



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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ADMINISTRATION **EPA/PFAS**

On January 26, the Environmental Protection Agency (EPA) published a proposed rule (88 FR 4937) to require a 90-day notice to EPA for entities intending to use per- and poly-fluoroalkyl substances (PFAS) that have not been manufactured, imported, or processed since at least 2006. The 300 identified PFAS have existed since the 1940s, but have since been designated as inactive under the Toxic Substances Control Act (TSCA). Currently, EPA has no procedures to review new uses. The proposed rule would enable EPA to assess whether a new use may present unreasonable risk to health or the environment and prevent future unsafe releases.

CONGRESS **Infrastructure/Water Supply**

On January 9, Rep. Tom McClintock (R-CA) introduced the Water Supply Permitting Coordination Act (H.R. 186). The bill directs the Bureau of Reclamation to coordinate federal and state permitting processes for construction of new surface water storage projects on lands under the jurisdiction of the Secretaries of the Interior and Agriculture. It would designate Reclamation as the lead agency for permit processing, sharing data and technical materials, establishing project schedules, and documenting unified federal-state environmental considerations.

McClintock said: "Droughts are nature's fault. Water shortages are our fault. Water shortages are a choice we made a generation ago when we stopped building new reservoirs to meet the needs of a growing population. The unvarnished truth is that we will not solve our water shortages until we build new reservoirs. And we cannot build new reservoirs until we overhaul the laws that have made their construction endlessly time consuming and ultimately cost prohibitive."

WATER QUALITY **Colorado/Drinking Water/Reuse**

On January 24, the Colorado Department of Public Health and Environment (CDPHE) announced updated

drinking water standards to regulate water reuse. "While water providers have long been able to use direct potable reuse [DPR], this rule requires water providers meet high standards for treatment, testing and community engagement.... Direct potable reuse will require treatment with state-of-the-art multi-stage technologies to make treated wastewater safe for human consumption. Colorado communities have never been prohibited from implementing DPR projects, but no utilities have implemented DPR to date. Water providers across Colorado expressed their interest in being sure they could deploy reuse technology to ensure the availability of safe drinking water while facing population growth and water resource limitations. The department initiated... extensive stakeholder engagement... and established stringent standards to guide water providers...."

Last fall, the Water Quality Control Commission adopted a new rule. "This new rule sets clear and protective standards to protect public health in the event that communities choose to use this treatment. Under the rule, water systems must inform the public if they use DPR.... Across the nation, states are preparing to follow Colorado's footsteps. Arizona, Texas, Florida, and California have published guidelines for DPR, but Colorado is the first state to implement a regulation. Further information is available at Regulation 11 - Direct Potable Reuse, https://cdphe.colorado.gov/Regulation_11_Direct_Potable_Reuse." (CDPHE Press Release, 1/24)

WATER RESOURCES **Colorado River**

On January 30, the States of Arizona, Colorado, Nevada, New Mexico, Utah and Wyoming jointly submitted a 9-page letter to the Bureau of Reclamation (Reclamation) that outlined a Consensus-Based Modeling Alternative (CBMA) for Reclamation to evaluate as part of its environmental review of revisions to Colorado River operations. In November 2022, Reclamation published a *Federal Register* notice (87 FR 69043) of its intent to prepare a Supplemental Environmental Impact Statement (SEIS) to revise current 2007 Operating Guidelines for Glen Canyon Dam at Lake

Powell and Hoover Dam at Lake Mead. The revisions to the guidelines are to protect reservoir water elevations and dam infrastructure in prolonged drought conditions.

The letter said: "In addition to revising the specific [2007] Guidelines provisions referenced in the Notice, the CBMA assesses 1.543 million acre-feet (maf) per year of reductions among all Lower Basin Contractors when Lake Mead is below elevation 1145 [feet] for the protection of critical infrastructure.... The undersigned believe implementation of the CBMA would protect Glen Canyon Dam infrastructure, water deliveries, and power production, and adequately mitigate the risk that either Lake Powell or Lake Mead reaches dead pool."

