
The National Water Rights Digest



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Texas prepares for Legislature 2005; Florida water managers and Nevada farmers win in court – but a California city loses, the fulfillment of the Colorado River Compact begins, and a school district could be held liable for flooding. These and many other topics inside.

Texas

Looking Ahead to 2005

As the opening day of many state legislative sessions draws near, Texas is preparing for its next session one year hence. In the past year a number of water management issues have arisen in the Lone Star State, and Lt. Governor David Dewhurst has appointed several commissions to see that they're addressed.

In an effort to boost revenue for the Permanent School Fund of Texas, the General Lands Office headed by Commissioner Jerry Patterson has proposed two projects: a lease of state lands and their water rights in West Texas to Midland-based Rio Nuevo Ltd. and a purchase of water rights and customer contracts along the new Texas 130 toll road from WaterTexas, an Austin development company. Revenue from both projects would go into the Permanent School Fund.

The Lands office is being asked to hold off on decisions for both projects until the Select Committee on Water Policy, appointed by Dewhurst in November, has had time to examine all of the issues, and in the case of the Rio Nuevo deal, the West Texas Water Development Board has had a chance to study the aquifers and determine how much water can be safely removed. Study results are not expected until November 2004. About the same time Patterson began talking publicly about the water leases, environmental groups asked state officials to put a moratorium on groundwater leases until some determination of water supplies could be made.

The Rio Nuevo lease would affect approximately 355,000 state-owned acres in four West Texas counties: Culberson, Hudspeth, Presidio and Jeff Davis. The company is also looking at purchasing groundwater rights to an additional 350,000 acres of privately owned land. At present the company has no customers for the water.

At the November meeting of the Far West Texas Planning Group, approximately 400 people showed up, many to voice their opposition to the plan. West Texas has been suffering from a drought, and residents are concerned that the lease would threaten their already meager water supply. One well for the city of Presidio is on state land, and the city has been attempting to slow development recently due to the drought and dropping water table. Presidio Mayor Alcee Tavarez sent a letter to Texas Governor Rick Perry asking him to oppose the project, and the town passed a resolution opposing the export of water from the region.

It's only been four years since Texas overhauled its water laws, but in November Dewhurst appointed 11 senators to the Select Committee on Water Policy and charged them with studying ground and surface water policy as it pertains to: the role of federal, state, regional, and local governments in setting consistent water policies; the authority of the Texas Commission on Environmental Quality over water contracts; the role of the Edwards Aquifer Authority; the role of groundwater conservation districts; the regional water planning process; the conjunctive use of both ground and surface water resources; the rule of capture; historic use standards; water infrastructure and financing; interbasin transfers; junior water rights; conservation; water quality standards; drought preparedness and water marketing. Additionally, the committee will monitor the on-going desalination projects by the Texas Water Development Board, to determine how desalination can provide for a cost-effective water source for Texas cities. Senator Ken Armbrister, D-Victoria, chairs the committee. Members are: Senators Kip Averitt, R-Waco, Bob Deuell, R-Mesquite, Jon Lindsay, R-Houston, Todd Staples, R-Palestine, Tommy Williams, R-The Woodlands, Frank Madla, D-San Antonio, Robert Duncan, D-San Angelo, Troy Fraser, R-Horseshoe Bay, Eddie Lucio, Jr., D-Brownsville and Eliot Shapleigh, D-El Paso.

A special Subcommittee on the Lease of State Water Rights is chaired by Madla, with Duncan, Fraser, Lucio and Shapleigh.

In addition to the water marketing issues, another sign of the times in Texas is a growing movement away from the 1904 "rule of capture," which is considered an integral part of the state's commitment to private property rights. In essence, the rule of capture allows a landowner to pump as much groundwater beneath their land as they want, without regard for the impact on neighboring landowners. The rule went into place long before the relation between aquifers and water table depletion was fully understood. As recently as 1999 the Texas Supreme Court refused to get involved in tampering with the rule, referring any changes to the Legislature.

As the rule comes into increasing conflict with the state's groundwater districts which are charged with regulating pumping limits and well spacing, and as groundwater has become more valuable to a drought-stricken state, some ranchers and farmers have begun to call for its repeal. The call, which would have been considered heresy not all that long ago, grows out of concerns that water shortages for Texas' fast-growing population aren't that far off.

In addition to all of these issues, last year's Legislature created the Study Commission on Environmental Flows that will be examining issues relating to the protection of environmental flows. The group will also address ways ecosystems can be protected in the surface water allocation process.

This Commission grew out of a permit request by the San Marcos River Foundation, and a clarification that the Texas Commission on Environmental Quality does not have statutory authority to issue water permits expressly for environmental flow. Said a press release from Dewhurst's office, "While state law authorizes TCEQ to issue permits for "beneficial use" – including domestic and municipal use, agriculture and industry, mining and recovery of minerals, hydroelectric power, navigation and recreation and pleasure – it does not expressly state that TCEQ can issue permits for the sole purpose of instream flows."

