

LAS VEGAS VALLEY WATERSHED ADVISORY COMMITTEE

Southern Nevada Water Authority
100 City Parkway
Las Vegas, NV
September 9, 2014
2:00 p.m.

Members Present: Dan Fischer, *Clark County Water Reclamation District (alt. CCWRD)*
Priscilla Howell, *City of Henderson (COH)*
David Johnson, *Las Vegas Valley Water District (LVVWD)*
Zane Marshall, *Southern Nevada Water Authority (SNWA)*
Dave Mendenhall, *City of Las Vegas (alt. CLV)*
Steve Parrish, *Clark County Regional Flood Control District (alt. CCRFCD)*

Also Present:

Keiba Crear	Erin Neff
Gerry Hester	Colby Pellegrino
Zack Hills	Brenda Pohlmann
Ebrahim Juma	Peggy Roefer
Ganesh Kadam	Tim Sutko
Carol Lane	Andrew Trelease
Lisa Luptowitz	Debbie Van Dooremolen
Tom Maher	

1. Welcome/Call to Order

Zane Marshall called the meeting to order at 2:00 p.m.

2. Public Comment

Seeing no request for public comment, Zane moved forward with the meeting.

3. Introductions

Participants introduced themselves.

4. Approve July 8, 2014 Meeting Summary

Motion to approve the summary passed.

5. Receive an Informational Update on Matters Related to the Las Vegas Valley Watershed Advisory Committee (LVVWAC) on Items that may appear on Future Regular Board Meetings of LVVWAC Members' Appointing Agencies

Zane Marshall, Southern Nevada Water Authority (SNWA), stated that SNWA is seeking a joint funding agreement between SNWA and the United States Geological Survey to continue funding 14 stream gages on the Virgin River, Muddy River and the Las Vegas Wash. Dan Fischer, Clark County Water Reclamation District (CCWRD), said that plans to improve the Las Vegas Wash located on the CCWRD property will go before their board for approval.

6. Receive Reports from Representatives from the Following Committees: Las Vegas Wash Coordination Committee, Stormwater Quality Management Committee

Keiba Crear (SNWA) provided the update on the Las Vegas Wash Coordination Committee (LVWCC) by reviewing the coordination efforts of various subcommittees, the LVWCC, and LVVWAC. To date, 16 erosion control structures and 400 acres of revegetation have been completed. Water quality monitoring continues and the water quality database is maintained for member agencies to share data. New grant funding agreements help offset the cost of ongoing programs such as the revegetation program and threatened and endangered bird monitoring. There is less than 100 acres of tamarisk remaining, down from 1,500 acres when the project began. The Green-Up event is to take place on October 4th. This event will have a vendor fair and activities for kids to commemorate the 25th event. An avoidance abatement plan is being developed for a significant cultural resources site located near the D-14 and Tropicana Outfall weirs.

Steve Parrish, Clark County Regional Flood Control District (CCRFGD), provided the update for the Stormwater Quality Management Committee. Details from the Nevada Division of Environmental Protection (NDEP) audit were not available; the results should be available by the October meeting. EPA did not conduct a separate audit. The current permit expires February 2015 and an application for a new permit is being prepared.

7. Receive Update on United States Environmental Protection Agency (EPA), Waters of the United States Notice of Proposed Rulemaking and Direct Staff Accordingly

Lisa Luptowitz (SNWA) provided a presentation on the proposed rulemaking under the Clean Water Act. The proposed rule was issued by the EPA and United States Army Corps of Engineers (Corps) on April 21, 2014, to provide clarity to implementation of the regulations in response to Supreme Court decisions. Comments opposing the rule have been submitted by Congress, elected officials, and various organizations. HR 5078 passed the House Transportation and Infrastructure Committee, and it is under the consideration of the full House this week. Policy riders have been included in appropriation bills to preclude the EPA and Corps from implementing or adopting the regulations.

In the proposed rule, waters of the United States are defined as all waters currently or previously used for interstate or foreign commerce; interstate waters; territorial seas; impoundments of a traditional navigable water; all tributaries of a traditional navigable water, including ephemeral and intermittent drainages; all waters, including wetlands, adjacent to a traditional navigable water; and “other waters” to be determined case by case where a “significant nexus” to a traditional navigable water exists. The EPA has never previously defined “tributary,” but does in the proposed rule, bringing under Federal jurisdiction all tributaries that affect the chemical, physical, and biological integrity of downstream navigable waters. Of note is the biological component. Biological life cycle analyses will now be used to determine whether a water is jurisdictional. Both aquatic and non-aquatic wildlife may be used to establish a biological connection.

For the first time, specific exemptions are included in the proposed rule. Waste treatment systems, artificial lakes or ponds, and reflecting pools are excluded, as is groundwater. A concern of the LVVWAC’s was the inclusion of ditches. Ditches are exempt only if they meet

three criteria: excavated wholly in uplands, drain only uplands, and have less than perennial flow. The rule did not provide a definition of uplands. A ditch may be excluded if it does not contribute flow to the tributary system of a traditional water of the United States; however, a non-jurisdictional ditch may still be used as a surface hydrological connection for determining whether an “adjacent” water is jurisdictional.

