



**WESTCAS 2016 Fall Conference
October 26-28, 2016
Phoenix, AZ**

WESTCAS STATE REPORTS

STATE: Arizona

NAME OF PRESENTER: Jim Kudlinski, Salt River Project

DATE: October 27, 2016

KEY WATER QUALITY LEGISLATIVE & REGULATORY ACTIVITIES (IN CHRONOLOGICAL ORDER) SINCE THE 2016 SUMMER CONFERENCE

ADEQ Completes Water Quality Standards Triennial Review

On August 2, ADEQ published revisions to the states' water quality standards regulations. The rulemaking addresses past errors from the 2009 Triennial Review, and makes minor adjustments to lessen or ease the regulatory burden for dischargers, such as those operating under a Schedule of Compliance.

In addition, for 20 pollutants, ADEQ is reverting back to the narrative criteria last approved by EPA in 2003. ADEQ does not anticipate the changes in narrative criteria will impact dischargers, because they have not been able to use the 2009 state-approved criteria in any permits.

ADEQ Reissues Small MS4 General Permit

On September 30, ADEQ reissued AZPDES general permit (No. AZG2016-002), authorizing stormwater discharges from Small Municipal Separate Storm Sewer Systems (Small MS4s) to Waters of the United States.

Prior to reissuing the permit, existing operators were discharging under ADEQ's 2002 Small MS4 General Permit. The former permit expired in 2007 and was administratively continued (pursuant to A.A.C. R18-9-C903(B)). Permittees' coverage under that permit ended on September 30, 2016.

Eligible Small MS4 operators are now covered under the 2016 Small MS4 Permit. To maintain permit coverage, each permittee must submit a complete and accurate Notice of Intent (NOI) to ADEQ by March 29, 2017. ADEQ will provide more information about the NOI requirement to Small MS4 operators in a notification letter.

As part of the process for re-issuing the Small MS4 General Permit, ADEQ implemented a stakeholder process that included a series of meetings to discuss modification to the proposed permit; opportunity for informal comment; two public notices in the Arizona Administrative Register (July 17 and December 15, 2015); subsequent formal comment periods; and a public hearing (January 20, 2016).

The following is a list of Small MS4's in Arizona, as established by the 2010 census:

- Apache Junction
- ASU
- Avondale
- Buckeye
- Camp Verde
- Carefree
- Casa Grande
- Cave Creek
- Chandler
- Coconino County
- Cottonwood
- Davis Monthan AFB
- Douglas
- El Mirage
- Flagstaff
- Fountain Hills
- Gilbert
- Goodyear
- Guadalupe
- Lake Havasu
- Litchfield Park
- Luke AFB
- Marana
- Maricopa County
- MCAS, Yuma
- Mesa
- Mohave County
- Nogales
- NAU
- Oro Valley
- Paradise Valley
- Peoria
- Pinal County
- Prescott
- Prescott Valley
- Queen Creek
- Sedona
- Sierra Vista
- South Tucson
- Surprise
- Tolleson
- U of A
- Phoenix VA
- Tucson VA
- Yavapai County
- Youngtown
- Yuma
- Yuma County

\$900,000 in Water Quality Improvement Grants Available from ADEQ

ADEQ is accepting applications for Water Quality Improvement Grant Cycle 19. Approximately \$900,000 is available to fund projects that will implement on-the-ground water quality improvements to reduce sources of nonpoint source pollution.

Mandatory pre-proposals for grants are due on Friday, November 4.

Final applications are due on Friday, December 9.

Priority for funding will be given to areas where ADEQ has established watershed implementation plans, including: Granite Creek near Prescott; Oak Creek near Sedona; San Francisco River near Clifton; and San Pedro River near St. David.

ADEQ to Host Grant Writing Class

In collaboration with Grant Writing USA®, ADEQ will host a two-day workshop, November 7 & 8, on how to locate sources of funding and how to write effective grant applications. The workshop will be followed up by a two-day seminar, to be held November 14 & 15, on how to administer government sponsored grants and stay in compliance with rules and regulations.

