

# **WESTCAS**

## **2014 Annual Conference**

**June 18-20, 2014**

# **State Reports**



*"The Voice of Water Quality in the Arid West"*

## WESTCAS STATE REPORT

**STATE:** Arizona

**NAME OF PRESENTER:** Jim Kudlinski, Salt River Project, Phoenix, AZ

**DATE:** June, 2014

### **KEY WATER ACTIVITIES INVOLVING STATE LEGISLATURE AND STATE & FEDERAL AGENCIES SINCE LAST CONFERENCE:**

#### **State of Arizona Legislative Accomplishments**

##### **House Bill 2523 “Water Supply Development” – ENACTED!**

HB2523 allows for the definition of “water provider” to be expanded for funds to be transferred from the Water Supply Revolving Fund (The Fund) to the Water Infrastructure Finance Authority. This legislation gives funds, from The Fund, to a county that enters into an agreement with a city or town regarding a water supply development project. Also, the legislation includes a provision that allows La Paz County to import special waste to its landfill.

##### **Senate Bill 1314 “Board, Dept. and Commission Continuations” – ENACTED!**

SB1314 provides multiple agencies, departments and boards’ continuation. The Arizona Department of Environmental Quality was provided an extension of 8 years.

##### **Senate Bill 1478 “Watershed Improvement Program” – ENACTED!**

SB1478 establishes a “Watershed Improvement Program” to promote the selective control, reduction or removal of noxious brush and other vegetation and to provide funding for the revegetation of land on which brush and vegetation has been controlled, reduced or removed. This bill also prohibits the Arizona Water Protection Fund from being used to plant mesquite, tamarisk, or other non-native high water use trees and also promotes the removal of those same trees.

##### **Senate Bill 1274 “Aquifer Protection Permits-Post Closure Procedure” – ENACTED!**

SB1274 makes several changes to the cost estimate and financial assurance provisions of the aquifer protection permit program, particularly related to facility closure requirements.

##### **Senate Resolution 1003 “Nullification of EPA Rules” – Non Binding!**

SR1003 states emphatically that “the Members of the Senate support the nullification in the State of Arizona of all rules imposed by the United States Environmental Protection Agency. SR1003 was sent to the SoS office on February 20.

#### **State of Arizona New Budget Provisions**

##### **MyDEQ (Department of Environmental Quality) System**

\$6.8 million was allocated for MyDEQ online portal from the emissions inspection program fund through the Department of Administration’s Automation Projects Fund. MyDEQ will offer businesses an electronic processing system for acquiring permits and licenses, which will increase the level of efficiency for the agency.

### **Arizona Department of Water Resources (ADWR)**

Additional \$1 million allocated to ADWR to hire six full time employees to work on the policy negotiations of the Colorado River operations, adjudications, and administration of other management/planning responsibilities.

### **Water Rights; Adjudications Special Master**

A total of \$220,000 was allocated to the Superior Court Adjudications Special Master to support the salary of the Special Master and a paralegal for the adjudications.

### **Water Supply Development Revolving Fund**

A total of \$1 million was allocation for this fund which is intended for loans to rural entities for water supply development projects.

### **State Forester**

The budget included \$1.4 million for the State Forester to expedite wildfire prevention projects for State Lands considered to be high risk.

### **Arizona Department of Environmental Quality**

#### **Biosolids General Permit**

On January 13, 2014, ADEQ finalized the AZPDES Biosolids General Permit. Coverage under the General Permit will be available for those Treatment Works Treating Domestic Sewage (TWTDS) who prepare biosolids for land application and do not otherwise have coverage for the preparation of biosolids under an AZPDES Permit.

#### **TMDL for San Pedro River**

On November 13, 2013, EPA approved ADEQ's San Pedro River TMDL--Avaraipa Creek to Gila River (15050203-001)--for *E. coli*. TMDL recommends additional grazing management BMPs to be implemented to control non-point source pollution.

#### **303(d) Draft Report**

On May 2, 2014, ADEQ public noticed the draft 2012/2014 Status of Water Quality 303(d) Listing report. (Public comment period closed on June 16).