Other areas of concern in the proposed rule are adjacent waters and “other waters.” For adjacent waters, the connection can be established by shallow subsurface hydrology and the waters can be separated by uplands, as long as there is a chemical, physical or biological connection. “Other waters” will be determined on a case-by-case basis by establishing a significant nexus based on whether the water significantly affects the chemical, physical and biological integrity of a water of the United States.

The view of many is that the proposed rule expands the reach of EPA and Corps jurisdiction and will increase Clean Water Act permitting. This is due to the watershed approach being taken, as it seems that if one drainage in the watershed is jurisdictional, then all drainages in the watershed are jurisdictional. The vague definition of “significant nexus” will probably result in increased uncertainty as regional offices will likely interpret the term in different ways. A small benefit is that, based on the watershed approach used in the rulemaking, reduced documentation may be possible within jurisdictional watersheds.

The proposed comment letter focuses on ditches, specifically related to wastewater treatment operations. Steve Parrish stated that CCRFCD submitted a comment letter that addressed ditches and adjacent floodplains as jurisdictional. Steve provided a copy of the CCRFCD letter. HR 5078 has over 120 co-sponsors, and the National Association of Flood and Stormwater Management Agencies is supporting the bill. Various agencies addressed similar issues with the rule in their comment letters; however, Coalition of Real Estate Associations, in their comment letter, suggested regulating wetlands using Corps 404 permits and regulating tributaries using National Pollutant Discharge Elimination System (NPDES) permits. Steve agreed that the proposed comment letter was consistent with CCRFCD concerns. Dan Fischer (CCWRD) commented that the letter was fine but should be on LVVWAC letterhead for submittal. The comment letter is due by mid-October 2014. A motion to postpone approving the letter until the October 2014 meeting passed.

8. Receive Update of the NDEP audit results of the joint Las Vegas Valley stormwater NPDES permit

Ebrahim Juma stated that the audit results were not available.

9. Discuss and Approve Letter in Support of the Lower Las Vegas Wash Stabilization Program

An updated comment letter in support of the lower Las Vegas Wash stabilization project was drafted and reviewed. Gerry Hester (SNWA) informed the members that the updated memo included support of a sixth erosion control structure that was not included in the original memo because of lower lake levels. Zane proposed to table the letter until the October 2014 meeting and to include an agenda item to discuss legislative strategies. A motion to postpone approval until the next meeting passed.

10. Receive Update on Colorado River Basin Hydrology and Drought Conditions

Colby Pellegrino (SNWA) provided the update. The hydrology of the Colorado River Basin is driven by rain and snowfall in the Upper Basin. Water operations are guided by the 2007 Colorado River Interim Guidelines for Lower Basin Shortages and Coordinated Operations for Lake Powell and Lake Mead. Colby began her presentation with a graph illustrating the natural flow since 1999. Cumulatively, the runoff during this period is over 20.5 million acre-feet (maf) less than average.

The drought monitor indicates a persistent drought in the Lower Basin but normal conditions in the Upper Colorado River Basin, which primarily affects the inflow into Lake Mead. The Colorado River Basin received 180% of average precipitation in August 2014. August inflow to Lake Powell was 103% of average. Water year 2014 precipitation was 102% of average. The forecasted inflow into Lake Powell for water year 2014 is 95% of average. In 2013, the inflow forecast for August was 40% of average, with actual precipitation at 81% of average.

Lake Powell is at an elevation of 3,065.73 feet, is storing 12.3 maf and is 51% full. Lake Mead is 39% full, is storing 10.1 maf and is at elevation 1,081.30 feet. The total system storage is 51% full and is storing 30.1 maf. Lake Mead is projected to gain two feet by the end of the year, raising the surface elevation from 1,081 to 1,083 feet by December 31, 2014.

Water operations within the basin are based on the August 24-month study completed by the Bureau of Reclamation. In water year 2015, Lake Powell's operation will be governed by the Upper Elevation Balancing Tier with an initial release volume of 8.23 maf. An adjustment to equalization or balancing is likely to occur in April. The most probable release based upon the projected adjustments in April is 9.0 maf.

Colby shared a graph displaying past and projected Lake Mead elevations based on August 2014 probable, minimum and maximum inflow scenarios. A table produced by the Bureau of Reclamation provided probabilities of shortage conditions on Lake Mead and Lake Powell from 2015 – 2019. Notable on the chart was a 36% chance of first level shortage being declared in 2016.

11. Set Next Meeting Date and Propose Items for the Next Meeting's Agenda

The next meeting is scheduled for October 14, 2014. Items to be addressed at the next meeting include approving the comment letter regarding Waters of the United States Notice of Proposed Rulemaking and the comment letter in support of lower Las Vegas Wash erosion control projects. The agenda will also include an item to receive an update of the NDEP audit results of the joint Las Vegas Valley stormwater NPDES permit. An update on SNWA's intake pumping station 3 and associated water quality considerations will be included next meeting.

12. Public Comment

There were no comments. Meeting adjourned.