A press release summarized the CMBA as including: (1) reduced releases from Lakes Powell and Mead to ensure the deliverability of water downstream and power production; (2) adjustments to Lower Basin contributions required under Drought Contingency Plans; (3) accounting for more than 1.5 maf of losses within the Lower Basin to protect infrastructure; (4) combined Lower Basin reductions of 250,000 acre-feet at Lake Mead elevation 1,030' and below; (5) combined Lower Basin reductions of 200,000 acre-feet at elevation 1,020' and below, and additional reductions necessary to protect Lake Mead at elevation 1,000'; (6) actions outlined within the Upper Basin State's Drought Response Operations Agreement; and (7) additional voluntary conservation measures that take into account hydrologic shortage in the Upper Division States.

The press release included statements from representatives of the six states. Tom Buschatzke, Director of the Arizona Department of Water Resources, said: "This modeling proposal is a key step in the ongoing dialogue among the Seven Basin States as we continue to seek a collaborative solution to stabilize the Colorado River system."

Becky Mitchell, Colorado Commissioner, Upper Colorado River Commission and Director Colorado Water Conservation Board of the Colorado Department of Natural Resources, said: "The CBMA includes the significant and necessary step of assessing evaporation and transit losses against Lower Basin uses. The Lower Basin actions operate in coordination with additional actions in the Upper Basin.... The CBMA approach appropriately distributes the burden across the Basin and provides safeguards for the Tribes, water users, and environmental values in the Upper Basin."

John Entsminger, Southern Nevada Water Authority General Manager, said: "While our goal remains achieving a seven-state agreement, developing and submitting this consensus-based alternative is a positive step forward in a multi-phased environmental review process critical to protecting the Colorado River system."

Estevan Lopez, New Mexico Colorado River Commissioner, said: "The CBMA is a vital step forward as Reclamation considers new additional actions to operate the Colorado River system for the next few years. We recognize that the process to prepare a proposal in such a short timeframe was imperfect. We need to continue discussions among all seven Basin States and to engage directly with tribal leaders.... We have much more to do, but the CBMA is a tremendous step in the right direction."

Gene Shawcroft, Utah Colorado River Commissioner, said: "The challenge we continue to face is dry hydrology and depleted storage across the Colorado River Basin. The CBMA provides a path forward so that every state can contribute to finding a solution in close collaboration with our Tribes and water users."

Brandon Gebhart, Wyoming State Engineer, said: "The concepts identified in the CBMA are a significant step toward building the consensus necessary to take incredibly challenging but vital actions to address the crisis on the River. We look forward to continuing to work with all the States to build on the CBMA concepts and move forward together."

WATER RIGHTS **Idaho/Adjudication**

On January 30, the Idaho Department of Water Resources (IDWR) issued its first round of notices to file claims in the General Adjudication of Rights to the Use of Water from the Bear River Basin Water System (Idaho Fifth District Court, No. 00-79576). The adjudication commenced in June 2021. The Bear River Basin Water System includes four IDWR administrative basins across the southern Idaho border, numbered 11, 13, 15, and 17. Basin 11, located in the southeast corner of Idaho and containing the northern portion of Bear Lake, is the first to receive the notice to file claims. Idaho shares the Bear River with Utah and Wyoming.

MEETINGS

On February 14, at 10:00 am (MST) the Western States Federal Agency Support Team (WestFAST) will host a webinar on the Introduction to Pumped Storage Hydropower. In this first 101-style webinar of a series, presenters from Department of Energy National Labs will provide a broad overview of pumped storage hydropower. They will cover the types of pumped storage systems that exist, how they benefit the grid and what services they can provide, key considerations for new projects, current trends in development, general challenges, risks, and opportunities. <https://westernstateswater.org/events/an-introduction-to-pumped-storage-hydropower/>

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.