New surface waters proposed to be listed as impaired include:

- Virgin River--Sullivan's Canyon to Beaver Dam Wash (15010010-004)--for total selenium. (Colorado-Grand Canyon Watershed)
- Puerco River--Dead Wash to Ninemile Wash (15020007-007)--for *E. coli*; currently listed for dissolved copper. (Little Colorado Watershed)
- Queen Creek--Headwaters to Superior WWTP discharge (15050100-014A)--for total selenium; currently listed for dissolved copper and total lead. (Middle Gila Watershed)
- Salt River--Canyon Creek to Cherry Creek (15060103-007)--for total selenium. (Salt Watershed)
- Butte Creek--Headwaters to Miller Creek (15060202-768)--for *E. coli*. (Verde Watershed)
- Manzanita Creek--Headwaters to Willow Creek (15060202-772)--for *E. coli*. (Verde Watershed)

- Willow Creek Reservoir (15060202-1660) for ammonia. (Verde Watershed)

Waters proposed to be delisted include:

- Alamo Lake (15030204-0040A) for dissolved oxygen. (Bill Williams Watershed)
- Bill Williams River--Alamo Lake to Castaneda Wash (15030404-003)--for dissolved oxygen. (Bill Williams Watershed)
- Little Colorado River--Porter Tank Draw to McDonalds Creek (15020008-017--for suspended sediment concentration. (Little Colorado Watershed)
- Tonto Creek--Headwaters to unnamed tributary at 341810/1110414--for phosphorus. (Salt Watershed)
- San Pedro River--Aravaipa Creek to Gila River (15050203-001)--for selenium. (San Pedro Watershed)
- Santa Cruz River--Mexican border to Nogales WWTP (15050301-010)--for E. coli. (Santa Cruz Watershed)
- Gila River--Skully Creek to San Francisco River (15040002-001)--for selenium. (Upper Gila Watershed)
- Verde River--unnamed tributary (15060202-065) to Fossil Creek--for turbidity. (Verde Watershed)
- Santa Maria River--Little Sycamore Creek to Little Shipp Wash (15030203-013)--for dissolved mercury. (Bill Williams Watershed)

ADEQ also proposes to delist 12 reaches of the Middle Gila Watershed that were previously listed as impaired for pesticides in fish tissue.

### **Water Quality Improvement Grants**

In January 2014, ADEQ awarded three water quality improvement grants to address polluted runoff to the San Francisco and Gila Rivers in Greenlee County, and Oak Creek Canyon, north of Sedona.

- \$199,245 was awarded to the Gila Watershed Partnership of Arizona for construction of restroom facilities at a heavily used recreation area on the San Francisco River, located north of the town of Clifton, in Greenlee County. After construction, the prefabricated restroom will be connected to a solar powered well and septic tank. Greenlee County will be responsible for long-term maintenance.
- \$74,795 was awarded to the Gila Watershed Partnership for Arizona to replace five existing diesel powered livestock watering pumps with solar operated pumps on the Menges Ranch, which is located south of the Town of Clifton in Greenlee County. The diesel powered pumps had a history of failures, resulting in cattle breaking down fences and grazing in Bonita Creek which drains to the San Francisco and Gila Rivers.

Note: Both the San Francisco and Gila Rivers near Clifton are impaired for E. coli.

- \$165,998 was awarded to the Oak Creek Watershed Council for continued outreach efforts and cleanup events in Oak Creek. From its headwaters to its confluence with Spring Creek, Oak Creek is impaired by E. coli. Last year the Oak Creek Watershed Council, Creek Ambassadors Program, removed more than 2 tons of trash from Oak Creek. The 2014 grant funding will be used to train and dispatch two-person teams during the summer tourist season to provide outreach to users about pollution control and other responsible recreation practices.

### **Clean Water Act Proposed Actions**

#### **Petitions for Clean Water Act Residual Designation Authority—DENIED!**

On July 10, 2013, several environmental groups (American Rivers, Conservation Law Foundation, Natural Resources Defense Council and California Coastkeeper Alliance) filed petitions with EPA Regions 1, 3 and 9 claiming that stormwater discharges from unpermitted industrial sites pollute surface waters. The petitioners claimed the Clean Water Act and its implementing regulations provide Regional Administrators with the authority to identify and require non-permitted industrial facilities to obtain permits if their stormwater discharges are contributing to a violation of a water quality standard. The petitioners further claimed there were more than 485 specific water body segments in Region 9 (94 segments in Arizona) that were impaired by pollutants contained in stormwater (lead, copper, zinc, sediment, chemical oxygen demand/biochemical oxygen demand, phosphorus and nitrogen).

On March 14, 2014, EPA Region 9 responded to the petition and concluded that there was insufficient data to base a region-wide designation that unregulated commercial, industrial and institutional sites should be required to obtain stormwater permits. Region 9 also concluded that the existing municipal separate storm sewer system (MS4) permit program already addresses the majority of the unregulated industrial sites identified by the petitioners. While EPA is not officially taking any direct action in response to the petition, they did commit to researching the issues further with their NPDES-authorized states and evaluating additional data as it becomes available.

