



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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ADMINISTRATION **EPA/Infrastructure**

On November 10, the Environmental Protection Agency (EPA) held a short briefing to discuss the water infrastructure provisions of the recently-passed Infrastructure Investment and Jobs Act (H.R. 3684), styled as the Bipartisan Infrastructure Deal (BID). EPA Assistant Administrator Radhika Fox noted the chronic underinvestment in water infrastructure for many years, and that the provisions of the bill are informed by all of the challenges that have arisen as a result. She called the bill an unprecedented investment and quickly listed the dollar amounts for various EPA programs, particularly for grants, principle forgiveness loans, and low interest loans without a matching requirement. She emphasized the need for productive partnerships with states, tribes, and local governments, and indicated that there will be future outreach, engagement, and guidance as the funds are released to the agency. She noted that there will probably be federal, state, tribal, and local barriers, including the need for more staff, and offered to work together to understand and overcome those challenges. With noticeable energy and enthusiasm she noted that this was “Such a moment for water.... Let’s get to work!”

EPA/Strategic Plan

On November 12, EPA closed the public comment period for its draft FY2022-26 strategic plan (86 FR 54448). The draft plan presents seven strategic goals focused on protecting human health and the environment and four cross-agency strategies that describe the essential ways EPA will work to carry out its mission. The agency will submit the plan to Congress in February 2022, as required by the Government Performance and Results Act Modernization Act of 2010 (P.L. 11-352).

The South Dakota Department of Agriculture and Natural Resources (DANR) submitted comments, noting the absence of two strategic goals that were included in the FY2018-22 strategic plan: (1) a cleaner and healthier environment delivered by carrying out EPA’s core mission, and (2) more effective partnerships. “A focus on EPA’s core mission is essential to deliver a cleaner, safer, and healthier environment for all Americans and future generations. This should also ensure that states

have appropriate federal resources to effectively implement federally approved or delegated environmental programs.... An effective partnership (or cooperative federalism) between states, tribes, and EPA...is not just about who makes decisions, but about how decisions are made and a sense of shared accountability to provide positive environmental results.”

Regarding Goal 5 to ensure clean and safe water for all communities, DANR reminded EPA of Congressional policies in the Flood Control Act of 1944 and Clean Water Act Sections 101(b) and (g), recognizing the rights of states to determine water development and allocation, and their critical role in protecting water quality.

EPA/Workforce Initiative

On October 15, EPA announced the selection of ten organizations to receive \$3.8M for a new grant program to help build the water workforce and connect individuals to career opportunities in the drinking water and wastewater utility workforce. It will also expand public awareness about opportunities in the water sector.

Last year, EPA released its “America’s Water Sector Workforce Initiative” to partner with states, utilities, tribes, local governments, and other stakeholders to address concerns about the need for skilled workers. “Currently, water utilities face challenges in recruiting, training, and retaining employees. The challenges are exacerbated with roughly one-third of the water sector workforce eligible to retire in the next ten years. Additionally, as the technologies that are used in the water sector become more advanced...there is a growing need to train and employ water protection specialists with specialized technical skills.” The initiative was designed to “expand as collaborating partners learn and adjust efforts to fully realize the vision we have for the water workforce.” See <https://www.epa.gov/sustainable-water-infrastructure/water-sector-workforce>.

FWS/Migratory Birds

On November 10, the Fish and Wildlife Service (FWS) held the third of three public webinars on Defining the Scope of the Migratory Bird Treaty Act (MBTA). They provided an overview and history of the MBTA, the FWS responsibilities under various laws, as well as the

proposed framework for incidental take authorizations. Prior to developing a rule, they are seeking specific information, including: (1) measures that entities employ to address incidental take of migratory birds, and the direct costs of those measures; (2) indirect costs of the legal risk of prosecution (insurance, increased financing interest rates, opportunity costs); (3) triggers for certain activities to qualify for a permit exception, general permit, or specific permit; (4) information on resources that may be impacted by the FWS proposal; and (5) how the FWS should consider authorizing government entities.

