



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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ADMINISTRATION UPDATE

Bureau of Reclamation/Animas-La Plata Project

Last month, the Bureau of Reclamation executed a contract that identifies the terms and conditions for the operation, maintenance, and replacement (OM&R) responsibilities for the Animas-La Plata Project facilities. Reclamation entered into the agreement with the Animas-La Plata OM&R Association, comprised of project sponsors including the Colorado Water Resources and Power Development Authority, the La Plata Conservancy District, the Navajo Nation, the San Juan Water Commission, the Southern Ute Indian Tribe, and the Ute Mountain Ute Tribe. The contract will become effective when the Animas-La Plata Project is completed and has been transferred from construction status to operation status. This is planned to occur when the initial filling of Lake Nighthorse has been completed in 2011. At that time, responsibility for the operation of the project will be transferred to the Association. Reclamation will retain ownership of project facilities and oversight of OM&R activities, but it is anticipated that a separate entity will be responsible for the project's recreational components.

ADMINISTRATION UPDATE/WATER QUALITY

Environmental Protection Agency/Nutrients

This week, the Environmental Protection Agency (EPA) proposed pollution standards for nutrients in Florida waters, a national first. The proposed action, which EPA developed in collaboration with Florida, would set a series of numeric limits on the amount of phosphorus and nitrogen that would be allowed in Florida's lakes, rivers, streams, springs, and canals. The standards are designed to comply with a January 2009 EPA Clean Water Act determination that numeric nutrient standards are needed in Florida, as well as an August 2009 consent decree between EPA and the Florida Wildlife Federation, in which the agency committed to propose the standards by January 2010.

In particular, EPA is proposing to classify Florida's lakes into three groups (colored; clear and alkaline; and clear and acidic) and to assign total nitrogen (TN), total phosphorus (TP), and chlorophyll criteria to each lake group. EPA would also create four different watershed-based regions within Florida consisting of streams with different TN and TP criteria for each region, as well as

an equation to adjust instream TP criteria to protect downstream lakes and a different methodology to adjust TN criteria for streams to protect downstream estuaries. Other aspects of the proposal include chlorophyll, TN, and TP criteria for canals; nitrate-nitrite criterion for clear streams and springs; and a new water quality standard regulatory tool for Florida, referred to as "restoration standards." EPA says this will enable the state to set enforceable environmental water quality targets for nutrients, while retaining protective criteria for all other parameters.

According to EPA, nutrient problems can lead to degraded lakes, reservoirs, and estuaries, as well as hypoxic "dead" zones where aquatic life can no longer survive. High amounts of nitrogen and phosphorus in surface water can also result in harmful algal blooms, dead fish, and reduced mating grounds and nursery habitats for fish. The agency will publish the proposed rule in the *Federal Register* shortly and a 60-day public comment period will follow. For more information, see: <http://www.epa.gov/waterscience/standards/rules/florida/>.

WATER RESOURCES

Colorado River Basin

On January 20, Reclamation announced that it is temporarily reducing the amount of water being released from Parker Dam in Arizona and Davis Dam in Nevada in response to recent rain storms in southern California and Arizona. Releases at Parker Dam have been reduced to approximately 2,000 cubic feet per second (cfs), which are expected to continue into the weekend. Average daily releases from the dam have ranged between 4,000 and 6,000 cfs over the past few weeks. Similarly, Reclamation will reduce releases at Davis Dam to approximately 4,500 cfs until January 24, when average daily releases are expected to return to 9,500 cfs or higher. Daily and hourly information on releases from Reclamation's Colorado River dams is available at: <http://www.usbr.gov/lc/riverops.html>.

Corps of Engineers/Water Planning Initiative

The U.S. Army Corps of Engineers has extended the comment period for feedback on its recently released draft national report until February 5. The report contains recommendations and proposed actions on possible ways to facilitate more collaborative and effective

management of the nation's water resources. The Corps issued the draft report in December 2009, as part of its "Building Strong Collaborative Relationships for a Sustainable Water Resources Future" initiative, and is seeking comments from those groups and individuals who participated in the initiative. WSWC members may contact the WSWC offices to request copies of the report. Comments should be submitted to Ada Benevides at ada.benevides@usace.army.mil. (WSW #1859, #1856, and #1845)

