



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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ADMINISTRATION UPDATE/ENVIRONMENT

Endangered Species Act/Bull Trout

The U.S. Fish and Wildlife Service has proposed a revision to its 2005 designation of critical habitat for the bull trout, a threatened species protected under the Endangered Species Act. In total, the Service is proposing to designate about 22,679 miles of streams and 533,426 acres of lakes and reservoirs in Idaho, Oregon, Washington, Montana, and Nevada. Estimated costs for the proposal include \$5M to \$7M per year for the next 20 years, primarily for additional federal agency consultation requirements, and \$2.1M to \$2.5M per year for fish passage improvements at more than 70 federal and non-federal dams. Forest management changes could run an additional \$400,000 to \$1.65M per year. Approximately 58% of the proposed critical habitat occurs on federal land, while 36% and 2% are found on state and tribal land respectively.

"This proposed revision is the result of extensive review of our earlier bull trout critical habitat proposals and 2005 designation, public comments and new information," said Robyn Thorson, director of the Service's Pacific Region. "We voluntarily embarked on this re-examination to ensure that the best science was used to identify the features and areas essential to the conservation of the species." The Service is accepting comments on the rule through March 15, and will hold informational meetings in the affected states throughout February. A public hearing is scheduled for February 25 in Boise, Idaho. To read the rule and submit comments, see: <http://www.fws.gov/pacific/bulltrout>.

ADMINISTRATION UPDATE/WATER RESOURCES

California/Central Valley Project

On January 26, Interior Secretary Ken Salazar announced that 350,000 to 400,000 acre-feet of water will be made available for Central Valley Project (CVP) water users, particularly, farmers on the west side of California's San Joaquin Valley, by March 1. The allocation will be in addition to the water allocation announcement that Reclamation's Mid-Pacific Region will make in February for Water Year 2010.

"The recent storms in California are a welcome relief for farmers, water users, and watersheds that have been hit hard by three years of drought, but we are

not out of the woods yet," said Salazar. "We must keep all hands on deck to stretch water supplies, move water to where it is needed most, provide certainty for growers in the year ahead, and build long-term water solutions in partnership with the State."

The announcement is the result of two decisions by Reclamation. First, the Mid-Pacific Region issued guidelines that allowed farmers to hold water over for the 2010 growing season. Second, Reclamation has determined that it can deliver non-CVP water currently stored in the San Luis Reservoir under Warren Act contracts and approve requests to reschedule CVP supplies from the 2009 contract year for delivery in 2010. Of note, recent storms have raised precipitation to "average" numbers for this time of year.

CONGRESSIONAL UPDATE

California/Colorado River

On January 25, the House Natural Resources Committee, Water and Power Subcommittee held an oversight field hearing in Los Angeles to address, "Perspectives on the California Water Supply: Challenges and Opportunities." Chairwoman Grace Napolitano (D-CA) said, "We are in the midst of a real challenge - increasing population, aging infrastructure, water supply restrictions, water quality concerns, environmental concerns...the list goes on and continues to grow with each year." Napolitano also discussed a recent California state court decision that invalidated portions of the Quantification Settlement Agreement (QSA) and related agreements that the Department of Interior and other parties executed in 2003 to ensure that California's long-term use of the Colorado River is within the state's 4.4M acre-foot annual apportionment. Napolitano said the decision "...potentially throws years of negotiations and cooperation in jeopardy and with it water supplies for southern California.

The hearing included testimony from a range of witnesses from water districts, business entities, and other groups who discussed: (1) the federal and state approach to the current California water situation; (2) the issues associated with water delivery to the citizens of Southern California; and (3) the science and information needs for federal, state, and local water managers to make better decisions and to identify impacts to urban water users, fishermen and farmers.

Bureau of Reclamation Commissioner Mike Connor said, "All told, more than \$400 million, roughly 40 percent of Reclamation's [Stimulus] funding, has gone to California projects, significantly more than any other Reclamation state. We are applying this funding to a mix of projects to promote not just traditional water supplies, but also healthy fisheries and habitat projects to recover, sustain, and protect species' ability to reproduce and thrive." Connor also said Interior's Water Conservation Initiative, which incorporates Title XVI and Challenge Grants, was "...a centerpiece of our 2010 budget request, and will be a continuing priority of this Administration going forward." With respect to the Bay-Delta, Connor said the federal government would, among other things, facilitate final permitting and construction of the Delta-Mendota and California Aqueduct Intertie; foster water transfers; improve scientific knowledge of turbidity and the Delta smelt; and work with California to develop mid and longer-term infrastructure options.