Registration information can be obtained at <http://grantwritingusa.com/index.html>

STATE: California

NAME OF PRESENTER: Ivory Reyburn, Coachella Valley Water District

DATE: October 26, 2016

Procedures for Discharges of Dredged or Fill Material to Waters of the State

The State Water Resources Control Board (SWRCB) received comments through August 18, 2016, on its Draft Procedures for Discharges of Dredged or Fill Materials to Waters of the State. SWRCB is currently working on responses to comments and Board adoption is to be in the Fall of 2016. The proposed Procedures are to be included in the Water Quality Control Plan for Inland Surface Waters and Enclosed Bays and Estuaries and Ocean Waters of California.

SWRCB believes there is need to strengthen protection of waters of the state that are no longer protected under the Clean Water Act (CWA) due to U.S. Supreme Court decisions, since the Water Boards have historically relied on CWA protections in dredged or fill discharge permitting practices. Also, there is inconsistency across the Water Boards in requirements for discharges of dredged or fill material into waters of the state, including wetlands. There is no single accepted definition of wetlands at the state level, and the Water Boards may have different requirements and levels of analysis with regard to the issuance of water quality certifications. Finally, current regulations have not been adequate to prevent losses in the quantity and quality of wetlands in California, where there have been especially profound historical losses of wetlands.

California Drought

On May 18, 2016, the SWRCB adopted revisions to the Extended Emergency Regulation for Urban Water Conservation. The revisions transition to self-certification by the water suppliers of the level of available water supplies. Wholesale water providers were required to provide water availability estimates of projected supplies through 2019.

In August 2016, the SWRCB posted “stress tests” submitted by water suppliers to demonstrate whether they have adequate supplies to withstand three additional years of drought. The majority of water suppliers projected sufficient potable water supply and passed the “stress test”, meaning zero-percent state-mandated conservation standard compared to 2013. Thirty-six water suppliers identified new conservation standards based on supply shortfall from “stress test” results. Thirty-two water suppliers did not submit “stress test” results and retain March 2016 conservation standards.

In addition to monitoring conservation levels, the SWRCB is working closely with the CA Department of Water Resources and other state agencies to develop long-term water use efficiency standards as directed by Executive Order B-37-16. The new standards will provide for improved water conservation and efficiency based on climate, population, and business types, rather than percentage reductions from a given baseline. The new standards will also include permanent prohibitions on wasteful water use, improved drought planning, and enhanced leak detection and repair requirements.

California Water Fix

Cal Water Fix would create more flexibility to better balance water quality, fish protection, and water supply in the Bay Delta. It would allow the state and federal water projects to capture and store water during times of heavy rainfall and runoff, when diversions pose less risk to fish and water quality. Such opportunities are limited now because the existing south Delta pumps create unnatural flows that can be hazardous to fish. New intakes offer increased flexibility to the State Water Project (SWP) and Central Valley Project (CVP) to operate in “dual conveyance” with the existing pumps in the south Delta. Cal Water Fix would add new locations on the Sacramento River from which the SWP and CVP may divert water based on existing water rights, and no or expanded water rights are being sought.

On August 26, 2015, DWR and Reclamation submitted a joint petition for change in water right permit conditions (Petition) to the SWRCB to add points of diversion of water on the Sacramento River for the SWP and CVP. On September 24, 2015, DWR submitted an application for water quality certification under section 401 of the Clean Water Act (401 Application) to the SWRCB for the Cal Water Fix. On October 30, 2015, the SWRCB issued a combined public notice for the Petition and an evidentiary hearing on the Petition and a separate public notice for the 401 Application.

Petition testimony is ongoing. In September 2016, engineering testimony was given that focused on the proposed facilities, flood protection, construction effects, and mitigation.

More information is located at the SWRCB Cal Water Fix petition hearing website:

http://www.waterboards.ca.gov/waterrights/water_issues/programs/bay_delta/california_waterfix

Drinking Water Regulation for Hexavalent Chromium

Senate Bill 385 was signed by the Governor on September 4, 2015. The new law became effective immediately and provides public water systems time to comply with the state’s new Maximum Contaminant Level (MCL) for Cr-6 (10 ppb). Requests for time to achieve compliance must include a compliance plan. Compliance plans were submitted by June 30, 2016. The compliance plans describe actions and milestones the public water system with take to come into compliance by the “earliest feasible date”.