Notably, when asked about the potential impact on water resources in western states, FWS acknowledged that the requirements of the MBTA are different than the Endangered Species Act, and general actions to manage water that are not directed specifically at migratory bird habitat may not be an issue under the MBTA. They agreed to work with states further on the nuances of water resources. They noted that they were already engaged in outreach with states, although they did not specify whether their outreach was only state agency counterparts to the FWS.

Written comments on the scope of the rule are due December 3. A proposed rule will be drafted Summer 2022 and made available for public input, with additional engagement activities planned. Meanwhile, they are preparing an environmental impact statement (EIS), with a draft EIS planned for Summer 2022, and the final EIS and Record of Decision planned for Summer 2023. The recordings of the three scoping meetings will be made available at <https://www.fws.gov/regulations/mbta/>.

WATER RESOURCES **Water Data/OpenET**

On October 21, the OpenET project announced the launch of a new online platform that uses satellite data to estimate water consumed by crops. The platform makes the data for the 17 western states widely available for the first time. The data for the current year and previous five years is available at no charge, and is accessible down to the field scale.

The OpenET project is a public-private collaboration led by the Desert Research Institute, Environmental Defense Fund (EDF), Habitat Seven, and the National Aeronautics and Space Administration (NASA), with additional participation from Google, the U.S. Geological Survey (USGS), the Department of Agriculture, and various universities, with both government and private funding. The core objective is to provide farmers and local water managers with free ET data, with revenue generated from organizations interested in large-scale access to the data beginning in 2022.

Forrest Melton, NASA Western Water Applications Office, said: "OpenET addresses one of the biggest data

gaps in water management in the western United States. This easy-to-use online platform provides scientifically robust data that are invaluable for water management at all scales, from an individual agricultural field to an entire river basin." Gabriel Senay, USGS, said: "In some parts of the arid West, more than 70% of irrigation water ends up as evapotranspiration. By automating calculations for this highly important water data, OpenET will enable the USGS and water managers to more easily create water budgets at the watershed scale, which is an essential first step toward proactive water management." Richard Allen, University of Idaho, said: "As someone who has worked on evapotranspiration for more than 40 years, I am thrilled to see multiple, independent models for estimating ET come together on a single, easy-to-navigate platform."

PEOPLE **New Mexico**

On November 11, **John D'Antonio** submitted his resignation with plans to retire at the end of December, citing a lack of financial support for the Office of State Engineer (OSE) to protect the state's water resources as a factor in his decision to resign. He pointed to ongoing staffing shortages, increased mandates, and the direction to submit a flat budget despite projected growth in state revenues. He highlighted a "glaring nonresponse" from the state legislature on funding for the state's 50-year water plan and "expectations that it be completed regardless of funding limitations." His departure will also create a second vacancy on the Interstate Stream Commission, following Tanya Trujillo's appointment to be the new Assistant Secretary of Water and Science at the Department of the Interior.

D'Antonio said he expects to make an announcement in the coming weeks on his future plans to help solve water challenges in the West. He said that inside the OSE "there remains a small nucleus of staff professionals who are over-worked and under-supported and deserve an experienced quality leader to take on the challenges facing NM's critical water challenges. I wish that person the best." See www.abqjournal.com/2445533/nms-top-water-official-to-step-down-citing-understaffing.html.

MEETINGS **Spring Meetings/Roundtable - Washington, DC**

The WSWC Spring (198th) Meetings and Washington Roundtable co-sponsored with the Interstate Council on Water Policy (ICWP), will be held in Crystal City, Virginia on April 5-7, 2022 at the Doubletree Hotel – Washington DC Crystal City. For further information, as it becomes available, please see <https://westernstateswater.org/events/2022-wswc-spring-198th-meetings-and-washington-roundtable/>.

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