Connor also said, "Notwithstanding drought, the Colorado River apportionment to California this year will be the full 4.4 million acre-feet, with the potential for some surplus under the Annual Operating Plan for the Colorado River." Connor further noted that the federal government is not a party to the QSA validation proceedings and that Interior "does not intend to comment on those proceedings." Nevertheless, he said, "The Department has valid and binding agreements with the California agencies that are parties to the 2003 Colorado River Water Delivery Agreement and we intend to stand by that agreement."

Of note, California Department of Water Resources (DWR) Director Lester Snow discussed his state's water conditions. He said, "Going into this winter, the carryover in the state's major reservoirs was one-third to one-half below normal. The latest Fall Midwater Trawl by the California Department of Fish and Game, which measures fish populations, has the lowest indices on record for delta smelt and longfin smelt... Last month, DWR announced the lowest initial allocation on record for the State Water Project – just 5% of contractor requested amounts." Snow also said "...it is important to stress that the QSA parties, including the State of California, intend to work together to deal with the issues raised in the court's ruling and jointly, will preserve this important agreement." See: http://resourcescommittee.house.gov/index.php?option=com_jcalpro&Itemid=27&extmode=view&extid=314. (WSW #1858 and #1859)

CONGRESSIONAL UPDATE/WATER QUALITY **Oklahoma/Arkansas/Nutrients/EPA**

The House Transportation and Infrastructure Committee has passed a resolution (H. Res. 995) urging the Environmental Protection Agency (EPA) to disclose the technical and scientific rationale it used to

set nutrient pollution standards for an Arkansas water treatment plant on an Illinois River tributary. The resolution relates to a dispute between Oklahoma and Arkansas over the amount of nutrient pollution Arkansas can send downstream to Oklahoma in the Illinois River. In 2003, the states entered into an accord in which Arkansas agreed to lower phosphorus emissions from five existing wastewater treatment plants in the Illinois River watershed to a level of 1 milligram per liter by 2012. However, when Arkansas approved the same pollution level for a sixth treatment plant, EPA and Oklahoma objected. Arkansas ultimately agreed to an EPA-requested limit of 0.1 milligram per liter, which is 10 times lower than the limits for the other plants.

Rep. John Boozman (R-AR), who introduced the resolution, is concerned that the limit could be burdensome and could result in higher sewer rates. "I live in an area where all of the sudden we are going to have some of the most stringent requirements regarding water coming from our wastewater treatment plant of anyone in the country," he said. "The effort really is just to try and find out what is the science based on behind that." For more information on the resolution, see: <http://transportation.house.gov/hearings/hearingDetail.aspx?newsid=1097>. (WSW #1547, #1546, and #1487)

WATER QUALITY **EPA/Stormwater/Idaho/New Mexico**

EPA is modifying the 2008 stormwater construction general permit, extending it by one year to June 20, 2011. The permit applies only where EPA is the permitting authority, including in the West: Idaho, New Mexico, and most Indian lands. The permit regulates the discharge of stormwater from construction sites that disturb one acre or more of land and from smaller sites that are part of a larger, common plan of development. It also requires construction site operators to comply with stormwater discharge requirements that are intended to prevent sediment loss, soil erosion, and other pollution issues at active construction sites. EPA says the extension is needed to give the agency sufficient time to incorporate the new federal effluent requirements for the construction and development industry, which it announced on December 1, 2009. For additional information on the general permit, please see: <http://cfpub.epa.gov/npdes/stormwater/cgp.cfm>.

POSITION OPENING

The Montana Attorney General's Office is seeking a senior level attorney in its Civil Bureau. The position serves as the primary point of contact on water law and Indian law matters. Candidates would also handle high-profile complex civil litigation cases and may oversee a team of attorneys and support staff. For a more detailed job description and application instructions, please see: <https://svc.mt.gov/statejobsearch/listingdetails.aspx?id=2344>. Applications are due by midnight, February 5.

