



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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ADMINISTRATION/WATER RESOURCES **EPA/Army/WOTUS**

On October 4, the WSWC sent a letter to the Environmental Protection Agency (EPA) and Army (Civil Works) expressing the need for more robust and ongoing consultation with states on the development of a new rule defining the jurisdictional scope of “waters of the United States.” The letter said: “The WSWC urges the agencies to provide opportunities for a representative number of states across different regions with diverse perspectives to actively engage in the rule development process with the agencies, to provide direct and effective feedback on the implementability of concepts or language that might be considered in a proposed rule. A one-size-fits-all national approach does not recognize specific conditions and needs in the West, where water can be scarce and a variety of unique waterbodies exist. A rule that is more regional in nature, or that allows flexibility in implementation, appears more appropriate. As co-regulators, the states would like to work together with the agencies to develop and implement a rule that seeks to strike a balance between the critical importance of protecting the quality of the nation’s waters and preserving the sovereignty of states over their land and water resources.”

The letter also noted the importance of: (1) ongoing technical and financial assistance to states under existing programs “to address point and non-point source pollution through state regulatory and voluntary programs tailored to fit unique state needs;” (2) joint federal-state efforts to develop geospatial datasets for mapping jurisdictional waters, including the identification of the most up-to-date data and tools, as well as funding for field verification of map accuracy and ongoing map maintenance; (3) involving states in the rulemaking process to help end regulatory whiplash; and (4) establishing a clear process for resolving differences of opinion over federal and non-federal jurisdiction, as well as jurisdictional disputes between different states and tribes. See <https://westernstateswater.org/policy-letters/2021/wotus-letter-to-epa-and-corps/>.

ORGANIZATIONS/WATER QUALITY **CIFA/State Revolving Funds**

On October 4-5, the Council of Infrastructure Financing Authorities (CIFA) held its annual Clean Water

(CW) and Drinking Water (DW) State Revolving Funds (SRFs) workshop in Salt Lake City, Utah. CIFA is a national nonprofit organization representing SRF managers that focuses on state-federal partnerships to provide communities with subsidized loans for water infrastructure that protects public health and the environment. About 125 people attended in-person.

Featured keynote speakers included Jennifer McLain, EPA Office of Ground Water and Drinking Water; and Andrew Sawyers, EPA Office of Wastewater Management. Sawyers highlighted accomplishments of the federal-state partnership that over the past 33 years has provided \$44.3 billion in federal capitalization funding, plus \$8.9B in state matching contributions. An additional \$47.2B has come from leveraged bonds, and \$49.5B from loan repayments and earnings.

More than \$145B has been invested in protecting and improving the Nation’s water quality through more than 42,800 assistance agreements across the country, while saving communities more than \$44B in cumulative interest costs. The program has provided 14,687 loans for wastewater treatment plants (WWTP), and 6,221 loans for decentralized treatment systems. The continuing legacy of state innovation and federal flexibility also includes \$5.2B since 1988 to fund 19,200 projects to address non-point source (NPS) pollution, and \$1.6B for water reuse projects.

Sawyers noted over half the loans provided have gone to communities with fewer than 3,500 people and another quarter to communities with less than 10,000 people. More remains to be done to reach all communities with all available financial resources for a broad range of CWSRF eligible projects. An example of financing for climate resiliency was a \$10.5M CWSRF loan (with \$1.9M in loan forgiveness) for Driggs, Idaho to upgrade the Teton Valley WWTP, combined with a NPS project to stabilize damaged streambeds and revegetate over 10 acres of floodplain that also restored fish and wildlife habitat.

He added the Biden Administration has focused on water infrastructure with the American Rescue Plan Act with state and local fiscal recovery funds, and the potential for the Infrastructure Investment and Jobs Act. EPA is committed to partnering with other agencies and stakeholders to leverage financing and innovation in the

water sector. The Administration's Justice40 Initiative intends to direct 40% of overall benefits from federal investments to disadvantaged communities.

McLain declared that investing in safe drinking water was at historic levels and moving towards tackling complex compliance and security challenges related to identifying and removing lead service lines, addressing emerging contaminants, cybersecurity and improving climate resilience. Since 1997, the DWSRF has disbursed \$39.1B leading to \$44.7B in projects funded, with 16,300 loans signed, and \$3.7B for capacity building, operator certification and other support.

