



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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WESTERN GOVERNORS/WATER RESOURCES

Arizona/Groundwater

On June 15, the Arizona State Legislature adjourned its legislative session. Governor Katie Hobbs (D) signed three bills which provide flexibility for municipalities seeking designations of assured water supply (AWS) to facilitate economic growth while protecting groundwater supplies. In June 2023, the State announced that it would not approve new determinations of AWS within Phoenix Active Management Area (AMA) boundaries, but has since created alternative pathways such as the Alternative Designation of Assured Water Supply (ADAWS) program (WSW Special Report #2594).

On June 19, Hobbs signed SB1081, which allows the Director of the Arizona Department of Water Resources (ADWR) to designate a delineated portion of the City of Buckeye within the Phoenix AMA as having an AWS if certain criteria are met. Under Arizona law, sale or lease of subdivided lands under an AMA is only permissible with a certificate of AWS from ADWR, or a commitment for water service from a municipality or private water company with a designation of AWS. The new law allows the City of Buckeye to receive an AWS designation for a southern portion of the city located in an area previously designated as waterlogged by ADWR, and thus exempted from conservation requirements. The Buckeye Water Logged Area (BWLA) was established in 1988 and the exemption is effective until 2034 (A.R.S. § 45-411.01).

Hobbs also signed SB1181, which outlines a process for a municipal provider that applies for a new AWS designation in the Phoenix AMA to assume the replenishment obligations of member service lands (subdivisions) that are located within the provider's service area. The Central Arizona Groundwater Replenishment District (CAGR) replenishes groundwater on behalf of its members to facilitate compliance with Arizona State Law (A.R.S. § 48-3771). CAGR members exist as either Member Service Areas (cities, towns, private water companies) or as Member Lands (subdivisions). Member Land replenishment obligations are attached to a subdivision and paid for as a line item on property taxes. Under the new law,

municipalities may receive an AWS designation, become a Member Service Area, and gradually assume the groundwater replenishment obligations of subdivisions in increments of 10% annually, avoiding excessive fee increases for ratepayers. Many municipalities are not currently required to replenish groundwater pumped for non-housing purposes or for uses that predate the 1980 law. The bill allows municipalities to provide holistic water management, assure sustainable growth in their communities, and provides a smooth transition for communities and water providers.

Hobbs signed SB1242 allowing groundwater to be transported from the Harquahala Irrigation Non-expansion Area (INA) to any location in La Paz County. Without specific authorization, groundwater that is withdrawn in a basin or sub-basin located outside an AMA may not be transported to an AMA. Harquahala INA is one of four sub-basins from which groundwater may be transported. However, only Arizona and its political subdivisions could previously withdraw and transport groundwater. The new law opened access to groundwater in the Harquahala INA to private entities, and gave La Paz County (which holds land within the Valley) the right to transfer, sell, or lease Harquahala water.

Kansas/Infrastructure/Groundwater Recharge

On June 20, Governor Laura Kelly (D-KS) announced \$57M for Dodge City to upgrade its existing water treatment process and infrastructure, combined with a \$14.25M WaterSMART award from the Bureau of Reclamation (USBR), \$22.75M from the City of Dodge, and \$20M from the Kansas Infrastructure Hub and Build Kansas Fund. The city's treated wastewater is discharge into the Arkansas River streambed and infiltrates into the Ogallala Aquifer and augments groundwater pumped by the city's existing well sites. Once complete, 4,147 acre-feet of recycled water is expected to be produced annually. Kelly said: "By exploring every avenue for investment into our water infrastructure, we are making progress to address Kansas' water crisis. When we work together – pooling resources across federal, state, and local government – we can significantly impact the future of water for the region."

