THE WEEKLY NEWSLETTER OF THE WESTERN STATES WATER COUNCIL

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WESTERN GOVERNORS/ENERGY
BLM/Hydraulic Fracturing

On August 23, the WGA wrote Secretary of the Interior Sally Jewell to comment on the Bureau of Land Management’s (BLM) re-proposed hydraulic fracturing rule, which is intended to regulate the use of the practice on federal and tribal lands. “Most of the federal and tribal lands where BLM has jurisdiction and where this new federal rule will apply are located in Western states that have a long history of oil and gas production and robust regulations designed to protect the environment and public health,” the letter said. Because there are often profound differences in geology, ecology, hydrology, and meteorology, the states are best equipped to design, administer and enforce laws and regulations related to oil and gas development.”

The letter continues: “It’s important to underscore that state regulatory programs have been thoughtfully designed by experts to address state-specific issues and factors. In addition, they are applied consistently by highly trained staff, regularly reviewed, and continuously subjected to thoughtful administrative oversight. Importantly, the states have greater flexibility to respond to new information and modify or update their rules...and to respond to continuous improvement of both technologies and best practices... BLM has historically recognized the deep expertise and competence of state regulators. There is every reason to expect this system will continue to effectively oversee oil and gas operations.”

The letter further notes: “The [WGA] is unified in its position that states and federal government should continue to promote and enhance partnerships - especially where we can more efficiently and cost effectively ensure environmentally responsible development of our public lands. While BLM has repeatedly indicated its intention to work with the states, there has never been a formal consultation with our state regulators, and we would welcome the opportunity to engage in a dialogue whereby we can demonstrate the effectiveness of our regulations. Although such a dialogue would have been preferable before the BLM considered any new rulemaking, it still may be possible as part of any [Memorandum of Understanding] process with the states. We believe that it would be fiscally and regulatorily responsible to leverage the existing state programs, resources and infrastructure as part of any BLM rule or program. This represents a real opportunity for the states and the federal government to work in concert to more effectively oversee a program that will help us achieve energy security.” To read the letter, see: http://westgov.org/policies/doc_download/1754-govs-letter-to-jewell-on-fracking.

Of note, WSWC Position #353 states that federal efforts to study the impacts of hydraulic fracturing on water resources should rely on state expertise and should not diminish the states’ primary and exclusive authority over water allocation. (WSW #2019)

WESTERN GOVERNORS/WATER QUALITY
Abandoned Hardrock Mines

On September 4, the Western Governors’ Association (WGA) wrote Senator Mark Udall (D-CO) and Rep. Scott Tipton (R-CO) in support of legislation (S. 1443/H.R. 2970) they introduced to provide additional legal protection to third parties, or Good Samaritans, who voluntarily clean up abandoned hardrock mine sites for which they have no legal responsibility. In particular, the legislation would amend the Clean Water Act (CWA) to create a new permitting program that would allow Good Samaritans to clean up abandoned hardrock mines without inheriting perpetual CWA liability for the sites, subject to certain conditions. The legislation is similar to a bill Udall introduced in 2009 (S. 1777)

The letter thanked Udall and Tipton for sponsoring the legislation and said: “Western Governors have long advocated shielding from liability state agencies, non-profit groups and industry acting as Good Samaritans in the voluntary cleanup of abandoned hardrock mine sites.” The letter also referenced the WGA’s current position on abandoned hardrock mines, which urges consideration of legislative and administrative remedies to address potential liability under the Comprehensive Environmental Response, Compensation and Liability Act and the Resource Conservation and Recovery Act, as well as liabilities associated with re-mining that deter the mining industry from improving conditions at abandoned mine sites. To read the letter, please see: http://westgov.org/policies/doc_download/1756-good-sam-udall. (WSW #2013)

WESTERN STATES WATER COUNCIL
NOAA/Climate/Data

On September 5, the WSWC wrote Representatives Chris Stewart (R-UT) and Suzanne Bonamici (D-OR), the Chair and Ranking Member of the House Science, Space, and Technology Committee’s Subcommittee on Environment, to support federal water and climate data gathering and monitoring programs, as well as related applied research.
The letter states: “Hydrologic, meteorological and climatologic uncertainties continue to present significant obstacles to planning for sustainable water management in the West and the Nation. Improving our ability to observe, understand, measure, monitor, and predict long-term changes is essential for water users and managers. Timely information is also critical to help us prepare for, as well as respond and adapt to weather extremes. Droughts, floods and wildfires continue to afflict many parts of the country.”

