



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 - Jennifer Verleger; Executive Director - Tony Willardson; Editor - Michelle Bushman; Subscriptions - Julie Groat

ADMINISTRATION

Reclamation/WaterSMART

On May 16, the Bureau of Reclamation announced California, Idaho, Kansas, Montana, Nebraska, Nevada, Oklahoma, Texas, Utah, Washington and Wyoming would receive a total of \$17.3M under the WaterSMART Water and Energy Efficiency grant program for 22 projects. The selected projects improve water use efficiency, increase water supply reliability, modernize infrastructure, and reduce the risk of water conflicts. Leveraging the federal awards supports a combined \$89.1M in projects that include: (1) lining and piping canals; (2) installing and upgrading water meters and timers; (3) installing solar to reduce power demand; and (4) adding automated gate controls. The grant activities must be completed over the next two or three years. <https://www.usbr.gov/newsroom/#/news-release/4213>

CONGRESS

House/WRDA

On May 16, Rep. Peter DeFazio (D-OR) introduced H.R. 7776, the Water Resources Development Act (WRDA) and on May 18, the House Transportation and Infrastructure (T&I) Committee marked up and ordered the bill reported out of committee. In his opening remarks, Chairman DeFazio said: "H.R. 7776 was developed in a bipartisan manner, with input and ideas from both sides of the aisle. The projects and policy provisions included reflect input not only from members of the committee, but from the entire House of Representatives. WRDA 2022 authorizes construction of 16 projects studied and approved by the Chief of Engineers since WRDA 2020 was signed into law. It also authorizes 72 new Corps of Engineers feasibility studies and directs the Corps to expedite the completion of 15 ongoing studies – all of which were submitted to the Corps by local sponsors willing to share the costs.... WRDA 2022 meets the challenge of climate change by rebuilding and maintaining critical navigation jetties and breakwaters...to address sea-level rise and extreme weather. From studying the impacts of coastal storms on inland flooding to addressing the future water supply needs of the arid West, this bill works to make communities more resilient."

Water Resources and Environment Subcommittee Chair Grace Napolitano (D-CA) said: "WRDA also continues the effort that we started 10 years ago to improve water supply at Corps dams by addressing managed aquifer replenishment so that dams can hold water for recharge to local ground water basins. The bill addresses the buildup and removal of sediment in reservoirs to improve the operations and capacity of dams. The bill requires the Corps to take a particular focus on infrastructure in the west to evaluate opportunities to improve water management, water supply, and address the impacts of climate change." Section 116 addresses dam safety by directing an assessment of the status of all dams maintained by the Corps and determining the needs for "rehabilitation, retrofit, or removal."

WATER RESOURCES/WATER RIGHTS

Idaho/Drought/Curtailments

On May 6, the Idaho Department of Water Resources (IDWR) issued a methodology order, predicting a 162,600 acre-foot shortfall for senior priority surface water users on the Eastern Snake River Plain (ESPA) for the 2022 irrigation season. IDWR will begin curtailing more than 328 junior groundwater users with priority dates junior to 1979, unless they have joined one of seven approved mitigation plans or can otherwise demonstrate how their water use will not cause injury to senior surface water users. Past water litigation on the Snake River, between surface water and groundwater users, resulted in settlement agreements. The IDWR Director is required to issue an order at the beginning of the irrigation season and again in July to determine any shortfalls and curtailment obligations.

Mathew Weaver, IDWR Deputy Director, said: "By law, we have to keep people with senior water rights whole, and we want to make the junior ground water pumpers aware that despite the settlement agreements...if junior ground water pumpers are not participating in an approved mitigation plan, they could be subject to curtailment this year." <https://idwr.idaho.gov/wp-content/uploads/sites/2/news-release/IDWR-order-predicts-162600-acre-foot-water-shortfall-on-Snake-River-FINAL.pdf>

