming, and Montana also shared their limited experience with conservation and irrigation issues.

During the Full Council meeting, Tanya Trujillo, Principal Deputy Assistant Secretary, Water and Science, Department of the Interior, and former WSWC member, provided an update on the Administration's priorities and concerns. She highlighted World Water Week, the American Rescue Plan, which includes billions in spending for Native American tribes, and equity needs at both urban and rural levels. She noted efforts related to climate, science, infrastructure, interconnected energy and water policy and planning, as well as Open Water Data. She recognized WSWC's Water Data Exchange (WaDE), as well as our support for the Landsat program, OpenET, streamgages, and the National Water Assessment. She asked about recent state drought declarations and offered to convene a drought policy discussion. She spoke favorably about a Water Subcabinet, in some form, to continue promoting interagency coordination and federal-state consultation.

Weir Labatt, former WSWC Chair, presented on San Antonio's Vista Ridge Pipeline Project, a 60-inch conduit bringing up to 50,000 acre-feet per year of groundwater 142 miles from East Texas for 30 years. Weir highlighted P3 collaboration covering the funding, risk allocation, and permit processes (including Endangered Species Act review) it took to successfully complete the project. In Texas groundwater is personal property. He stressed the unprecedented nature of the project, in which they were able to secure agreements with 513 private landowners to cross their property, paying a premium rather than use their power of eminent domain. None of the easements were litigated.

Pat Lambert, WestFAST Chair, updated priorities for the coming year, including an interest in holding listening sessions with states to hear their water planning priorities, discuss ways to access federal resources and programs, and explore best collaboration practices.

The WSWC Summer meetings (196th) are scheduled to be held in Cody, Wyoming on June 23-25, at the Holiday Inn/Buffalo Bill Village, but may be held virtually given continuing uncertainty related to the pandemic and state travel and meeting restrictions.

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.