The letter also supports the National Oceanic and Atmospheric Administration’s (NOAA) Regional Climate Data and Information Program, the National Integrated Drought Information System, and the Regional Integrated Sciences and Assessments program, among other efforts. It says the President’s FY 2014 budget request for Regional Climate Data and Information is $50M and that the Senate Appropriations Committee’s mark would provide $40M for the program, compared to the House Appropriations Committee’s $12M mark.

Lastly, the letter states: “These NOAA programs, related applied research and similar efforts are helping reduce risk and uncertainty to better manage our increasingly scarce water supplies and expand our abilities at all levels of government to better plan, prepare for, manage and respond to extreme weather events. The Council has specifically supported the development of an improved hydroclimate data collection, monitoring and change observing system to aid in climate trend analysis and predictions associated with drought, wildfires and floods, including the design of detection networks and probabilistic outlooks for weather extremes, as well as federal programs and applied research that assist water agencies at all levels of government in adapting to short and long term hydrologic, meteorological and climatologic changes.” Please contact the WSWC for a copy of the letter.

**ADMINISTRATION UPDATE/WATER QUALITY**

**EPA/Water Quality Standards**

On September 4, the Environmental Protection Agency (EPA) published proposed changes to its Water Quality Standards (WQS) regulation, which helps implement the CWA. Under the CWA, states establish WQS. They determine designated uses for water bodies, establish water quality criteria to protect those uses, determine the effectiveness of such criteria, and set forth antidegradation policies to protect high quality waters. EPA reviews the WQS and approves them if they satisfy CWA requirements and its WQS regulation.

The proposed changes address the following program areas: (1) EPA determinations that new or revised standards are necessary; (2) designated uses for water bodies; (3) triennial reviews of state and tribal WQS; (4) antidegradation provisions to protect water quality; (5) variances to WQS; and (6) compliance schedule authorizing provisions. EPA will accept comments through December 3, and will hold two webinars and one public meeting during the comment period. For more information on the webinars and how to submit comments on the proposed changes, see: [http://water.epa.gov/lawsregs/lawsguidance/wqs_index.cfm](http://water.epa.gov/lawsregs/lawsguidance/wqs_index.cfm) (WSW #2011)

**PEOPLE**

On September 10, Texas Governor Rick Perry named C. Tobias “Toby” Baker to the WSWC. A Commissioner for the Texas Commission on Environmental Quality, Toby is a past policy and budget advisor on energy, natural resources, and agriculture issues for the Governor’s Office. He also served previously as the natural resource policy advisor to Texas State Senator and WSWC member Craig Estes. Toby will replace former Texas Water Development Board Member Rick Rylander on the WSWC. We thank Rick for his service and congratulate Toby on his appointment. We look forward to working with him.

**POSITIONS**

The Washington Department of Ecology is seeking a Microsoft Developer in-training to support its water quality web portal, including the development of e-business opportunities for permittees. Qualified applicants will have four years of information technology experience designing and programming computer software applications, or supervising staff that perform work in software development or information systems architecture. Applicants should also have two years of experience: (1) consulting, designing programming, maintaining and/or supporting work for low to moderate risk software applications and databases; (2) C# and object-oriented programming concepts; (3) assisting (or managed under supervision) a project that used the IT project life cycle; (4) SQL Server 2008, Visual Studio.Net, Javascript, web services, and VB.NET; and (5) conveying technical detail and design to diverse audiences. For a detailed job description, see: [http://agency.govemmentjobs.com/washington/job_bulletin.cfm?JobID=716270](http://agency.govemmentjobs.com/washington/job_bulletin.cfm?JobID=716270) (WSW #2050)

The WESTERN STATES WATER COUNCIL is an organization 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.