



# Western States Water

## Addressing Water Needs and Strategies for a Sustainable Future

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### **WESTERN GOVERNORS/WATER RESOURCES**

#### **Colorado/Colorado River**

Newly re-elected Colorado Governor Jared Polis, announced changes in its Colorado River leadership team and asked lawmakers to approve \$1.9M in funding for a new policy and technology task force that will focus on the Colorado River. The changes include shifting Rebecca Mitchell from her role as Director of the Colorado Water Conservation Board (CWCB), and transferring her into the executive office at the Colorado Department of Natural Resources. There she will focus on her work as Colorado's Commissioner on the Upper Colorado River Commission. Governor Polis' proposal also calls for adding more than a dozen new CWRB and CDNR positions and \$5M to fund state water plan grants. If the proposal receives legislative approval, the changes would take effect July 1, 2023.

"The Colorado River system is facing many challenges due to a dwindling water supply, which are amplified by one of the worst droughts in recorded history," said Chris Arent, DNR spokesperson. (*Water Education Colorado*, Nov. 9, 2022)

### **ADMINISTRATION/WATER QUALITY**

#### **Clean Water Act/OMB/WOTUS**

On November 7, the WSWC organized a listening session for member states with the Office of Management and Budget (OMB) on the revised definition of "Waters of the United States" (WOTUS) in rulemaking. Under Executive Order 12866, Regulatory Planning and Review, issued by President Clinton in 1993, significant regulatory actions are submitted for OMB review. The states' views expressed in the meeting will be part of the final deliberative rulemaking process. There were at least seven federal representatives in attendance from OMB, the Environmental Protection Agency (EPA), Department of the Army, and the White House Office of General Counsel. Twelve Council Member States were represented. Erica Gaddis, Senior Policy Advisor, WSWC, provided opening remarks referencing the Council's position on Clean Water Act Jurisdiction (#481), with a focus on the importance of federalism, consultation with States as co-regulators,

addressing regional differences, and the timeline of the rulemaking.

Four states provided additional comments from state-specific perspectives. Emma Pokon, Deputy Commissioner, Alaska Department of Environmental Conservation, outlined OMB's rulemaking standards and reminded the agencies of the importance of meaningful consultation with States. Trevor Baggiore, Director, Arizona Water Quality Division, discussed an alternative technical approach to WOTUS determinations and reminded the agencies of the cost of regulatory uncertainty to States and the regulated community. Tom Stiles, Chief, Office of Watershed Planning, Kansas Department of Health and Environment reiterated the importance of a durable rule, the risk of additional litigation in finalizing the current rulemaking without clear plans for implementation, and the possibility of seeking a congressional resolution of this issue. Jim Macy, Director, Nebraska Department of Environment and Energy, raised concerns about the timing of the rulemaking in light of the pending decision in *Sackett v. EPA*.

#### **EPA/Bipartisan Infrastructure Law**

On November 15, EPA released a report summarizing investments made over the past year through the Bipartisan Infrastructure Law (BIL) in addressing environmental goals. EPA has awarded \$4B in capitalization grants to State Revolving Fund (SRF) programs around the country, and 20 state capitalization grants for lead service line identification and replacement that is expected to fund approximately 300 projects. EPA also created a \$5B non-competitive grant program for small or disadvantaged communities to address emerging contaminants, including per and polyfluoroalkyl substances (PFAS), in drinking water systems. See [https://www.epa.gov/system/files/documents/2022-11/BIL\\_Anniversary\\_Report\\_11142022.pdf](https://www.epa.gov/system/files/documents/2022-11/BIL_Anniversary_Report_11142022.pdf).

### **ADMINISTRATION/WATER RESOURCES**

#### **Forest Service/Water Supply**

In September, the U.S. Forest Service (USFS) published a paper quantifying surface water supplies that

originate on USFS forests and grasslands, sometimes transported to big cities through inter-basin transfers. The USFS used a Water Supply Stress Index (WaSSI) model to provide estimates at the HUC-12 level (hydrologic unit code) across 172 USFS land units for 2001-2015. The information was linked with EPA surface drinking water intake information and a new database of inter-basin transfers compiled for this study. Particularly in the West, USFS lands comprised 19.2% of the land area, but contributed 46.3% of the surface water supply. "This study provides a systematic accounting of [USFS] and other forested lands for surface drinking water supply. Our results can aid water resource and forest managers in developing integrated watershed management plans at a time when climate change, population growth, and land development threaten water supplies." See: <https://www.fs.usda.gov/research/treearch/64978>.