Over 200 water systems have been identified to have water sources with Cr-6 levels above the MCL and need to implement provisions of their compliance plans orders to meet the Cr-6 MCL before January 1, 2020. Best Available Technologies (BAT) to reduce Cr-6 levels in drinking water are reverse osmosis, ion exchange and reduction coagulation filtration.

Sustainable Groundwater Management Act (SGMA)

In 2014, California passed three legislative bills (SB 1168, AB 1739, AB 1319) that provide a framework for statewide sustainable groundwater management. SGMA strives to implement a bottom-up approach that provides local water managers the tools and authority they need to implement sustainable groundwater management practices through the creation of Groundwater Sustainability Agencies (GSAs). GSAs must be formed by June 30, 2017. GSAs are required to adopt Groundwater Sustainability Plans (GSPs) in accordance with adopted GSP Emergency Regulations to manage high and medium priority groundwater basins. The GSP regulations were required to be developed by DWR by June 1, 2016, after an extensive public engagement process. The California

Water Commission unanimously approved the proposed GSP regulations, as written, on May 18, 2016.

The GSP regulations require GSAs to submit GSPs to DWR by January 31, 2020 or January 31, 2022, depending on the determination of overdraft conditions. Alternative GSPs are due much earlier; January 1, 2017.

Currently, local agencies are forming GSAs, resolving overlap issues, and planning work to submit GSPs or Alternative GSPs. A GSA formation table and other information can be viewed on DWR's SGMA website: <http://www.water.ca.gov/groundwater/sgm/index.cfm>

Recycled Water General Permit

On June 7, 2016, the SWRCB adopted the Water Reclamation Requirements for Recycled Water Use general order that became effective August 6, 2016. The general order replaces the existing statewide permit for Recycled Water Use and is intended to streamline the permitting process and make it easier to use non-potable recycled water for agriculture, landscaping irrigation and some industrial purposes. The general order is not for uses that supplement drinking water supplies or recharge groundwater, and doesn't allow direct or indirect potable uses of recycled water.

Regulatory coverage under an old general order will be terminated within three years. This could be good or bad for the permit holder, depending on their obligations under their current permit. For the Colorado River Basin Region, the new permit contains 19 new provisions that will require changes by the Administrator, Producer and User and may adversely impact the value of using recycled water.

STATE: Colorado

NAME OF PRESENTER: Scott C. Miller, Esq., Patrick, Miller & Noto, P.C.

DATE: June 23, 2016

Colorado Water Plan Update

In September of 2016, the Colorado Water Conservation Board (“CWCB”) published an update on the Colorado Water Plan’s implementation process. One of the most important issues is funding. The CWCB is developing a three to five-year funding plan that will involve the following: (1) a one-time investment of up to \$50 million (as available) into a repayment guarantee fund; (2) an annual transfer of \$10 million for the Water Supply Reserve Fund; (3) an annual transfer of \$5 million for the Watershed Restoration Program; (4) and an annual transfer of \$10 million for additional non-reimbursable CWCB programming to implement Colorado’s Water Plan. Additionally, of the \$5 million transferred in the 2016 Projects Bill, the CWCB is recommending the following approximate amounts to its Board for 2017: (1) \$1 million will support efforts with watershed-level flood and drought planning and response; (2) \$.5 million for grants to provide technical assistance to irrigators for assistance with federal cost-sharing improvement programs; (3) \$1.2 million for water forecasting and measuring efforts; (4) \$1.3 million to update reuse regulations as well as to fund a training program for local water providers to better understand AWWA’s methodology for water loss control; and (5) \$1 million to support the Alternative Agricultural Water Transfer Methods Grant Program. The entirety of the Colorado Water Plan Implementation Update can be found here: <http://cwcweblink.state.co.us/WebLink/ElectronicFile.aspx?docid=200725&searchid=176654ce-2499-4e80-a8e9-e1ca351c675d&&dbid=0>