#### **USFS Proposed Directive on Groundwater Resource Management**

On May 6, 2014, the U.S. Forest Service public noticed their proposal to issue Forest Service Manual 2560. The draft manual contains internal Agency directives for watershed, air and groundwater management on National Forest System (NFS) lands. The proposed manual would provide direction for the consideration of groundwater resources in agency activities, approvals, and authorizations; encourage source water protection and water conservation; establish procedures for reviewing new proposals for groundwater withdrawals on NFS lands; require the evaluation of potential impacts from groundwater withdrawals on NFS resources; and provide for measurement and reporting for some larger ground water withdrawal projects.

The Forest Service recognizes a need to establish a consistent approach for addressing both surface and groundwater issues that appropriately protects water resources, recognizes existing water uses, and responds to the growing societal need for high-quality water supplies. Establishing comprehensive direction for groundwater resource management would round out existing policy (FSM 2500) to include all relevant components of watershed resources.

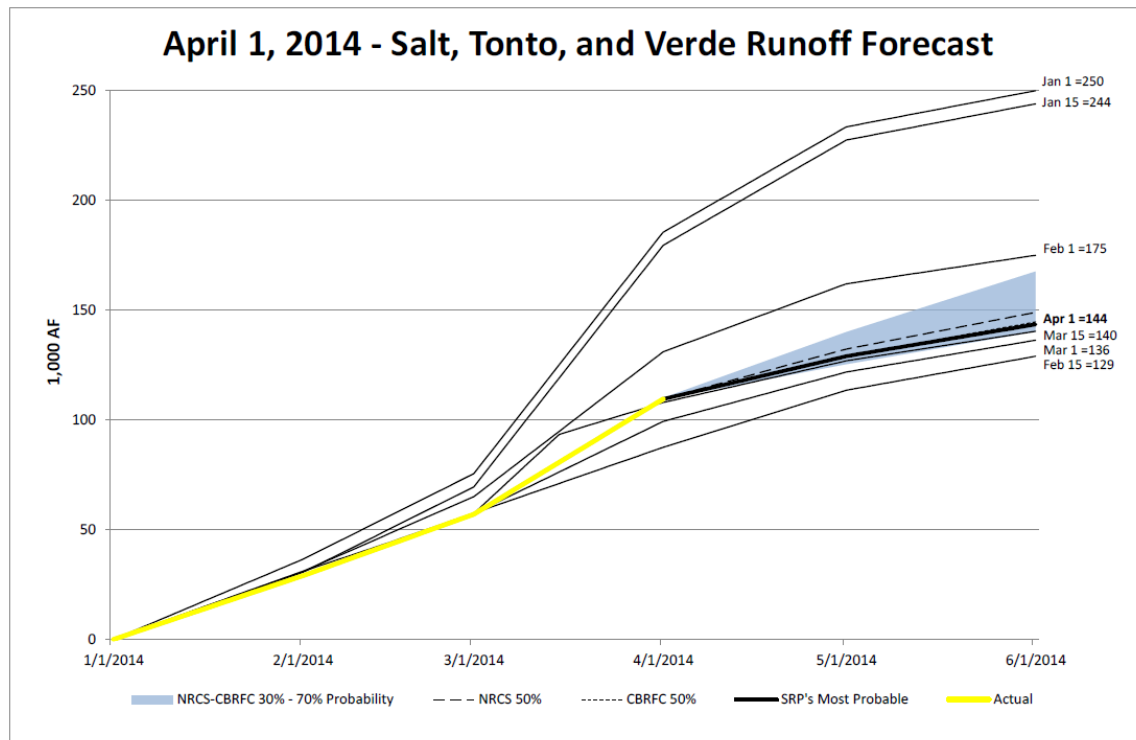
The Forest Service will be accepting public comments until August 4.

## USFS Proposed Directive for National Best Management Practices (BMPs) for Water Quality Protection on National Forest System (NFS) Lands