ADMINISTRATION/WATER RESOURCES

White House/Columbia River Treaty

On July 11, President Joe Biden announced that the United States and Canada have reached agreement in principle on key elements of a modernized Columbia River Treaty. Biden said the United States will benefit from pre-planned water storage at Canadian Treaty dams to help control flooding. The United States and Canada will continue to draft a Treaty amendment to reflect agreed upon elements. He highlighted the importance of the Columbia River and its tributaries to tribal and indigenous peoples and to the U.S. economy. "For 60 years, the United States and Canada have managed these waterways together through the Columbia River Treaty. Now, our two countries have found common ground on how we will work together to care for them for the next 20 years.... In modernizing this treaty, we will elevate U.S. Tribes' and Canadian Indigenous Nations' voices. We'll re-balance energy coordination between the United States and Canada, allowing the United States to keep more clean hydropower energy at home while giving Canada more opportunities to import from and export to the U.S. market – critical to both countries achieving our clean energy goals."

Prime Minister Justin Trudeau said: "For more than 50 years, the Columbia River Treaty has played a crucial role in reducing flood damage and providing clean energy to millions of households, businesses, and industries in both of our countries.... This agreement-in-principle is the result of extensive engagement, notably with Indigenous and local communities, to ensure that all interests are heard, represented, and addressed. The agreement-in-principle is a major milestone that will enable us to now update the Treaty, ensuring continued flood risk management and co-operation on hydropower for the Columbia River and incorporating important provisions not considered in the original agreement, such as ecosystem health and Indigenous cultural values.... Together with the United States, we reaffirm our historic alliance, steadfast friendship, and commitment to making life better for people on both sides of our shared border – and to building a more free, equitable, secure, and prosperous world for everyone."

USFWS/ESA/Rio Grande

On June 18, the U.S. Fish and Wildlife (USFWS) Service determined that the Rio Grande chub and the Rio Grande sucker do not warrant listing under the Endangered Species Act (ESA). Environmentalist group WildEarth Guardians petitioned USFWS to list the Rio Grande chub and Rio Grande sucker in 2013 and 2014

respectively. In 2016 USFWS determined that the fish may warrant listing, beginning an ESA decision deadline of one year. USFWS missed the deadline and WildEarth Guardians sued. A 2021 D.C. District Court decision (*WildEarth Guardians v. Haaland*, #20-1035) agreed to give USFWS until June 2024 to issue a determination.

The USFWS said that neither species is in danger of extinction or likely to become in danger of extinction and thus do not meet the definition of threatened or endangered species. In its status review USFWS consulted with scientists, state agencies, species experts, and others over primary study factors including water diversions, groundwater withdrawals, dams, nonnative species, wildfire, and climate change. USFWS' press release reads: "Monitoring and conservation efforts for these fishes have been occurring for several decades. These ongoing efforts include a 10-year Conservation Agreement for the Rio Grande chub and the Rio Grande sucker signed in 2018. This multi-partner agreement includes federal agencies, Tribes, states, municipalities, non-profits, and private organizations. Through this agreement, long-term management actions... [include] monitoring populations and habitat, securing and enhancing populations, and improving watershed conditions into the future."

CONGRESS/WATER RESOURCES

USBR/Water Theft

On June 27, Representatives Raúl Grijalva (D-AZ), House Natural Resources Ranking Member, and Jared Huffman (D-CA), Ranking Member, Water, Wildlife, and Fisheries Subcommittee, wrote a letter to Comptroller General Gene Dodaro asking to open a review of the Bureau of Reclamation's operations. Huffman and Grijalva referenced the guilty plea of former San Joaquin Valley Water District General Manager, Dennis Falaschi in May for his involvement in an effort to steal \$25M worth of water from a federal Central Valley Project irrigation canal, which has raised concern about how widespread water theft may be and what USBR can do to prevent it. Grijalva and Huffman ask the Government Accountability Office (GAO) to conduct a review that addresses: (1) USBR's processes for water data monitoring and managing risks of water loss and theft across its infrastructure; (2) data on the number and characteristics of water thefts that have occurred from federally-managed USBR projects; (3) challenges USBR faces in water data monitoring and managing risks of water loss and theft; and (4) opportunities for USBR to improve water data monitoring and the management of water loss and theft, such as through new technologies and management practices.

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.