Republican River Compact Resolutions signed

On August 24, 2016, after more than two years of negotiations, Colorado, Nebraska, and Kansas signed two resolutions regarding the Republican River Compact – one of which applies directly to Colorado and its compliance efforts. The Republic River Compact allocates the waters of the Republican Basin as follows: 49% to Nebraska, 40% to Kansas, and 11% to Colorado. The Colorado-specific resolution approved accounting for the Colorado Compact Compliance Pipeline and Colorado’s compliance efforts in the South Fork of the Republican River Basin. The resolution provides a path forward to improve streamflow in the South Fork Republican River, which flows through Cheyenne County in northwest Kansas. Under the terms of the resolution, Colorado will receive full credit in the Compact accounting for its augmentation deliveries on the North Fork Republican River, and has committed to retire an additional 25,000 groundwater-irrigated acres within the South Fork Republican River basin to improve flows into Kansas. Specifically, Colorado will retire at least 10,000 acres by 2022 and will retire the remaining 15,000 acres by December 31, 2027. In the event, that Colorado cannot meet this deadline, it is required to submit a plan to reduce consumption by other means to Nebraska and Kansas. Colorado and Kansas also agreed to explore opportunities to utilize Bonny Reservoir which Colorado drained in 2012 to help offset its overuse of the Basin’s water supply and move Colorado closer to compliance with the Compact. The resolution contains a provision requiring future review of its effectiveness in 2024, and is also terminable by any one of the states upon written notice. The resolution may be here: <http://dnr.nebraska.gov/media/iwm/republican/20160824ResolutionRRCAAccountingColo.pdf>

Water Quality Control Commission Regulations Update. Regulation 85

The Water Quality Control Commission (“Commission”) has scheduled a rulemaking hearing for Regulation #85 for October 2017. Regulation 85 deals with nutrient management and control. The Water Quality Control Division (“Division”) provided the Commission with a list of potential changes to Regulation #85 in October 2015. The Division now wishes to engage stakeholders on these proposed changes and hear from stakeholders regarding the potential changes that will be proposed at the hearing.

2016 Basic Standards Rulemaking

A rulemaking hearing regarding the 2016 Basic Standards Rulemaking occurred on June 13, 2016. The result of the hearing indicated that no changes would be made at the state-wide level to temperature standards with respect to spatial and temporary transition (i.e., elevation transition zones and shoulder seasons). The Commission expressed its intent that, going forward, these issues be considered as possible approaches in revising temperature standards on a site-specific basis. The Commission indicated that information needs to be collected and considered to proceed on these issues in future basin rulemakings, including the 2017 San Juan and Gunnison basin rulemaking. Facilities that are planning to advance site-specific proposals need to be able to identify the extent of those facilities’ compliance problems in order to prepare alternatives analyses.

Standards for transition zones are likewise unchanged. Transition zones are portions of segments with temperatures that are characteristic of different classifications and that vary in response to natural conditions. The Division and various entities supported proposals for adoption of an elevational approach that would recognize the natural geographic variations in temperature. The Commission, however, chose not to adopt an elevational approach that would recognize the natural geographic variations in temperature. Instead, it decided to consider the concept in upcoming basin rulemakings as well.

303(d) Listing Methodology

A work group convened to discuss potential revisions to the 2018 303(d) Listing Methodology in preparation for the March 2017 Administrative Action Hearing. Among the topics discussed were watershed source review for the assessment of iron, manganese and sulfate water supply standards, temperature assessments following revisions to the temperature standards in Regulation 31, assessment of water quality for segments affected by wildfire, flood or other catastrophic events, and clarifications regarding the assessment of E.coli, acute bias and de-listing data requirements.

Colorado Springs Stormwater Projects

On August 18, 2016, the City of Colorado Springs completed its first stormwater project required under its new agreement with Pueblo County signed in April of 2016. The project, a detention and water quality basin on the city’s northeast side, cost \$3 million and is designed to reduce the velocity of flows in Sand Creek and prevent downstream erosion. The City has a total of seventy-one projects selected based on negotiations with Pueblo County. These projects aim to benefit both Colorado Springs and the neighboring, downstream communities. The City will construct the projects over the next twenty years as a part of a \$460 million intergovernmental agreement.