The Commission, appointed by Dewhurst is composed of Senators Ken Armbrister, D-Victoria, Todd Staples, R-Palestine and Jeff Wentworth, R-San Antonio, and two public members: Andy Sampson and Joe Beal. Its recommendations and findings is due by December 1, 2004.

References: Austin *American-Statesman*; Press Releases Lt. Gov. David Dewhurst:
www.senate.state.tx.us/75r/lrgov contact: Mark Miner, 512-463-0715

Legislation/Policy

EPA, Army Corps Issue Wetlands Decision

The Environmental Protection Agency and the Army Corps of Engineers reiterated the Administration's commitment to the goal of "no net loss" of wetlands in the United States. EPA and the Corps announced that they would not issue a new rule on federal regulatory jurisdiction over isolated wetlands.

"Today we are reaffirming and bolstering protections for wetlands, which are vital for water quality, the health of our streams and wildlife habitat," said EPA Administrator Mike Leavitt.

Assistant Secretary of the Army John Paul Woodley Jr. added, "We will continue our efforts to ensure that the Corps' regulatory program is as effective, efficient and responsive as it can be."

The Supreme Court's 2001 decision in the case of *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* (commonly referred to as "SWANCC") overturned the Corps' assertion of federal jurisdiction over certain isolated wetlands based on the presence of migratory birds. EPA and the Corps responded by issuing revised guidance to their field offices. At the same time, the Agencies reaffirmed federal jurisdiction over the majority of wetlands not impacted by the decision.

After soliciting public comment to determine if further regulatory clarification was needed, the EPA and the Corps have decided to preserve the federal government's authority to protect

our wetlands. The agencies will continue to monitor implementation of this important program to ensure its effectiveness.

Contact: Cathy Milbourn 202-564-7824/milbourn.cathy@epa.gov

Nevada: Administration Won't Interfere in Land Auctions

The Las Vegas *Review-Journal* reports that the Bush administration will not slow or halt Southern Nevada land auctions to quell concerns that the record five-year drought has been worsened by the region's 14-year construction boom. "The federal government is not going to play a role in where people can and should live. That's a local issue, not a federal issue."

The conversation grew out of concerns about BLM land auctions. At separate June and September auctions, the Interior Department's Bureau of Land Management put up nearly 3,000 acres of undeveloped Las Vegas-area land for bidding for future construction.

Instead assistant Interior secretary for water and science Bennett Raley warned attendees at the Colorado River Water Users Association Conference that water users from Nevada and California would no longer be permitted to take surplus water from the river if Lake Mead sits at 1,125 feet above sea level on January 1, 2005. It is currently at 1,139.4 feet, or about 60 percent of capacity.

Later at a question-and-answer session, Raley criticized people who move to Southern Nevada and then argue for slower growth. "People come in and want to shut the door right after themselves. That's an interesting perspective," he said.

Saturday, December 13, 2003 Las Vegas *Review-Journal* : FALLING LAKE LEVELS: Feds won't halt LV area land auctions;However, Interior Department official issues water warning By DAVE BERNIS

Litigation

Florida: Court Upholds Toho Drawdown

On December 24, the United States District Court of the Southern District of Florida, denied a motion for a preliminary injunction sought in a lawsuit against the United States Army

Corps of Engineers (Corps) seeking to immediately halt the environmental drawdown of Lake Tohopekaliga (Lake Toho).

The South Florida Water Management District entered the lawsuit *Indian Riverkeeper v. The U.S. Army Corps of Engineers* as an intervener, presenting evidence of the environmentally diligent efforts made by the District and Corps during the past year to ensure no environmental harm would come to Lake Okeechobee and the St. Lucie and Caloosahatchee estuaries as a result of the much needed Lake Toho environmental restoration water releases.

The lawsuit, filed by the Indian Riverkeeper sought to disrupt the drawdown alleging the Environmental Impact Statement filed by the Corps did not adequately address the issue of the impact of environmental drawdown water releases from Lake Toho on the water bodies south of Lake Toho.

The District's Governing Board mandated that downstream ecosystems not be negatively impacted by the drawdown.

In the Court's order, which refused to halt the Lake Toho drawdown that is now 50% complete, U.S. District Court Judge Middlebrooks specifically acknowledged that, "the South Florida Water Management District is working diligently in the public interest to explore alternative storage options to reduce the risks of impacts to Lake Okeechobee and the estuaries."

"The Board's support allowed staff to come up with a unique and sound plan to continue with the drawdown while incorporating the volunteer offers of private landowners, state lands, and Seminole tribe lands to help out by storing drawdown water on their properties."