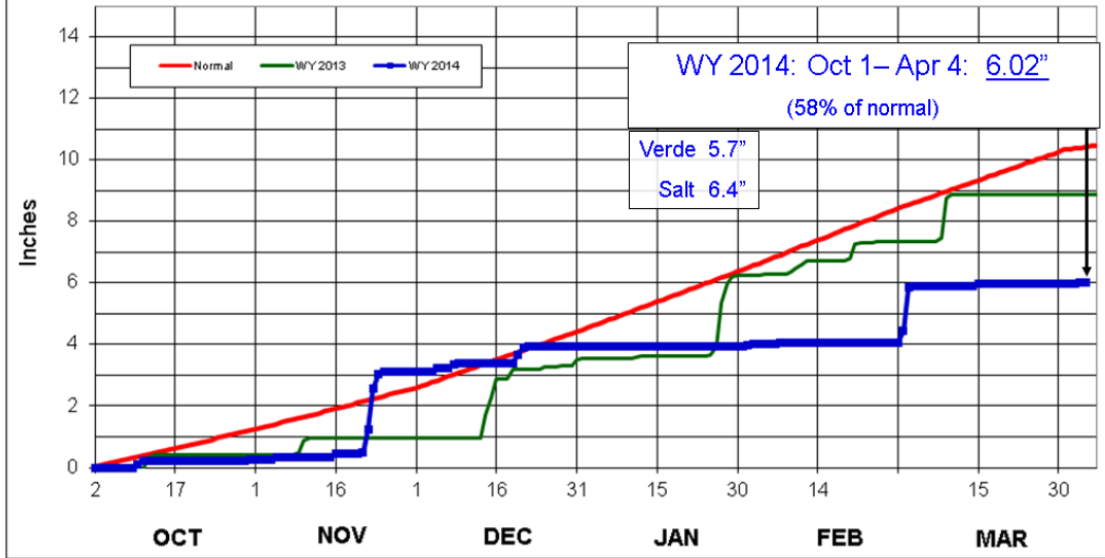
On May 6, 2014, the Forest Service public noticed their proposal to revise the Forest Service Manual (FSM 2500) and Handbook (FSH 2509.19) directives for best management practices (BMPs) for water quality protection on National Forest System (NFS) lands, and to establish a National system of BMPs and associated monitoring protocols in order to meet existing mandates under the Clean Water Act and corresponding State laws. The National system of BMPs would provide forest system users with a systematic approach to protect water quality from land and resource management activities taking place on National forests and grasslands and utilize suitable monitoring, and established Regional, State, Tribal, and local BMPs. The proposed revisions are intended to insure consistent use and monitoring of BMPs and provide appropriate analyses for evaluating BMP implementation and effectiveness on a regular basis.

The Forest Service will be accepting public comments until July 7.

### SRP's 2014 Runoff Forecast (Salt & Verde Watersheds)



## Cumulative FALL-WINTER Watershed Precipitation



DEC 13: <u>0.85"</u> (normal=1.9") <u>41<sup>st</sup> driest</u>	JAN 14: <u>0.04"</u> (normal=2.0") <u>3<sup>rd</sup> driest</u>	FEB 14: <u>0.42"</u> (normal=2.0") <u>14<sup>th</sup> driest</u>	MAR 14: <u>1.54"</u> (normal=1.9") <u>54<sup>th</sup> wettest</u> In 115 years	⇒ DEC-MAR 14: <u>2.85"</u> (normal=7.4") <u>12<sup>th</sup> driest</u>
--	---	--	---	--

## WESTCAS STATE REPORT

**STATE:** California

**NAME OF PRESENTER:** Jolene Walsh for Sara Toyoda, State Coordinator

**DATE:** June, 2014

### **Precipitation/Drought**

Drought conditions persist in California. The last two water years were recorded as dry years and this year will be no different. The California water year runs from October 1<sup>st</sup> to September 30<sup>th</sup>. As of April 30<sup>th</sup>, 2014, precipitation in California was at 55 percent of average, runoff at 35 percent of average and snow water equivalent at 15 percent of average and reservoir storage at 70 percent of average (Department of Water Resources, 2014). Below average precipitation continues and is expected to continue through the end of the water year.

In January, Governor Jerry Brown declared a Drought State of Emergency in California. This declaration directed state officials to help farmers and communities that are affected by the drought and to ensure the state can respond if there are drinking water shortages. The declaration also expanded a water conservation public awareness campaign (CA.gov, 2014).

The California State Water Project (SWP) is the largest state-built water and power development and conveyance stem in the nation. This system provides water for 25 million Californians and 750,000 acres of irrigated farmland. The SWP distributes water to 29 state water contractors (Ca.gov, 2010). Each year the Department of Water Resources (DWR) determines what percentage of the SWP will be allocated to the state water contractors. The percentage is higher during wet years and lower during dry years. This year DWR has allocated only 5% of the SWP contractor requests, the lowest overall allocation in SWP history (Torgersen, 2014).

### **Regulations**

Chromium 6 regulation has come to California. On May 28, 2014 the Office of Administrative Law approved a maximum contaminant level (MCL) of 10 ppb for hexavalent chromium in California. It is the nation's first water quality standard for Chromium 6. The previous California MCL was 50 ppb for total chromium. The law becomes effective on July 1, 2014, effective immediately. Water agencies must have initial monitoring complete by the end of December 2014. Quarterly monitoring is required after that. Treatment is required for all water sources that exceed the MCL.

