



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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WESTERN STATES WATER COUNCIL Spring Meetings – Reno, Nevada

On May 22-24, the State of Nevada hosted meetings of the Western States Water Council (WSWC) in Reno. The WSWC noted the passing of Roland Westergard last October at the age of 88. Appointed as a WSWC member in 1967, Roland served as the Nevada State Engineer from 1967-1978, as Director of the Department of Conservation and Natural Resources until 1990, and was WSWC chair from July 1988 to July 1990. His passing marks the end of an era, as the last of many that participated in the formative years of the Council.

The WSWC adopted one new policy position relating to water quality standards and federal reserved treaty rights for tribes, and revised and readopted thirteen sunseting positions that support: (1) research and innovation to improve sub-seasonal to seasonal (S2S) precipitation forecasting; (2) funding for Bureau of Reclamation maintenance, repair and rehabilitation needs; (3) the Reclamation Safety of Dams Act of 1978; (4) the transfer of federal water and power projects and related facilities in consultation with States; (5) the National Levee Safety Act of 2007 and appropriate maintenance of levee and canal structures; (6) Clean and Drinking Water State Revolving Funds and state and tribal assistance grants; (7) rural water and wastewater project/infrastructure funding and USDA programs; (8) national dam safety programs; (9) protecting state water law from preemption in federal legislation; (10) National Oceanic and Atmospheric Administration (NOAA) data, forecasting, and research programs; (11) expenditures for authorized purposes from the Reclamation Fund; (12) the Water Resources Research Institutes and U.S. Geological Survey Water Resources Research Act Program; and (13) recognizing the role of the States in the allocation and appropriation of water and providing for substantive consultation on water-related federal rules, regulations, directives, orders and policies.

The unusual number of sunseting positions was due to a decision to postpone the next meeting of the Council until the Fall meetings to be held in Anchorage, Alaska on September 12-14. The Spring 2024 meetings will be held in the Washington, D.C. area.

Kristen Averyt, White House Council on Environmental Quality, addressed the WSWC on the Administration's drought priorities, partnerships and investment opportunities. The Colorado River is their top priority, and the Department of the Interior recently announced that the Seven Basin States had reached consensus on a proposal to reduce the use of Colorado River water by 3 million acre-feet through 2026. She said, "This really is a tremendous accomplishment." She added, "I just want to thank anybody that's in this room that had played any role in those negotiations. We know how difficult they were and how challenging..." She shared part of President Joe Biden's statement calling the agreement "...an important step forward in our efforts to protect the stability of the Colorado River System in the face of climate change and historic drought conditions."

She also addressed resources that are available through the Bipartisan Infrastructure Law as well as the Inflation Reduction Act, the largest investment ever in the history of the United States in terms of building resilience into our physical and natural systems. "The resilience that we're talking about, it's not just about ensuring that our investments in bridges, highways and really physical infrastructure are resilient to the increasing frequency and intensity of extreme events, but also ensuring that our communities, our people are resilient to the impacts of climate change." She highlighted federal investments in the Colorado River Basin, and noted a related White House Fact Sheet dated April 6.

A panel on Federal Water, Forest and Hazards Mitigation Programs Integration included: Bunny Bishop, Nevada Division of Water Resources; Jason Cooper, Nevada Division of Environmental Protection; and John Powderly, Federal Emergency Management Agency (FEMA), Region IX. They explained the importance of integrating and better aligning siloed state planning documents in order to qualify for federal funding from multiple sources available through both direct and competitive federal grant programs. States can better align and leverage these resources.

For the Host State Presentation, William (Bill) Hauck, Truckee Meadows Water Authority (TMWA), described

the complex history behind and provisions of the Truckee River Operating Agreement (TROA) with related water supply resources and demands. TMWA serves over 475,000 customers with peak demand last year of 144 million gallons per day (mgd). Over 80 groundwater wells make up 15%-20% of their supply, while 80%-85% comes from surface water, primarily from the Truckee River and Donner and Independence Lakes. TMWA hosted a WSWC field trip, which included a visit to the Prosser Creek Reservoir and its Stead Water Reclamation Facility, which treats up to 2 mgd.