Toward this end, the district has secured nearly 100,000 acre feet of available alternative water storage on private and state owned lands to hold the environmental drawdown water from Lake Toho, thus significantly minimizing any potential drawdown impacts. The alternative water storage capacity more than offsets the expected volume of water and should result in a net benefit to Lake Okeechobee and the estuaries.

SFWMD Press Release: December 22, 2003; Randy Smith Office: (561) 682-6197 Cell: (561) 389-3386

CA: First 10,000 acre-feet to Flow

Federal officials have given the final clearance to begin the historic transfer of water from the Imperial Irrigation

District to the San Diego County Water Authority, officials with the Water Authority said. With the final clearance in hand, the first 10,000 acre-feet of water from the historic transfer

agreement will flow into San Diego County by the end of December.

The initial delivery of 10,000 acre-feet of water marks the beginning of the largest agriculture to urban water transfer in U.S. history.

In a letter to the Metropolitan Water District, the U.S. Department of the Interior Bureau of Reclamation confirmed that 10,000 acre-feet of water has been delivered to Lake Havasu and has given approval for the water to be moved to San Diego. MWD will exchange the water during December as agreed to in its water exchange agreement with the Water Authority.

The IID-Water Authority transfer is the cornerstone of the Quantification Settlement Agreement that quantifies water entitlements, implements long-term water transfer and supply programs and ensures California up to 75 years of stability in its Colorado River water supplies.

The QSA required that an initial water delivery from the transfer occur before the end of 2003.

San Diego County Water Authority Press Release: December 18, 2003 Contact: John Liarakos Office (858) 522-6703; Mobile (858) 761-2544 or; Donna Nenow Office (858) 522-6707; Mobile (858) 414-8168

Washington: Oil Line Break Settlement

People, salmon and wildlife will benefit from an innovative settlement between the state Department of Ecology and Shell Oil Company for the 1999 pipeline rupture and fire in Bellingham.

The settlement addresses \$5 million of \$7.86 million in civil penalties issued by Ecology to Shell's predecessor, Equilon, which operated the pipeline at the time of the incident that killed three Bellingham youths and damaged much of the Whatcom Creek watershed.

As an owner/operator of the pipeline, Shell will pay \$4 million to the city of Bellingham and \$1 million to the Whatcom Land Trust in lump-sum payments expected by the end of the month. British Petroleum is the other owner of the Olympic pipeline.

Bellingham Mayor Mark Asmundson said the city will invest the settlement money in a trust fund and use the annual interest proceeds for projects to protect and restore the city's streams and shorelines.

Initial projects will include enhancing habitat on city property in the area burned by the fire.

Whatcom Land Trust president Wendy Walker said the land trust will use the money to purchase additional salmon, eagle and elk habitat along the Nooksack River, where the organization has already protected more than 10 miles of Nooksack frontage.

Idaho: SRBA News

For the latest in the Snake River Basin Adjudication, see the SRBA Digest at: www.ridenbaugh.com

Nevada: Good News for Fallon Farmers

U.S. District Judge Howard McKibben ordered the Truckee-Carson Irrigation District to repay 197,152 acre-feet of Truckee water it over-diverted from 1973 to 1988.

The federal government was seeking to recoup more than 1 million acre-feet of water it claimed was over-diverted.

The government and Pyramid Lake Paiute Tribe, which intervened on behalf of the U.S., initially had sought up to 1.5 million acre-feet of water to

Be poured into Pyramid Lake.

The Truckee flows eastward more than 90 miles from Lake Tahoe to its terminus at Pyramid Lake. A portion of its water is diverted to the south for farmers in Fallon 60 miles east of Reno.

McKibben wrote that the plaintiffs proved only part of their case against the irrigation district and none of it against individual water right owners, including farmers.

The judge concluded that the irrigation district is only liable for less than 25 percent of the alleged over-diversions.

While the irrigation district owns some water rights, its officials are unsure how to send nearly 200,000 acre-feet of water to Pyramid Lake.

Sales/Exchanges

California: State Takes Former Army Depot

Honey Lake located in eastern Lassen County is at the center of a multiparty land swap that is the first in the nation to utilize a new federal conservation conveyance authority.

After 70 years in Sierra Army Depot ownership, the 57,632-acre lake has been deeded to the Center for Urban Watershed

Renewal until it can be transferred to the state of California for public use.

The transfer protects wetlands and habitat for nearly 350 wildlife species that include an endangered butterfly and 17 other threatened species, said Mike Gage, a regional director for the Trust for Public Land who helped negotiate the swap.

The shallow lake, which has no outlet and is often dry, has belonged to Sierra Army Depot since 1933, when the Department of Defense acquired it from the state. During the 1940s and 1950s, Honey Lake was used to dispose of obsolete munitions.

The Army had no further need for it after construction of a new demolition Site and tried to return the lake to California ownership in 1985, but state officials insisted that it be completely free of spent munitions and other hazardous materials before they would take possession.