Looking Ahead: 2017 Colorado Legislation

The Colorado Water Congress' Interim Water Resources Review Committee ("Interim Committee") will be supporting one resolution and several bills in the upcoming 2017 Legislative Session. The resolution referred to as Bill 1 and entitled "Concerning the Funding for the Prevention of Aquatic Nuisance Species in Colorado" involves funding issues for the implementation of the State of Colorado Zebra and Quagga Mussel Management Plan. These species can be introduced to Colorado waters by out-of-state boats. The Colorado Parks and Wildlife has performed 3 million inspections, found nearly 100 of these species, and decontaminated approximately 50,000 boats. The resolution seeks funding from the United States Bureau of Reclamation, the United State Army Corps of Engineers, and the United State Fish and Wildlife Service.

The Interim Committee is also supporting Bill 2 entitled "Concerning an Authorization for the Colorado Water Conservation Board to Finance South Platte River Basin Reservoir Dredging Projects." This bill will appropriate \$5 million from the CWCB's Construction Fund to make loans and grants which will enable recipients to dredge existing reservoirs to enhance their capacity. Of the \$5 million, \$2.5 million will be designated for grants and the remainder will be loans. The next Interim Committee supported bill is entitled "Concerning Updates to the 1921 Law Governing Irrigation Districts." This bill will update and clarify many portions of this law updating the definition of "agricultural land" to not include land that has been platted or subdivide into residence or business lots, clarify how irrigation district assessments are collected and held, and remove inconsistencies and update antiquated provisions. Also, the bill will clarify that surplus water may leased for all beneficial purposes. The current law only allows leased water to be used for domestic, power, agricultural, or mechanical purposes.

Bill D entitled "Concerning the Exemption From the Water Quality Control Commission's Graywater Control Regulations for Graywater Used for the Purpose of Scientific Research Involving Humans Subjects" is also receiving support from the Interim Committee. As discussed at our last WESTCAS conference, the Water Quality Control Commission recently passed Regulation 86 which allows for graywater use. This bill proposes to add an exemption to the Commission's graywater regulations for scientific research involving human subjects. The bill would all a person to collect and use graywater for scientific research purposes involving human subjects if the person: (1) Seeks to conduct the scientific research on behalf of an institution of higher education; (2) Utilizes a graywater treatment works system that incorporates a secondary water supply to provide an alternative source of water if any portion of the system does not function properly; and (3) Collects and uses graywater in accordance with the terms and conditions of the decrees, contracts, and well permits applicable to the use of the source water rights or source water and any return flows. The person is then required to report to the water resources review committee on an annual basis the results of periodic monitoring conducted to assess the continued functioning of the graywater treatment works system used in the project and the project's compliance with federal rules concerning the protection of human research subjects.

STATE: New Mexico

NAME OF PRESENTER: Kelly Collins for Jane DeRose-Bamman

DATE: October 27, 2016

Gold King Mine Spill

The State of New Mexico sued the U.S. Environmental Protection Agency (EPA), Mine Owners in U.S. District Court in May 2016 over the Gold King Mine Spill. Also, New Mexico filed a bill of complaint in the Supreme Court against the State of Colorado in June 2016. Responses from parties were due in October.

In a September 9, 2016 Federal Register notice, the EPA approved listing the Bonita Peak Mining District on the National Priorities List (NPL). Waiting to see if funding is attached to the listing.