With regard to the Justice40 Initiative and the Administration's whole-of-government approach, two pilot projects are using the DWSRF and the Water Infrastructure Improvements for the Nation (WIIN) Act to remove lead lines via drinking water exposure grants. EPA is engaging stakeholders and partners to develop and implement plans and future guidance is expected. With respect to addressing affordability, DWSRF tools include loans of up to 30-40 years at or below market interest rates, buying or refinancing local debt, as well as providing or guaranteeing bond insurance for local obligations, and finally possible loan principal forgiveness. The median DWSRF loan is \$1.1M but loans have ranged from the smallest \$8,395 to the largest \$183M.

McLain noted that the 2021 DWSRF Needs Survey is in progress and will form the basis for future funding allocations, with a final report to Congress in early 2023.

During a question and answer session, concerns were raised about: (1) compliance with the American Iron and Steel (AIS) Program, which in some cases leads to exorbitant component costs; (2) wildfire and fire flow protection project costs; (3) alternative storage capacity for fire resiliency; (4) sea level rise and climate resiliency projects; (5) refinancing old loans; (6) focusing loan forgiveness on individual households; and (7) how the Justice40 Initiative will impact the SRF program as it relates to statistical reporting, loan policies, and other practices. Regarding the latter, a starting point may be the 13 criteria included in a July 20 OMB memo, defining disadvantaged communities, building on what some states may have already done. Also, EPA staff have developed a map illustrating concentration of poverty, but they will be looking for help from states.

ORGANIZATIONS/WATER RESOURCES

CSG-West/Colorado River Forum

On September 28, in conjunction with the Council of State Governments-West (CSG-West) annual meeting in Colorado Springs, Colorado a new Colorado River Forum was organized. With ongoing Basin negotiations

regarding the governance of the Colorado River, the Forum is intended to provide a much-needed opportunity for state legislators to connect and address pressing issues and opportunities for this important river system. Forum members, speakers and key stakeholders convened for the first time to exchange information and identify regional strategies that will inform Colorado River governance into the future. Membership consists of legislators from the seven U.S. Colorado River Basin States, as well as two representatives from the Mexican States of Baja California and Sonora. The Forum, which will meet annually, is patterned after the CSG-West's Legislative Council on River Governance for the Columbia River, which recently met in Lewiston, Idaho on August 23-24.

The Forum began with a presentation on current drought conditions and available resources by Elizabeth Ossowski, National Oceanic and Atmospheric Administration (NOAA) National Integrated Drought Information System (NIDIS). Next, David Gochis, National Center for Atmospheric Research (NCAR) described effort to improve run-off forecasting with gap-filling radar.

A panel presentation and discussion included: WSWC members Jeanine Jones, California Department of Water Resources; Becky Mitchell, Colorado Water Conservation Board; Pat Tyrrell, former Wyoming State Engineer (retired); as well as Gene Shawcroft, Central Utah Water Conservancy District. Becky, Pat and Gene also serve on the Upper Colorado River Commission. Each provided their perspective on the challenges and opportunities facing the basin. WSWC Executive Director Tony Willardson was also a panelist. His remarks focused on the role of science and data in informing decisionmakers. See Colorado River Forum (csgwest.org).

PEOPLE

Utah Governor Spencer Cox has appointed **Erica Gaddis**, Director, Division of Water Quality, Utah Department of Environmental Quality (DEQ), as a WSWC member and reappointed **Todd Adams**, Deputy Director, Utah Department of Natural Resources and **Norman Johnson**, Natural Resources Division Director, Utah Attorney General's Office. Former WSWC Chair **Tim Davis**, now Director, Utah Division of Drinking Water, DEQ, has been appointed as an alternate member.

California State Assembly member **Mike Gipson** is the new 2022 CSG-West Chair, succeeding Idaho State Representative **Clark Kauffman**. Oregon State Senator **Bill Hansell** is the newly elected Vice-Chair. Senator Hansell is the current chair of the Legislative Council on River Governance (LCRG).

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.