In May, Congress approved new regulations allowing transfer of property suitable for conservation purposes. Army officials moved quickly, launching negotiations to deed Honey Lake to interim ownership until they could complete the transfer to the state. They contacted the Trust for Public Land (TPL), the Massachusetts-based Center for Urban Watershed Renewal and other groups that are now part of the Honey Lake Conservation Team, which will temporarily manage the lake.

Lassen County officials were initially wary; TPL is a conservation organization known for land acquisitions that sometimes halt traditional land uses such as ranching and logging, and Lassen County has always relied heavily on natural resource industries including logging and ranching. But months of negotiations quieted fears and convinced Lassen officials that the property transfer will ultimately benefit the county and the public in general.

Several steps must be taken before the lake can be transferred to public ownership including developing management measures to protect the endangered Carson wandering skipper, a thumb-sized butterfly. A plan must also be developed to protect cultural resources; and a conservation plan and environmental impact report, which includes certifying that the lakebed is clean and resolving encroachments by private property owners adjacent to the lake must be completed.

Until the Army completes a full review of the property, it retains responsibility for any hazards. Lassen County also acquired more than 2,000 acres near the lakebed through the land swap.

California: Judge Voids Stockton Sale

The Sacramento Bee reports that a Superior Court judge dealt a crippling blow against a water privatization venture by throwing out a \$600 million water contract that the City Council had signed with a European conglomerate, OMI-Thames. His decision stunned supporters. The city plans to appeal the ruling.

Not everyone was unhappy with the judge's decision: "The city and mayor were so eager to push this project, they did not involve the public," said Sylvia Kothe, chairwoman of Concerned Citizens of Stockton, a coalition of privatization opponents.

A subsidiary of a German conglomerate, RWE Aktiengesellschaft, OMI-Thames is one of three European water corporations seeking to operate public water utilities. It's a trend that has disturbed labor, church and environmental groups, including some in Stockton that filed suit against the city earlier this year.

In October, McNatt ruled that Stockton had violated the California Environmental Quality Act by not conducting a full public review. In this decision he reaffirmed that decision and went further, declaring the contract should be voided.

See article, references in Nov. 03 *National Water Rights Digest*; www.sacbee.com . December 6, 2003

Supply

Western Snowpack

SNOW - PRECIPITATION UPDATE Based On Mountain Data
From NRCS Snotel Sites MONDAY: JANUARY 12 , 2004

STATE	RIVER BASIN	PERCENT OF AVERAGE		
		Number of Sites	Snow Water Equivalent	Accum Precip
Alaska				
	Anchorage/Ship Creek Basin	0 of 2	*	*
	Susitna Basin	1 of 2	60	90
	Northern Kenai Mountains	4 of 6	133	126
	Southern Kenai	1 of 3	*	*
	Chena Basin	4 of 6	106	21
	Upper Tanana	1 of 1	97	100
	Koyukuk Basin	1 of 3	*	134
	Central Yukon Basin	0 of 2	*	29

Seward Peninsula	0 of 3	*	*
Kuparuk River Basin	0 of 1	*	84
Southeast Alaska Basin	0 of 1	*	*
Arizona			
Salt River Basin	8 of 8	40	70
Verde River Basin	5 of 5	51	64
Central Mogollon Rim	3 of 3	45	72
Little Colorado - Southern Headwaters ...	4 of 4	42	72
San Francisco River Basin ...	5 of 5	32	73
Gila River Basin	3 of 3	25	63
California			
Northern Great Basin	4 of 4	140	116
Truckee River	7 of 7	146	111
Lake Tahoe	8 of 8	150	107
Carson River	4 of 7	146	111
Walker River	5 of 6	141	113
Klamath	9 of 11	131	98
Colorado			
Gunnison River Basin	12 of 12	119	108
Upper Colorado River Basin	27 of 28	96	92
South Platte River Basin	14 of 15	70	74
Laramie And North Platte River Basins ...	13 of 13	96	95
Yampa And White River Basins	13 of 14	105	103
Arkansas River Basin	6 of 6	80	78
Upper Rio Grande Basin	9 of 10	109	103
San Miguel, Dolores, Animas & San Juan River Basins	14 of 15	112	102
Idaho			
Idaho Panhandle Region	11 of 17	97	94
Clearwater Basin	13 of 15	106	101
Salmon Basin	21 of 22	102	90
Weiser Basin	3 of 4	108	90
Payette Basin	8 of 11	116	94
Boise Basin	9 of 11	116	106
Big Wood Basin	8 of 9	111	100
Little Wood Basin	4 of 5	129	107
Big Lost Basin	4 of 5	119	101
Little Lost, Birch Basins ...	4 of 4	96	86
Medicine Lodge, Beaver, Camas Basins ...	6 of 6	124	103
Henry's Fork, Teton Basins ...	8 of 9	129	114
Snake Basin Above Palisades	16 of 19	110	103
Willow, Blackfoot, Portneuf Basins ..	4 of 5	119	104
Oakley Basin	3 of 3	122	108
Salmon Falls Basin	5 of 5	126	109
Bruneau Basin	5 of 5	133	105
Owyhee Basin	7 of 8	146	116
Bear River Basin	14 of 15	107	100
Montana			
Kootenai River Basin	7 of 8	93	94
Flathead River Basin	15 of 15	84	89
Upper Clark Fork River Basin	15 of 15	101	92
Bitterroot River Basin	7 of 7	104	100
Lower Clark Fork River Basin	5 of 8	92	89
Jefferson River Basin	19 of 19	97	92
Madison River Basin	10 of 11	110	104
Gallatin River Basin	6 of 7	93	90
Missouri Headwaters	30 of 31	102	97
Headwaters Missouri Mainstem ...	5 of 5	103	97
Smith, Judith, And Musselshell River Basins .	9 of 9	111	107
Sun, Teton And Marias River Basins ..	6 of 6	88	94
Missouri Mainstem River Basin	20 of 20	101	101
St. Mary And Milk River Basins ..	3 of 3	83	93
Upper Yellowstone River Basin	22 of 23	90	94
Wind River Basin (Wyoming)	12 of 12	87	88