### **Legislative**

The Drinking Water Program is governed under the California Department of Public Health (CDPH). Governor Brown's proposed 2014-2015 Budget includes a transfer of the Drinking Water Program from CDPH to the State Water Resources Control Board (SWRCB) on July 1, 2014 (California Environmental Protection Agency, 2014). The SWRCB is currently the governing agency for such programs as the National Pollutant Discharge Elimination System (NPDES).



## **NRDC v Los Angeles County**

The NRDC v Los Angeles County case looks as if it has come to a close. In 2008 NRDC sued Los Angeles County for exceedences in receiving water. The exceedences were detected in a monitoring station that was located in a concrete lined portion of the receiving water. The monitoring station was not located near an MS4 outfall. The exceedences were not in question but liability was. The exceedences were not detected close enough to an MS4 outfall to show that the exceedences were caused by the MS4. The exceedences were found down stream of many different outfalls not just LA County MS4 outfalls. A lower court found in favor of NRDC because the monitoring station was located in the lined channel and ruled that was part of the MS4 therefore LA County was responsible. The case went all the way to the U.S. Supreme Court but the Supreme Court would only decide on whether or not the transfer of water from one portion of a river to another portion via a manmade improvement (in this case a concrete lining) could still be considered a “discharge” under the Clean Water Act. The Supreme Court decided it could not and sent the case back to lower court (Los Angeles County Flood Control District v. Natural Resources Defence Council, Inc., 2013). The Ninth Circuit Court of Appeals again then found in favor of NRDC. According to NRDC v County of Los Angeles (2013), “under the plain language of the NPDES permit, the data collected at the monitoring stations was intended to determine whether the permittees were in compliance with the permit.” In California this language is known as receiving water language and it is largely the same in most NPDES permits. The State Water Resources Control Board is currently working to amend this language.

## **2014 California Water Bond**

The 2014 California Water Bond was crafted in 2009 with the intention to meet California’s water challenges. It was originally meant for the 2010 ballot. It was later set for the 2012 ballot but was removed. The current bond is set at \$11.14 billion to provide funding for water infrastructure and to address ecosystem and water supply issues (Association of California Water Agencies). However, it is believed that the bond, as it is now written, is not likely to pass. Lawmakers have introduced new bonds to replace the current version. There are at least nine proposals currently vying to be the final version sent to voters. Amounts for the new versions vary widely but most are under \$10 billion (White, 2014).

## **Water Challenges/Local Environmental Issues**

### **California Water Supply**

In California, there is little precipitation and regulations are tightening. A sever and sustained drought threatens the water supply in obvious ways. Without precipitation the current water supply must be conserved and stretched as far as possible. However as regulations tighten, the current water supply becomes threatened. Regulations and water quality standards must be based on sound science that incorporates the most current data and information. Costs associated with regulations must be considered thoroughly. It seems the California drought will continue...whether or not it rains.

## Works Cited

- Association of California Water Agencies. (n.d.). *Association of California Water Agencies*. Retrieved June 2, 2014, from 2014 Water Bond: <http://www.acwa.com/spotlight/2014-water-bond>
- Ca.gov. (2010, August 11). *Department of Water Resources*. Retrieved June 3, 2014, from California State Water Project Overview: <http://www.water.ca.gov/swp/>
- CA.gov. (2014, January 17). *Governor Brown Declares Drought State of Emergency*. Retrieved June 2, 2014, from Office of Governor Edmond G. Brown Jr.: <http://gov.ca.gov/news.php?id=18368>
- California Environmental Protection Agency. (2014, June 4). *Drinking Water*. Retrieved June 6, 2014, from State Water Resources Control Board: <http://www.swrcb.ca.gov/drinkingwater/index.shtml>
- Department of Water Resources. (2014, May 28). *Department of Water Resources*. Retrieved June 9, 2014, from California Data Exchange Center: <http://cdec.water.ca.gov/cgi-progs/reports/EXECSUM>
- Los Angeles County Flood Control District v. Natural Resources Defence Council, Inc., 11-460 (U. S. Supreme Court January 8, 2013).
- NRDC v County of Los Angeles, 10-56017 (United States Court of Appeals for the Ninth Circuit August 8, 2013).
- Torgersen, C. A. (2014, April 18). 2014 State Water Project Allocation Increase back to 5 percent. *Notice to State Water Project Contractors*.
- White, J. B. (2014, April 29). *California water bond fight in flux*. Retrieved June 5, 2014, from The Sacramento Bee: <http://blogs.sacbee.com/capitolalert/latest/2014/04/california-water-bond-landscape-in-flux.html>

# WESTCAS STATE REPORT

**STATE:** Colorado

**NAME OF PRESENTER:** Mary E. Gardner

**DATE:** June, 2014

## **Colorado Water Plan/Governor Hickenlooper's Executive Order**

In 2013 Governor Hickenlooper issued an Executive Order which requires the state of Colorado to develop a Water Plan that aligns quality and quantity issues together. These two issues, as important as they both are have been on separate paths for many years. With the scarcity of water and the regulations which drive both, Colorado must now start to think "differently" about water; the uses and the needs.