WATER RIGHTS

California/Water Judges

On May 19, the California Assembly held an Appropriations Committee hearing on AB2313, to require the California Judicial Council to establish a program that provides training and education on water-related matters, and to authorize water-related cases to be assigned to judges that have participated in that training. The Legislative Council's Digest said: "This bill would require the Judicial Council to identify experts in water science or management, or research attorneys, who may be available to any judge adjudicating an action relating to water, as defined, as an expert pursuant to the procedure specified above, as a research attorney, or to consult on the contents of a document submitted by a party. The bill would authorize the Judicial Council to pay or reimburse courts for the costs of employing or contracting with those experts or research attorneys in an action relating to water with funds appropriated for that purpose. The bill would authorize a judge to appoint a qualified special master to assist the judge with an action relating to water with duties similar to those for special masters in comprehensive groundwater adjudications. The bill would authorize the reasonable and appropriate compensation for experts and research attorneys identified pursuant to the bill, special masters appointed pursuant to the bill, and for experts appointed to an action relating to water pursuant to the procedure specified above, to be funded by an appropriation from the General Fund in the annual Budget Act or another statute. For a special master in a comprehensive groundwater adjudication, the bill would authorize their compensation to be provided pursuant to the procedures specified above under existing law or by that General Fund appropriation." https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=202120220AB2313

Utah/Water Judges

On April 28, the Utah Supreme Court and Judicial Council comment period ended on a proposed rule creating designated water judges in Utah district courts to handle cases involving water law and the adjudication of water rights. CJA06-104 would authorize the Utah Judicial Council to formally designate at least three district court judges to volunteer as water judges with appropriate knowledge and experience, or with a willingness to become familiar with water laws. It would authorize cases filed under Title 73, Chapters 3 (water exports, groundwater recharge, and wastewater reuse) or 4 (water rights) to be assigned to a water judge. Other cases would be "reviewed and assigned by the supervising water judge if the case is of sufficient legal complexity as related to water law to warrant assignment to a water judge."

The water judges would elect one to be the supervising water judge, to assign cases, coordinate

schedules and adjust caseloads, address concerns, and oversee the water law education of the judges. The supervising water judge would have access to "the use of law clerk resources to develop water expertise, to assist the water judges, and to facilitate consistency in the development of case precedents in the water law area and otherwise assist in the transition as new water judges are designated." <https://www.utcourts.gov/utc/rules-comment/wp-content/uploads/sites/31/2022/03/6-104-rule-draft-Water-Law-for-public-comment.pdf>

MEETINGS

WestFAST/Wildfires

On April 27, the Western States Federal Agency Support Team (WestFAST) hosted a webinar on Using Soil Moisture Information to Better Understand and Predict Wildfire Danger: A Review of Recent Developments and Outstanding Questions. It aimed to: (1) highlight examples from the rapidly growing body of research on soil moisture - wildfire relationships; and (2) make a case for more widespread use of soil moisture information in operational fire danger rating systems.

On May 18, WestFAST hosted a webinar on NASA's Perspective on Living with Wildfires. It promoted community engagement and discussed opportunities in earth observation and analytics across fire-shed and watershed scales to improve fuel moisture forecasting, characterization of evaporative stress and soil moisture at the wildland urban interface for actions in the pre-fire, active fire and post fire regimes. A recording of the webinars is available at: <https://westernstateswater.org/past-westfast-webinars/>.

PEOPLE

Erica Gaddis, former Director of the Utah Division of Water Quality, has accepted a part-time contract position as Senior Policy Advisor with the WSWC. She was appointed to the WSWC in August 2017 and served as Chair of the Water Quality Committee from 2021-2022. We welcome Erica and look forward to working with her. A Utah native, Erica joined Utah DEQ in 2014 and served as the Assistant Director, overseeing the planning and assessment branch. During that time, she led Utah's response to the Gold King Mine spill and launched Utah's harmful algal bloom program. Erica also helped to develop and implement Utah's new Agricultural Voluntary Incentive Program, and Utah's first nutrient regulations. Erica has worked in the private sector as a consultant in several western states. She received her doctorate degree in natural resources with an emphasis in water resources and ecological economics at the University of Vermont. She received a master's degree from Central European University as a Fulbright Scholar in Budapest, Hungary. Her undergraduate degree is in biology and environmental science from Willamette University in Salem, Oregon.

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.