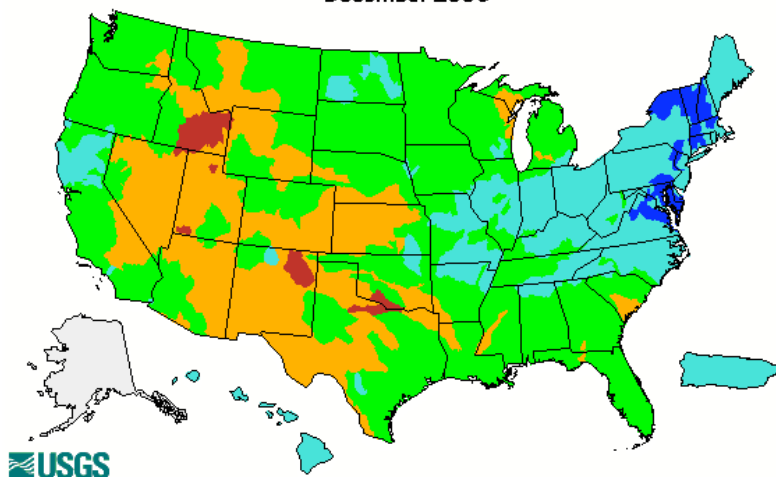
Shoshone River Basin (Wyoming) ..	6 of 6	86	98
Bighorn River Basin (Wyoming)	16 of 16	89	93
Tongue River Basin (Wyoming)	5 of 6	89	91
Powder River Basin (Wyoming)	6 of 6	114	89
Lower Yellowstone River Basin	31 of 32	92	91
Nevada			
Northern Great Basin	4 of 4	140	116
Truckee River	7 of 7	146	111
Lake Tahoe	8 of 8	150	107
Carson River	4 of 4	146	111
Walker River	5 of 5	141	113
Snake River	3 of 3	127	108
Owyhee River	5 of 6	143	113
Upper Humboldt River	5 of 5	126	106
Lower Humboldt River	3 of 5	128	101
Clover Valley	1 of 1	108	107
Eastern Nevada	3 of 3	110	73
New Mexico			
Rio Chama River Basin	4 of 4	109	87
Sangre De Cristo Mountain Range Basins ..	9 of 9	63	66
Jemez River Basin	3 of 3	43	53
San Francisco River Basin ...	3 of 3	20	70
Gila River Basin	3 of 3	25	63
Mimbres River Basin	2 of 2	22	60
Pecos River Basin	1 of 1	49	53
San Juan River Headwaters ...	4 of 5	123	116
Animas River Basin	7 of 7	110	100
Cimarron River Basin	2 of 2	78	72
Zuni/Bluewater River Basin	1 of 1	47	75
Rio Hondo Basin	1 of 1	16	68
Oregon			
Owyhee	7 of 7	146	116
Malheur	3 of 3	128	108
Grand Ronde, Powder, Burnt, Imnaha ...	13 of 14	100	96
Umatilla, Walla Walla, Willow ...	7 of 9	103	99
John Day	9 of 10	120	101
Deschutes, Crooked	11 of 11	125	102
Lower Columbia, Hood River	7 of 7	134	95
Coast Range	2 of 2	163	81
Willamette	18 of 18	123	99
Rogue, Umpqua	8 of 10	143	100
Klamath	9 of 14	131	98
Lake County, Goose Lake	6 of 9	143	101
Harney	7 of 7	128	103
Utah			
Bear River	8 of 9	110	103
Weber-Ogden Rivers	14 of 15	126	111
Provo R.-Utah Lake-Jordan R.	13 of 15	128	112
Tooele Valley-Vernon Creek	3 of 3	149	109
Green River	6 of 6	109	103
Duchesne River	12 of 12	117	107
Price-San Rafael	4 of 5	110	102
Dirty Devil	3 of 3	110	110
South Eastern Utah	3 of 3	132	97
Sevier River	13 of 15	120	105
Beaver River	2 of 2	124	133
Escalante River	2 of 3	78	101
Virgin River	7 of 7	114	92
Washington			
Priest, Coeur D'alene, St. Joe, Spokane, Palouse Basins	11 of 13	97	94
Columbia Above Methow	4 of 5	87	96
Chelan, Entiat, Wenatchee ...	7 of 8	77	109
Upper Yakima	4 of 5	101	101