NMED continues to convene the Gold King Mine Advisory Committee monthly to address community concerns. As an example, an updated Exposure and Risk dashboard for Animas River and San Juan River below the Animas River confluence may be viewed at:

<https://www.env.nm.gov/wp-content/uploads/2016/01/Animas-San-Juan-Risk-Dashboard.-2016.09.20.pdf>

WQCC/Triennial Review - New Mexico's Surface Water Quality Standards

The New Mexico Water Quality Control Commission ("WQCC") approved revisions to NM's Standards for Interstate and Intrastate Standards Waters (Water Quality Standards) rules as part of the state's Triennial Review in September 2016. The revisions included:

1. adoption of a temporary standards procedure. The provision will allow the WQCC to approve a time-limited and less stringent designated use and/or criterion for specified pollutant(s), permittee(s) and/or waterbody segment(s) reflecting the highest attainable condition during the term of the temporary standard.
2. designation of 29 ephemeral stream segments based on use attainability analyses (UAAs) in 20.6.4.97(C) NMAC. These are the first waters expressly designated as ephemeral in New Mexico. (Ephemeral waters within Los Alamos National Laboratories were designed previously under 20.6.4.128 NMAC.) Currently, undesignated ephemeral waters, not yet the subject of a UAA, are considered to be intermittent waters and are assigned the more stringent designated uses of primary contact and marginal warmwater aquatic life. Because of the ephemeral designation, these 29 waters will be downgraded from primary contact recreation/marginal warmwater aquatic life designated uses to secondary contact recreation/limited aquatic life designated uses.
3. adoption of site-specific acute and chronic aquatic life criteria for copper (based on alkalinity and dissolved organic carbon concentration) for certain surface waters located within the Chino Mines Smelter Tailings and Soil Investigation Unit in southwestern New Mexico.

NMED needs to submit the rule change to the state register. Once published, then NMED will submit to EPA for approval. The WQCC did not adopt the petitioner's (NMED) request to upgrade nine (9) stream segments with a secondary contact recreational use designated use to a primary contact recreational designated use given the absence of a UAA showing the segments are not fishable/swimmable. As specified in 40 CFR 131.20(a), "...The State shall also re-examine any waterbody segment with water quality standards that do not include the uses specified in section

101(a)(2) of the Act every 3 years to determine if any new information has become available. If such new information indicates that the uses specified in section 101(a)(2) of the Act are attainable, the State shall revise its standards accordingly.” The petitioner did not provide “new evidence” that the segments supported primary contact, therefore the WQCC did not approve the proposed regulatory change for those nine (9) segments.

Utility Operator Certification Program moved from Surface Water Quality Bureau to Drinking Water Bureau

Staff overseeing Utility Operator certification program were moved to the Drinking Water Program in July 2016. The staff are partially funded by the state’s Water Conservation Fee (WCF) Fund. The WCF is funded by Water Systems based on thousand gallons of water produced. It should pay for the analytical costs and sample collection costs for Safe Drinking Water Act compliance monitoring for water systems and operator training. The regulated community has been trying for years to get a full accounting of the balance and expense reports. Entities have been notified by the Drinking Water Bureau that a full historic accounting shall be provided for and will be made annually moving forward. Questions remain as to how the drinking water funds will now be spent on wastewater operations and operator training. A report for 2015 has not been released yet.

EPA Approved NM 2016-2018 Integrated Report

EPA approved the state of New Mexico’s 2016-2018 State of New Mexico Clean Water Act 303(d)/305(b) Integrated Report and List on September 23, 2016.
<https://www.env.nm.gov/swqb/303d-305b/2016-2018/index.html>

NMED Incorporates New Concepts in Nutrient and E. coli TMDLs

The Surface Water Quality Bureau introduced new concepts for E. Coli and nutrients which result in very stringent wasteload allocations. These concepts are: use of the geometric mean criterion instead of the maximum criterion for WLA calculations for E. coli, reserving of a portion of the WLA for future growth if the POTW is not discharging at design capacity (FG-WLA) and accounting for the load from the upstream watersheds (B-LA). The affected TMDLs are for the Jemez River Watershed, Lower Pecos River, and Rio Ruidoso. EPA approved the Jemez River and Lower Pecos River TMDLs. NMED is currently reviewing public comments on the Rio Ruidoso TMDLs and plans to submit for WQCC approval in November 2016.