The Water Resources Committee, chaired by Andrea Travnicek (ND), focused on a number of water data programs. Melissa Roberts, American Flood Coalition, focused on leadership, accountability, better data and smarter planning. Jeanine Jones (CA), highlighted the importance and challenges of the Sub-seasonal to Seasonal (S2S) precipitation forecasting to provide sufficient lead time for public and private decision-making. Forrest Melton, National Aeronautics and Space Administration's (NASA), described OpenET efforts to consistently map evapotranspiration data from satellites at field scales. Justin Huntington, Desert Research Institute, noted the use of Climate Engine for processing "big" data. Tim Newman, U.S. Geological Survey, described the status of Landsat Next and its enhanced observation capabilities. Cara McCarthy and Heather Hofman, Natural Resources Conservation Service (NRCS), National Water and Climate Center (NWCC), highlighted the current western water supply outlook. Todd Stonely, Utah Division of Water Resources, and Sarah Schechter, Utah Attorney General's Natural Resources Division, addressed conservation programs intended to sustain the Great Salt Lake and Upper Colorado River Basin flows. Lastly, Adel Abdallah, updated members on the WSWC's Water Data Exchange and Western Water Data Access and Analysis Tool (WestDAAT).

In the Water Quality Committee, Martin Lowenfish, Natural Resources Conservation Service (NRCS) described the Western Water and Working Lands Framework for Conservation Action, intended to help producers conserve water, address climate change, build drought resilience, and help secure clean and available water supplies. Brian Frazer, Office of Wetlands, Oceans and Watersheds (OWOW), Environmental Protection Agency (EPA), and Stacey Jensen, Office of the Assistant Secretary of the Army (Civil Works), addressed the status of implementation of the Waters of the United States (WOTUS) rule. Jennifer Zygmunt, Wyoming Department of Environmental Quality, and Chair of the Water Quality Committee, led a discussion on regulating per- and polyfluorinated substances (PFAS), followed by a roundtable on EPA's proposed federal baseline water quality standards (WQS) and tribal reserved treaty rights.

Chris Brown (WY) chaired the Legal Committee. Micheline Fairbank, former Nevada Division of Water Resources now with Fennemore Law, together with James Bolotin, Nevada Attorney General's Office, presented on the Nevada Supreme Court Decision 1293A upholding the State Engineer's authority to require relinquishment of two acre-feet of water rights in good standing for any new domestic well in the over-appropriated Pahrump Artesian Basin. Domestic wells are an exception to the formal permitting process, since they have a right granted under Nevada Revised Statute (NRS) 534.180 for a single-family for culinary and household use limited to a maximum total of 2 acre-feet of groundwater a year, amounting to 1,800 gallons a day. However, new wells threaten the yield of existing wells in the basin. They also talked about the Diamond Valley groundwater management plan that applied only to irrigation and not domestic wells or municipal and industrial uses. The irrigators agreed to convert water rights into shares that over time are reduced with allowed use determined on an annual basis. Senior water rights were granted more shares than junior water rights, and then these shares could be used, traded and sold. The goal is to reduce pumping and stabilize the groundwater level declines over 35 years. The State Supreme Court also upheld the authority for the plan.

Adel and Michelle Bushman led a discussion related to incorporating into WestDAAT information about the legal status of water rights, as well as regulatory boundaries, such as groundwater management areas, basins closed to further appropriation, active management areas, etc. WSWC Chair Jen Verleger (ND) and Michelle updated members on recent Congressional testimony on the Army Corps of Engineers authorities to address drought and state appointments to the new Western Water Cooperative Committee.

Mike Eberle, USDA Forest Service provided information about an upcoming webinar series on stream and wetlands restoration and requisite water rights. Roger Gorke, EPA Office of Water, discussed water rights needed for federally-funded programs, including drought resilience, pumped storage, and other innovative projects. Paula Cutillo, Bureau of Land Management (BLM), provided an Aquatic Resource Program Policy Update. Lastly, Michelle presented a legislation and litigation update. She also announced the biennial WSWC-Native American Rights Fund (NARF) Symposium on the Settlement of Reserved Indian Water Rights, to be held virtually on August 8-9, 2023.

In addition to the usual meetings the WSWC hosted a Pumped Storage Hydropower Workshop. We wish to also thank SWCA Environmental Consultants for hosting a social hour, and former member Erica Gaddis with SWCA.

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.