The Water Quality Control Division is working with the Colorado Water Conservation Board (CWCB) as it drafts this Colorado Water Plan. It is necessary to identify areas that align and streamline the state's role in the approval and regulatory processes tied to water projects and point and nonpoint water standard regulations and requirements.

The Colorado Water Quality Forum is a large group of stakeholders which come together every other month to discuss water *quality* issues. This group has been involved in water quality regulatory development for many years and along with other groups has been working steadily with the Water Quality Control Division to identify water *quality* issues so that they will become part of the Water Plan.

## **Regulatory**

Current work group activities:

- 303(d) Listing Methodology—discuss issues for the 2016 hearing
- Drinking Water and Wastewater Nexus—what are the issues which effect both drinking water sources and wastewater discharges
- Sediment—issues regarding sediment impacts to aquatic life
- Permit Issues—ongoing discussions regarding guidances, policies and permit implementation
- Arsenic—discussions on alternative solutions to the problem of compliance with water quality-based effluent limits that are below the technologically-feasible treatment levels

## WESTCAS STATE REPORT

**STATE:** Nevada

**PREPARED and Presented By:** Brenda Pohlmann, Environmental Programs Manager  
City of Henderson Department of Utility Services

**DATE:** June, 2014

### **Water:**

Lake Mead is the source of approximately 90% of Southern Nevada's water supply. The southwest has experienced a period of prolonged drought resulting in a 130 foot drop in the lake's surface elevation from 1,216 feet above mean sea level (MSL) in 1998 to its current elevation of 1,086 feet above MSL as of June 9, 2014. In response to the on-going drought, the Department of the Interior along with the seven basin states that are parties to the Colorado River Compact developed guidelines in 2005 for responding to the drought and declining lake levels. The seven states included in the compact are Wyoming, Colorado, Utah, New Mexico, Arizona, Nevada, and California. The key provisions of the guidelines include the establishment of operating guidelines for Lakes Mead and Powell as their elevations decline (equalization), guidelines for shortages, provisions to encourage conservation and flexibility, and an agreement among the states to enter into consultation prior to any litigation.

Based on the Bureau of Reclamation's 2013 end-of-year projections, the release of water from Lake Powell to Lake Mead in 2014 will be reduced from the historical value of 8.23 million acre-feet (maf) to 7.48 maf resulting in a further decrease of Lake Mead's surface water elevation. It is projected that the surface water elevation of Lake Mead will drop to 1,075 feet MSL in the spring of 2015 triggering a federal shortage declaration which reduces Nevada and Arizona's available Colorado River water allotments. Nevada's allotment will be reduced from 300,000 acre-feet per year (AFY) to 287,000 AFY and when the lake levels reach 1,050 feet above MSL, which is currently projected to happen in late 2015 or early 2016, Nevada's allotment is further reduced to 283,000 AFY.

In addition to shortage declarations, once the level reaches the 1,050 foot level, one of the two intakes operated by the Southern Nevada Water Authority's (SNWA) and the City of Henderson's water intakes will become inoperable. SNWA's second intake can operate to a depth of approximately 1,000 feet above MSL. SNWA is continuing construction of a third intake structure to draw raw water from Lake Mead at a depth of 860 feet. This project is currently behind schedule and is anticipated to be completed in late 2015.

Water quality is also affected by the lowering lake levels. The Las Vegas Wash discharges into Lake Mead carrying with it treated wastewater effluent, urban runoff and a small amount of groundwater that surfaces into the wash. This lower quality water tends to float on the surface of the lake in a zone referred to as the epilimnion throughout most of the year. When the drinking water intakes draw water from greater depths, the water is drawn from a zone beneath the epilimnion and is generally of higher quality and lower temperature. As the water levels drop, the intakes will eventually be drawing water directly out of the epilimnion. As a result, the raw water is expected to contain higher concentrations of contaminants.

**Stormwater:**

The Nevada Division of Environmental Protection (NDEP) conducted a program audit of the Las Vegas Valley's stormwater program. The City of Henderson, City of Las Vegas, City of North Las Vegas, Clark County, and the Clark County Regional Flood Control District are co-permittees and the audit included each of the entities. At this point, NDEP has not provided their audit findings.