USGS/NASA/Landsat - Thermal Infrared Sensor

The National Aeronautics and Space Administration (NASA) is on schedule for launch of the Landsat Data Continuity Mission (LDCM) – with a thermal infrared sensor (TIRS) – in December 2012. The success in securing TIRS was largely due to the WSWC's strong support and persistence over an extended period of years. The WSWC's efforts were recognized at a meeting of the Landsat Science Team in San Jose, California on January 19. One observer said, "The water community's advocacy for a thermal instrument was one of the most effective efforts that I have witnessed in my career." TIRS inclusion is welcome news, especially since Landsat 5 temporarily stopped transmitting data on December 18, due to technical difficulties. Operations were restored on January 10, thanks to the work of the U.S. Geological Survey's (USGS) Flight Operations Team. Landsat 5 and Landsat 7, the current sources of TIRS data, are well beyond their design lives.

General Dynamics is building the LDCM spacecraft, and successfully completed its critical design review on December 8. This review included integration of the government-furnished instruments and included TIRS, which is being built at NASA's Goddard Space Flight Center in Maryland. The ground control system, developed and operated by USGS, is also "in good shape." With LDCM on track, the Landsat Science Team discussed the already pressing need to look for funding in FY2012 to begin planning for Landsat 9. The Congress has asked NASA for a detailed plan, and USGS is also considering what's needed for a secure operational program, reporting to Secretary of the Interior Salazar monthly (at his request).

WATER RIGHTS

Taos, Aamodt, and White Mountain Apache Bills

On January 21, the House passed the Aamodt (H.R. 3342), Taos (3254), and White Mountain Apache (H.R. 1065) Indian water rights settlement bills by wide margins. The Senate Indian Affairs Committee cleared companion versions of the bills in September 2009. The legislation now awaits action on the Senate floor. If approved by the Senate, the bills would resolve decades of water disputes between a number of tribes and the federal government.

The Aamodt Litigation Settlement Act, which passed by a vote of 249-153, would resolve the water rights claims of New Mexico's Nambé, Pojoaque, San Ildefonso, and Tesuque Pueblos. It would also authorize the construction of a regional water system that would benefit both Pueblos and non-Pueblos in and around Santa Fe County. As for funding, the bill would establish the "Aamodt Settlement Pueblos' Fund" and authorize federal spending of about \$169.3M. Litigation in this matter began in 1966, making it the oldest active water rights case in the federal system. Rep. Ben Lujan (D-NM) introduced the House bill and Senator Jeff Bingaman introduced the Senate bill (S. 1105).

The Taos Pueblo Indian Water Rights Settlement Act passed by a vote of 254-158. It would approve a 2006 settlement between the Taos Pueblo and a number of private and public water users in New Mexico. It would also authorize \$121M in federal funds to construct and rehabilitate water infrastructure, enhance watershed conditions, and protect a sacred buffalo pasture. State and local governments would provide another \$11M. As with the Aamodt settlement, Rep. Lujan introduced the House bill and Senator Bingaman introduced the Senate version (S. 965).

Lastly, the House passed the White Mountain Apache Water Rights Quantification Act by a vote of 262-147. The bill would resolve the water rights claims of the White Mountain Apache tribe in Arizona and authorize \$292M for water projects. It would also direct Reclamation to plan, design, and construct a rural water system for the tribe, as well as providing financial and technical assistance to complete reconstruction projects and facility improvements at several lakes. Rep. Ann Kirkpatrick (D-AZ) introduced the bill, while Senator Jon Kyl (R-AZ) introduced a companion Senate bill (S. 313).

Of note, the House Rules Committee allowed Rep. Tom McClintock (R-CA), the Ranking Member of the House Resources Committee's Subcommittee on Water and Power, to introduce an amendment that would have required the U.S. Attorney General to first certify that all three settlements were preferable to litigation before they could take effect. McClintock ultimately chose not to introduce the amendment after receiving a letter earlier this week from the Departments of Interior and Justice, indicating that settlements would be preferable to litigation. Nevertheless, he said, "I believe Congress needs to demand that the administration be candid and forthcoming in all future water settlements and that Congress insist that before it begins deliberating on a settlement, that the Attorney General has conducted and completed the negotiations, has determined all of the details, has certified that the settlement is within the legal liability of the government, and only then submit that settlement for consideration and approval by the Congress." (WSW #1841 and #1836)