Lower Yakima	7 of 7	109	100
Walla Walla, Touchet	2 of 4	104	99
Lewis, Cowlitz	8 of 10	114	92
White, Green, Puyallup	5 of 8	99	93
Cedar, Snoqualmie, Skykomish, Tolt ..	6 of 9	122	97
Baker, Skagit, Nooksack	4 of 9	*	122
Olympic	1 of 3	*	*
Wyoming			
Snake River	12 of 14	113	103
Upper Yellowstone-Madison	13 of 13	104	102
Wind River	9 of 9	94	89
Bighorn Basin	16 of 16	89	93
Shoshone River	7 of 7	83	96
Powder-Tongue	11 of 12	102	90
Belle Fourche	3 of 3	79	77
Upper N. Platte River	11 of 11	102	104
Lower N. Platte - Sweetwater - Laramie ...	10 of 10	90	90
Little Snake River	5 of 5	117	110
Upper Green River	10 of 11	99	99
Lower Green River	7 of 7	97	90
Upper Bear River	7 of 7	105	97

The Snow Water Equivalent Percent of Average represents the snow water equivalent found at selected SNOTEL sites in or near the basin compared to the average value for those sites on this day. The Accumulated Precipitation Percent of Average represents the total precipitation (beginning October 1st) found at selected SNOTEL sites in or near the basin compared to the average value for those sites on this day.

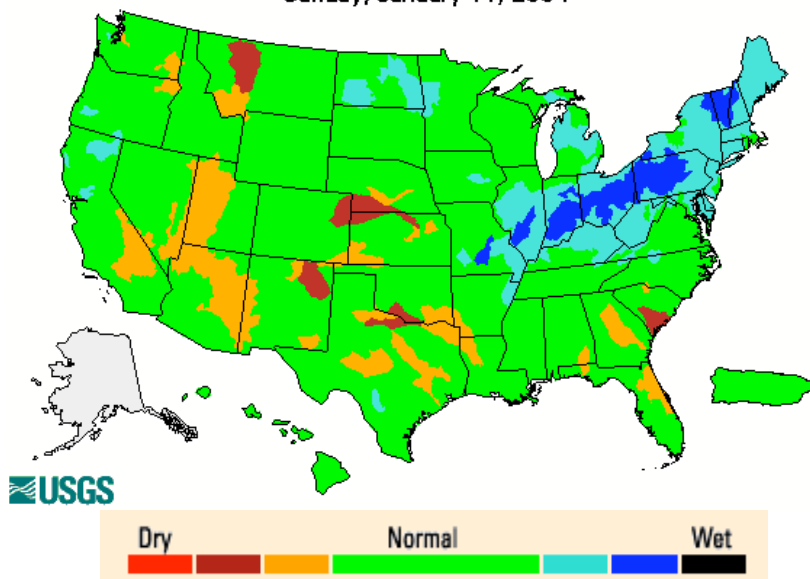
Monthly-average streamflow for the month of the year

December 2003





Map of 7-day median streamflow compared to historical streamflow
Sunday, January 11, 2004



BuRec Begins Yakima Basin Drilling

The Bureau of Reclamation will oversee drilling in December as part of a federal feasibility study aimed at finding options for additional water storage to benefit the Yakima River Basin.

The project is under Reclamation's Yakima River Basin Water Storage Feasibility Study that was authorized by Congress in February 2003. Subsequent phases of the investigation will include geophysical surveys along the alternate alignment to help select a site for drilling of a deeper 400 foot exploration hole in January, 2004, that will explore a foundation for the proposed dam.

In February, 2004, a second companion hole will then be drilled to perform detailed ground-water tests to evaluate the permeability of the foundation materials and the potential for leakage between individual aquifers.