**Wastewater:**

The City of Henderson, City of Las Vegas, the City of North Las Vegas, and the Clark County Water Reclamation District (CCWRD) will begin the application process in the next few months to renew their NPDES permits. NDEP issues the permits in five year cycles and although Henderson, Las Vegas, and CCWRD are not due to be renewed until 2016, the entities agreed to renew their permits one year early in order to have the permitting cycle coincide with North Las Vegas' permit which expires in April 2015. NDEP has indicated a preference for renewing all of the NPDES permits at one time.

## WESTCAS STATE REPORT

**STATE:** New Mexico

**NAME OF PRESENTER:** Joshua Rosenblatt, NM State Coordinator

**DATE:** June, 2014

Most recently the State of New Mexico Environment Department's Surface Water Quality Bureau (NMED) issued draft revisions on the Triennial Review of Water Quality Standards. The New Mexico Municipal League's Environmental Quality Association (EQA), of which also include a number of notorious members of WESTCAS weighed in on the review and comment opportunity. Highlights included:

The creation of a "Temporary Criteria" the NMED was advancing the opportunity to provide a temporary provision in 3 year sections in the event that costs and or technologies may emerge that would provide the capability to meet standards at some future time. Part of the conditions for the "temporary" status required the permittee conduct a Use Attainability Analysis. The temporary status was also to provide for receiving waters to improve over time due to expanded BMP's in the watershed, stormwater management, and mitigation and remediation of current and historic point source contributions. Primary comments was to point out that if a UAA was required – at the expense of the permittee- then the matter should be closed and not "temporary"; recommend development of site specific provisions for variances and or other extended environmental conditions.

Other related comments included disagreement to establishing a default primary contact to all unclassified streams, dry ditches, gulches, etc. when secondary still provides for wading; use of reference guidance document Hydrological Protocol as prescriptive to the stream classification and permitting without the reference itself be fully vetted and adopted in the rule making procedures by the Water Quality Commission; and it was recommended that the State consider introduction specific characterization and subsequent permit conditions of streams which are Effluent Dependent Waters and provided regulatory citation from our friends in Arizona.

New Developments in Aquifer Storage and Recovery status in NM. Requires a 2 year pilot study permit from the Office of the State Engineer and the NMED Ground Water Bureau. Only permitted case studies deal with post treatment storage of winter surface water flows which are then pumped during summer demands. The first pilot using reclaimed water injected into ground water is soon to be decided on after a 2 year testing period using drinking water. NM currently requires that drinking water standards must first be met prior to aquifer injection. A very informative PowerPoint is available online covering the ASR systems and technologies presented by Bob Marley of DBStevens that gave the presentation at the 2010 WESTCAS Conference can be found at [http://www.westcas.org/PDF/Winter\\_2010\\_presentations/ASR\\_Rio\\_Rancho\\_Marley.pdf](http://www.westcas.org/PDF/Winter_2010_presentations/ASR_Rio_Rancho_Marley.pdf) . So, download the file put on some Reggae music and let Mr. Marley enlighten us further on ASR systems. In my discussions with Bob and Amy Ewing of DBStevens it occurred to me that a return invitation to WESTCAS to provide an update to their ASR projects. I would like to know more from our neighboring states as to utilization of treated reclaimed water for drinking water or crops (other than golf courses).

Resolutions of the NMML Energy Environment and Natural Resources Policy Committee that received high priority being advanced to the legislature include a resolution that recommends the development of a broader solution to nutrient limits as the primary impairments of NM streams are nutrients, e. Coli, and temperature the vast majority of which are caused by non-point sources. Recommends a nutrient work group developing a larger framework approach to nutrient management then excessive targeting of

municipal point source discharges. Another resolution receiving high marks is the sampling method of PCB's. Whereas the EPA has since withdrawn the Congener method and adopted the Aroclor method, the State Environment Dept. has taken enforcement actions on some utilities on results derived from Congener analysis. Finally the push continues to have the Governor establish a Water Task Force as advisory at the cabinet level that includes municipal, county, and multi-agency state officials so there maintains a cohesive and effective mechanisms of strategic water policy and planning actions and review across state and agency sectors.

Our Governor, Susana Martinez took a stand at financial support for water infrastructure and I am happy to report that my own utility, Las Cruces Utilities received two large State infrastructure funding: a \$2Million dollar grant for rehabilitation of existing wells; and a \$2.5 grant bringing septic tank systems onto the municipal collection system.