### Interior/Colorado River

On October 28, the Department of the Interior (DOI) announced expedited steps to prepare new operational measures that are needed to protect the Colorado River under projected continued low-flow hydrologic conditions. More specifically, the Bureau of Reclamation (USBR) is "initiating an expedited, supplemental process to revise the current interim operating guidelines for Glen Canyon and Hoover Dams in 2023 and 2024 in order to provide additional alternatives and measures." As part of this announcement, USBR published a Notice of Intent (NOI) to prepare a Supplemental Environmental Impact Statement (SEIS) to revise the Colorado River Interim Guidelines finalized in a December 2007 Record of Decision.

The NOI outlined the potential need to modify current operations and reduce releases from both Glen Canyon Dam and Hoover Dam. In addition to a No Action alternative, the SEIS will analyze two possible action alternatives. First, the Framework Agreement Alternative refers to an "additional consensus-based set of actions that would build on the existing framework for Colorado River Operations" as outlined in the 2019 Colorado River Drought Contingency Plan (DCP) Authorization Act. Second, the Reservoir Operations Modification Alternative included a set of actions and measures, developed by USBR, pursuant to Secretarial authority under applicable federal law. This alternative would also "consider how the Secretary's authority could complement a consensus-based alternative that may not sufficiently mitigate current and projected risks to the Colorado River System reservoirs." USBR is accepting input on the SEIS through December 20, 2022. For further information see: <https://www.doi.gov/pressreleases/interior-department-initiates-significant-action-protect-colorado-river-system>.

## WATER RESOURCES

### Arizona/Colorado River

On November 4, Tom Buschatzke, Arizona Department of Water Resources Director, and Ted Cooke, Central Arizona Project General Manager, briefed the Arizona Reconsultation Committee on the status of negotiations over delivery cutbacks to stabilize the Colorado River system. As a result of existing agreements, Arizona will leave 592,000 acre-feet of its 2.8 MAF allocation (21%) in Lake Mead in 2023 to help keep the reservoir from descending to critical levels. Including mandatory and voluntary contributions from a variety of in-state sources, Arizona will have roughly 840,000 acre-feet left in the troubled reservoir in 2022. Buschatzke and Cooke reported the states are struggling to come up with a plan to secure equitable voluntary commitments to conserve an additional 2-4 MAF.

USBR Commissioner Camille Touton announced earlier this year that the system needed to conserve that stunning amount of water in Lake Mead and Lake Powell to avoid potential catastrophe. The USBR's efforts since then have focused on winning voluntary contribution commitments from the states. <https://new.azwater.gov/news/articles/2022-10-11>

### Water Supply Outlook

On November 3, the Natural Resources Conservation Service's weekly report highlighted an above-median snowpack to start winter across the West resulting from a series of storms in the Cascade Mountains, Sierra Nevada, the Intermountain West, and southern Alaska. "Farther east, in the Rocky Mountains, the snowpack ranges from above- to near-median conditions for this time of year. The central and southern east slope of the Rockies into the Black Hills have missed much of the snow so far. Though the snow water equivalent percentages are exceptionally high in some parts, the median values for this time of year are very small because it is early in the snowpack season. Additional strong storms with heavy snow are forecasted for this weekend, with expected totals of six inches in the southern Sierra and over three feet in the North Cascades." For further information see: <https://www.nrcs.usda.gov/wps/portal/wcc/home/>.

## PEOPLE

**Mary Verner**, Water Resources Program Manager, Washington Department of Ecology and WSWC member has announced her retirement effective December 1. Mary was appointed to the WSWC in July 2018 and served as a member of the Executive and Water Quality Committees, and as Chair of the Water Resources Committee. We congratulate Mary on her retirement and wish her all the best in her future endeavors.

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