Contact: John Redding (208) 378-5212; Norbert Ries (509) 575-5848 ext. 203 TDD: 711 Pacific Northwest Region; Boise, Idaho Dec. 9, 2003

Blasting Set for American River Canyon

Blasting began December 16 to break up large rocks in the dry North Fork, American River channel to continue clearing the channel for future restoration efforts for the Placer County Water Agency Pump Station Project (Project).

Blasting operations will continue through some time in early January, with a 4-day break at the Christmas and New Year holidays.

David Jones of Reclamation's Public Affairs Office at 916-978-5108 (TDD 916-978-5608). For additional information 800-742-9474 and press "25."

Draft Rio Grande EIS Posted

The International Boundary Water Commission has posted the draft EIS for River Management Alternatives for the Rio Grande Canalization Project.

To review the DEIS go to:

http://www.ibwc.state.gov/EMD/RGCP_DEIS/USIBWC_RGCP_DEIS.html

Washington: Ecology OKs Water Rights

The state Department of Ecology approved water rights for an Aberdeen cranberry processor, a Mason County utility serving homes and businesses near Union, and for a real estate development near Roy in Pierce County.

Ocean Spray Cranberries Inc. received a new, year-round right to tap an additional 500 gallons per minute beyond its existing limit of 200 gallons per minute.

Mason County Public Utility District received two new water rights that together will allow 683 new water hook-ups in the Union area. As a condition of the approval, the utility must monitor and report underground water levels and test for contamination from seawater.

Ecology also approved a request from the developer of Lacamas Valley Ranches near Roy to change an existing water right from agricultural to drinking-water use. This approval allows for 124 new water hookups.

Dept. of Ecology Contact: Sandy Howard, public information manager, 360-407-6239

California: Machado Bill Prohibits Increased Pumping

Senator Michael J. Machado (D-Linden) announced the release of Preprint Senate Bill No. 2 which prohibits additional water pumping from the Sacramento-San Joaquin Delta (Delta), called for in a plan crafted behind closed doors by state and federal water officials.

In July of 2003 state and federal water officials met for a series of secret meetings to increase water pumping from federal water pumps located in Tracy. The result of these meetings, known as the "Napa Agreement," increases water supplies by enhancing water contractors operational flexibility and to determine how the additional water will be allocated. The result would be as much as one million acre feet of water per year being sent south of the Delta.

The introduction of the preprint will serve as a vehicle for discussion prior to the introduction of legislation when the Legislature reconvenes on January 5, 2004.

The Napa Agreement allows additional pumping making the water quality standards more difficult, if not impossible to meet.

Contact: Kristin Stauffacher 916-445-2407.

<http://democrats.sen.ca.gov/servlet/gov.ca.senate.democrats.pub.members.memDisplayPress?district=sd05&ID=1969>

California: Owens River Restoration May Begin

Mayor Jim Hahn praised a tentative agreement among the Los Angeles Department of Water and Power, Inyo County, environmental groups, and state agencies to restore water to a 62-mile stretch of the Owens River. The agreement brings the parties closer to settling more than 30 years of legal disputes over the city's groundwater pumping in Inyo County.

The proposed agreement, which is subject to approval by all parties involved in the current litigation, paves the way for LADWP to go forward with one of the nation's largest river restoration projects. The LADWP Board of Water and Power Commissioners is scheduled to consider the agreement during a closed session on Wednesday, December 17.

The Lower Owens River Project will return a steady flow of water from the Los Angeles Aqueduct to the Owens River below Big Pine and down to the Delta of Owens Lake.

Elements of the agreement are confidential until it is considered by the governing bodies of all parties.

In November 2002, the LADWP and Inyo County released a draft Environmental Impact Report (EIR) describing details of the project. Since then, LADWP administrators have been working to resolve several outstanding issues with Inyo County and other parties, including the State Lands Commission, the California Department of Fish and Game, the Owens Valley Committee and the Sierra Club.

The legal disputes date back to 1972, when Inyo County filed a lawsuit against LADWP over the construction and operation of the second Los Angeles Aqueduct, contending that groundwater pumping to fill the aqueduct caused environmental damage and violated state law. The lawsuit called for the city to provide an environmental impact study of increased groundwater pumping under the recently enacted CEQA laws.

In 1991 the city approved an Environmental Impact Report that identified the LORP as mitigation for Owens Valley water-gathering activities by the city. The project was further defined in a 1997 memorandum of understanding, which essentially settled the original lawsuit and outlined deadlines for implementing the LORP and other mitigation measures.

<http://www.ladwp.com/ladwp/cms/ladwp005211.jsp> Carol Tucker, (213) 367-1815
carol.tucker@ladwp.com ; Chris Plakos/Bishop (760) 873-0264 chris.plakos@ladwp.com

Resources

Nevada: APHIS Posts DEIS on Saltcedar

The Animal Plant and Health Inspection Service has posted the Draft Environmental Impact Statement for a Proposed Program for Saltcedar Control in Fourteen States. The DEIS can be found at <http://www.aphis.usda.gov/ppd/es/ppq/diorhabgendr.pdf>.