## WESTCAS STATE REPORT

**STATE:** Texas

**NAME OF PRESENTER:** Peggy Glass, Ph.D.

**DATE:** June, 2014

### **Whole Effluent Toxicity—IC<sub>25</sub> Endpoint**

It has been generally acknowledged in the technical literature that IC<sub>25</sub> is a more scientifically valid endpoint than the No Observed Effect Concentration (NOEC). The Texas WET Coalition [Texas Association of Clean Water Agencies; Water Environment Association of Texas (Water Environment Federation affiliate); Texas Section American Waterworks Association, and Texas Water Conservation Association] requested the Texas Commission on Environmental Quality (TCEQ) to revise the Texas Pollutant Discharge Elimination System (TPDES) permits to specify an IC<sub>25</sub> endpoint rather than a NOEC endpoint. TCEQ has prepared draft permit language that would accomplish this change, and it is currently being reviewed. TCEQ does not expect EPA Region VI to object to this change.

### **Direct Potable Reuse**

The drought continues in Texas (as in other Western States). Although recent rains have improved soil moisture conditions in much (but not all) of the state, water levels remain critically low in many water supply reservoirs. Some reservoirs are at 1 or 2 percent—clearly these are not functional as water supplies.

Direct potable reuse (DPR) is seeing heightened interest because of the urgency to provide additional supply. Two communities currently have DPR systems in place or eminent, and others are in the planning process.

The community of Big Spring has the functional DPR system. The treatment train between the effluent discharge and water plant intake is the conventional membrane filtration/reverse osmosis ultraviolet/advanced oxidation process (MF/RO UV/AOP) system. The reclaimed water is blended with raw water in an 80/20 ratio, with 80% raw water and 20% reclaimed water.

The eminent DPR system is at Wichita Falls. The water supply lakes for Wichita Falls are extremely low, and the city has applied to TCEQ for an emergency authorization to implement DPR.

Initially the only treatment that will be provided between the effluent discharge and the potable water treatment is RO; the RO units already exist as part of the water treatment plant to control salt concentrations. Water quality and direct integrity tests of the RO system are currently being run. To date, the requirements of these tests have been met. The tests will be completed in approximately mid-June. At that time there will have been over 60 days of both tests. If the remainder of the tests are satisfactory, it is expected that operation of the system will be approved to begin in approximately the first week of July. The blend ratio will be 50/50.



The Wichita Falls system will be authorized for six months on an emergency basis because of the critical nature of the water supply. TCEQ is requiring that, by the end of the six-month period, if the system is still in operation, UV (and possibly AOP) must be added. This additional treatment is currently being designed.

### **Greenhouse Gas Permits for Wastewater Treatment Plants**

In 2010, EPA enacted a Federal Implementation Plan (FIP) for air in Texas and began issuing Prevention of Significant Deterioration (PSD) permits for greenhouse gases (GHGs). Therefore, major sources in Texas that emit both GHGs and other regulated air contaminants have to file two applications for PSD permits: one with EPA and one with TCEQ. During the most recent meeting of the Texas Legislature, a bill was passed requiring TCEQ to obtain authority to permit GHGs. The legislation directed TCEQ to revise their rules as appropriate and submit them to EPA for approval as part of the State Implementation Plan (SIP) for air.

In the interest of expediency, the rules were drafted and issued for public hearing without any prior stakeholder meetings. The original draft language of the rule excluded biogenic sources of carbon dioxide (CO<sub>2</sub>) emissions--including wastewater treatment plants (WWTPs)--from regulation. This exclusion mirrored the exclusion in EPA's rules. However, a federal court ruled that EPA had not adequately justified the need for the exclusion of biogenic emissions and threw out the exclusion. Because of the court ruling, EPA indicated that it would not approve the Texas SIP with an exclusion for biogenic emissions. As a result, TCEQ deleted the exclusion.

Rather than appeal the court ruling that removed the exclusion, affected industries decided to wait to see the results of a separate lawsuit questioning EPA's authority to regulate GHG emissions from stationary sources. This case is currently before the Supreme Court with a ruling expected before the end of June. If the court rules that EPA does not have the authority to regulate GHG emissions from stationary sources, the issue becomes moot. If, however, the court upholds EPA's authority to regulate GHG emissions from stationary sources, affected parties would have 30 days to appeal the earlier court decision striking down the exclusion of biogenic sources.

The TCEQ GHG permitting rules have been adopted and taken effect. However, TCEQ will not begin issuing GHG permits until EPA approves the revised SIP and cancels the FIP. These actions are expected later this year, probably after the resolution of the court case.

If the regulation of GHG from WWTPs proceeds, it is unclear what the affect will be on the industry. Since a standard method of estimating GHG emissions from WWTPs does not exist, it is not clear which plants would meet the threshold limits included in the Texas rules. The Water Environment Association of Texas and the Texas Association of Clean Water Agencies are currently working with TCEQ to identify how the rule should be applied in the event that the rules are not rendered moot by the pending court cases.