Draft Revisions to Ground and Surface Water Protection rules

NMED initiated a stakeholder process to obtain comments on draft revisions to the Ground and Surface Water Protection Rules (20.6.2. NMAC). Major revisions include changing all ground water standards to meeting Safe Drinking Water Program Maximum Contaminant Levels (MCLs), adopting language to control vapor intrusion, eliminating the exemption for permitting if a discharge meets groundwater standards through treatment or blending and increasing fees to better fund the program. The formal hearing process on the rulemaking is anticipated in Spring of 2017.

STATE: Texas

NAME OF PRESENTER: Dr. Peggy Glass

DATE: October 27, 2016

The Legislature does not meet again until January. The lakes are full. The revision of water quality standards is moving very slowly. All in all, things are pretty calm here at the present. On the regulatory front, the biggest issue is what to do about permitted discharges with concentrations of dissolved salts that may exceed the existing stream water quality standards (WQS). Anticipated issues when the Legislature returns are regulation of groundwater and land application of biosolids. These three issues are discussed below.

DISSOLVED SALTS IN PERMITTED DISCHARGES

The U.S. Environmental Protection Agency has required the Texas Commission on Environmental Quality (TCEQ) to look rigorously at the Total Dissolved Solids (TDS), chloride, and sulfate concentrations in permitted discharges and determine the potential that the discharge will cause a violation of WQS. Texas standards for dissolved salts are based on historical quality and not potential to impact uses. Due to a number of factors (the recent drought, use of home water softeners, etc.) in some cases it is concluded that there is a potential for the discharge to cause a violation of WQS. When this occurs, particularly for municipal dischargers, usually there is very little the discharger could do if limits were placed in the permit. Treatment to reduce salt concentration would not only be exorbitantly expensive for the volumes of water that would need to be treated, but also an unmanageable reject stream with an even higher concentration of salt would be created.

Initially, most permittees are given permit conditions that require a study of sources and potential solutions. However, this is not a long-term solution. Texas organizations are strategizing management approaches to present to TCEQ. The approach being developed has both a short-term and a long-term component.

SHORT-TERM APPROACH

Texas establishes WQS for specific named water bodies, which are referred to as classified waters. All other surface water bodies are considered non-classified waters. There are no WQS for dissolved salts for unclassified waters. However, a screening process is identified in the TCEQ document *Procedures to Implement the Texas Surface Water Quality Standards* (IPs) that assumes the WQS of the first, downstream classified water body applies.

The proposed approach would be to establish a different screening method for unclassified waters in the IPs. The screening would be based on use impacts and would follow the method developed in Iowa. Only chloride and sulfate would be screened because the use impacts of TDS vary depending on the ionic composition of the TDS. In most unclassified waters criteria to protect aquatic life and livestock watering would be considered. There may be cases where there is a downstream water supply to be protected, but this would be very unusual.

LONG-TERM APPROACH

In the future, if reliance on use-based impacts is found to be appropriate, a similar concept would be applied to the classified segments when the standards are revised. Only chloride and sulfate criteria would be included (existing criteria for TDS would be deleted) and the criteria would be based on the uses to be protected.

STILL TO BE DETERMINED

One question still to be resolved is how to address West Texas waters that have naturally occurring high concentrations of salts.

GROUNDWATER REGULATION

In Texas, groundwater withdrawal is regulated by the "Rule of Capture". Pursuant to this concept, the person that owns the surface of the land has a right to all of the water underneath the property that can be withdrawn through a well. Obviously, this withdrawal may affect adjoining properties if there are no restrictions. In previous years, the Legislature has taken some steps to put limited restrictions on this capability. A number of groundwater districts have been created, the boundaries of which may or may not coincide with the aquifers they manage. Some districts have restrictions on well spacing. Some districts have broader abilities to control. There is a lot of dissatisfaction with the current management approaches as being either too loose or too stringent. The Legislature is expected to spend quite a bit of time on this issue during the five months it is in session.

LAND APPLICATION OF BIOSOLIDS

There is a contingent in Texas that is very concerned about what they see as the dangers of land application of biosolids. They are expected to make a strong push in the Legislature to dramatically increase the requirements that must be met if biosolids are land applied.