Saltcedar, also known as tamarisk can survive flood, fire and drought, and proliferates in streambeds where it is depleting already scarce water supplies. APHIS scientists are proposing releasing a small Asian beetle, *Diorhabda elongata*, or more commonly, a leaf beetle, that will defoliate the troublesome shrub. The beetle feeds exclusively on tamarisk. It has been shown to "reduce the abundance" of saltcedar, according to the DEIS.

Saltcedar is indigenous to Asia but has grown throughout the American Southwest since the early 1800s when it was planted for windbreaks and erosion control. Like so many other transplants it has become a pest, infesting river systems, draining groundwater and crowding out native plants.

In 1999, scientists placed field cages of beetles at sites throughout the West. In Nevada they were deployed in Schurz and Lovelock, and at the Stillwater National Wildlife Refuge. Two years later, the beetles were released into control areas and their behavior was monitored. The APHIS study concludes no threatened or endangered species will be adversely affected by the beetle, or by the thinning of saltcedar.

Saltcedar does provide a nesting place for the endangered willow flycatcher in Arizona, New Mexico and parts of Southern Nevada, and nesting sites for a variety of other birds such as the white-winged dove, mourning dove, Bell's viero and the black-throated sparrow, and food for bees, jackrabbits and bears. It's also a popular landscaping plant. APHIS plans to release the beetle into Colorado, North Dakota, South Dakota, Iowa, Nebraska, Nevada, Kansas, Missouri, Montana, Idaho, Oregon, Washington, Utah and Wyoming.

Contact: Robert Richard; APHIS; USDA – Western Region; 2150 Centre Ave., Bldg. B, MS 3E10; Fort Collins, CO 80526-8117; 970-494-7500

California: No Good Deed Unpunished

For over two decades students at Casa Grande High School in Petaluma, CA have worked on cleaning up and restoring anadromous fish-spawning habitat in a local creek, receiving awards for its work. The school also operates a fish hatchery.

Now, the *Sonoma Press Democrat* reported December 18, officials with the Sonoma County Water Agency are saying that the plants weren't the correct ones for that area, and if by some chance there were to be upstream flooding, the school and school district could be held liable.

Officials from the school district, the city of Petaluma and the Water Agency are meeting to discuss the issue.

http://www.pressdemocrat.com/local/news/18creek_a1.html

Washington: Shoreline Plans Underway

Local cities and counties are already lining up to modify their shoreline master programs to reflect revised guidelines adopted by the state Department of Ecology. The revisions represent the first comprehensive update of the state guidelines in 30 years.

Over the next decade, cities and counties (about 250 in all) must update their shoreline master programs to be consistent with the new guidelines. Local master programs regulate new

development and use of shorelines along rivers and larger streams, lakes over 20 acres and marine waterfronts within their jurisdictions.

Under legislation adopted by the legislature earlier this year, Bellingham, Port Townsend, Snohomish County and Whatcom County must complete their updates by the end of 2005. The legislature provided \$2 million in the 2003-05 state budget to start the local updates, with additional appropriations expected over the next decade for the remaining cities and counties.

Under the state guidelines, cities and counties will inventory the shorelines in their jurisdictions and analyze the ecological functions provided, as the foundation for updating their shoreline master programs. The guidelines then outline a variety of tools a jurisdiction may use to protect shoreline ecological functions while accommodating needed shoreline development.

More information about the shoreline guidelines is provided at www.ecy.wa.gov/programs/sea/SMA/guidelines/index.html.

Media contacts: Sheryl Hutchison, Communication Director, 360-407-7004; Peter Skowlund, Shorelands Program, 360-407-6522

Meetings/events

- **January 11-14** – 2004 Water Sources Conference & Exposition; Austin, TX; American Water Works Association
- **January 27 – 29** Idaho Water Users Association Annual Convention; Doubletree Riverside, Boise, IA
<http://www.iwua.org/convention/2004.html>
- **March 4:** Salinity Drainage Program: Annual Meeting, Sacramento, CA; University Of California Center For Water Resources <http://www.waterresources.ucr.edu/>
- **March 24 – 26,** National Water Resources Association: Federal Water Seminar, Washington, DC; Contact nwra@nwra.org, 703- 524-1544;
- **March 31 – April 2** – Western States Water Council 143rd Meeting; Las Vegas, NV; Cheryl Redding, 801-561-5300
credding@wswc.state.ut.us
- **May 17-19** Spring Specialty Conference, Gis & Water Resources; Nashville, TN
- **June 28-30** 2004 Summer Specialty Conference: Riparian Ecosystems And Buffers; AWR; Resort At Squaw Creek, Olympic Valley, CA
- **July 14 – 16** Western States Water Council; Summer Meeting; Newport, OR



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