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## MEMORANDUM

August 5, 2014

**TO:** Members of the Water Resources Review Committee

**FROM:** David Beaujon, Senior Analyst, 303-866-4781

**SUBJECT:** Western State Laws and Policies Concerning State Water Plans

### Summary

This memorandum summarizes laws in western states concerning state water plans. Table 1 identifies the states that:

- require periodic updates of their state water plan;
- require legislative approval of a water plan before it can be implemented;
- quantify existing supplies and project water demands in their water plan; and
- use their water plan to guide state funding or permits for water projects.

Table 2 provides additional information about each state water plan including the date of the most recent plan issued; the type of law governing the allocation of water in that state; the issues specified in law to be considered in a state's plan; the regulatory effect of the plan; and the role of the legislature in approving or amending the state water plan.

**Overview.** In May 2013, Governor Hickenlooper issued an executive order directing the Colorado Water Conservation Board (CWCB) to produce a Colorado Water Plan by December 10, 2015. When completed, Colorado will join 11 other western states that have developed a state water plan including Arizona, California, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Texas, Utah, and Wyoming. In general, these plans were drafted to help states prepare for water shortages, meet future water needs, and address other priorities. Most of these state water plans identify a state's natural water supply, existing water uses, and projected water demands. However, each state water plan is a unique expression of that state's hydrology, water law, economy, and the priorities of its citizens and policymakers. Most state water plans are advisory and include recommendations to governors and legislatures regarding how to better prepare for water shortages and meet future water needs. However, some state plans have a regulatory effect, such as prohibiting certain water development projects or guiding state spending for water projects. Two states — California and Colorado — allow their legislatures to amend or reject the state water plan. Oklahoma prohibits its state agency from implementing the state water plan unless expressly authorized by the legislature.

**Table 1  
Summary of State Water Plans**

| <b>State</b> | <b>States That Require Water Plan Updates</b> | <b>States That Require Legislative Approval of Water Plans</b> | <b>States that Require Quantification of Existing Supplies and Future Water Demands in Their Water Plan</b> | <b>States with Water Plans that Guide State Funding or Permits for Water Projects</b> |
|--------------|---|--|---|---|
| Arizona      |   |  | X   |   |
| California   | X   |  | X   |   |
| Colorado     |   |  | X   |   |
| Idaho        |   |  | X   | X   |
| Kansas       | X   |  | X   | X   |
| Montana      | X   |  | X   |   |
| Nevada       |   | X  | X   |   |
| New Mexico   | X   |  | X   |   |
| Oklahoma     | X   | X  |   | X   |
| Texas        | X   |  | X   | X   |
| Utah         |   |  |   |   |
| Wyoming      |   |  | X   |   |

**Table 2  
Major Elements of State Water Plans**

| State   | State Water Law System                  | Major Provisions   | Regulatory Effect | Legislative Approval of Final Plan           |
|---|---|--|-------------------|--|
| <p>Arizona</p> <p>Arizona Water Atlas was released as a draft for public comment and review in 2008.</p> <p>The 2,596 page atlas includes an overview of water management and planning in Arizona; a discussion on water budgets for planning purposes; a summary of water resources; and several appendices that describe data sources and methods of analysis, and provide information on water law and Indian water rights claims and settlements. The atlas is organized into 7 planning areas containing a total of 51 groundwater basins.</p> | <p>Doctrine of prior appropriation.</p> | <p>The Director of the Department of Water Resources may:</p> <ul style="list-style-type: none"> <li>• formulate plans for the development, management, conservation, and use of surface water, groundwater and the watersheds in the state, including the management of water quantity and quality;</li> <li>• investigate works, plans, or proposals pertaining to surface water and groundwater, including management of watersheds; and</li> <li>• measure, survey, and investigate the water resources of the state and their potential development (Ariz. Rev. Stat. § 45-105).</li> </ul> | <p>None</p>       | <p>Legislative approval is not required.</p> |

**Table 2  
Major Elements of State Water Plans (Cont.)**

| State   | State Water Law System  | Major Provisions   | Regulatory Effect  | Legislative Approval of Final Plan  |
|---|---|--|--|---|
| <p>California</p> <p>Last plan issued in 2009.</p> <p>The 1,748 page report includes a strategic plan, resource management strategies, and 10 regional reports.</p> <p>Draft plan released for public comment October 2013.</p> | <p>California doctrine.</p> <p>Rights to use water are subject to state government's obligation under the Public Trust Doctrine as trustee of certain resources for Californians.</p> <p>California's system for surface water rights recognizes both riparian rights and appropriative rights.</p> | <p>The Department of Water Resources must update the California Water Plan every five years to determine the amount of water needed to meet the state's future needs and to recommend programs, policies, and facilities to meet those needs. The report must include:</p> <ul style="list-style-type: none"> <li>• basin hydrology;</li> <li>• groundwater supplies;</li> <li>• current and projected land use patterns;</li> <li>• environmental water needs;</li> <li>• current and projected population;</li> <li>• current and projected water use for residential, commercial, industrial, parks and open space, and agricultural purposes;</li> <li>• evapotranspiration rates for major crops;</li> <li>• current and projected adoption of urban and agricultural water conservation practices;</li> <li>• current and projected water supplies provided by water recycling and reuse; and</li> <li>• potential for alternative water pricing policies to change current and projected residential, commercial, industrial, parks and open space, and agricultural water use (Cal Wat Code § 10004.6).</li> </ul> <p>The Department of Water Resources must also establish an advisory committee comprised of various water interests to assist the department in updating the plan (Cal Wat Code § 10004).</p> | <p>The California Water Plan is the master plan to guide the control, protection, conservation, development, management and efficient utilization of the water resources of the state. It does not constitute approval for the construction of specific projects or routes for transfer of water, or for financial assistance by the state without further legislative action, nor is it to be construed as a prohibition of the development of the water resources of the state by any entity (Cal Wat Code § 10005).</p> | <p>The Department of Water Resources must report to the legislature when it amends or updates the California Water Plan (Cal Wat Code § 10004).</p> <p>The legislature may also adopt — by concurrent resolution or law — amendments, supplements, or additions to the plan (Cal Wat Code § 10004).</p> |

**Table 2  
Major Elements of State Water Plans (Cont.)**

| State   | State Water Law System  | Major Provisions   | Regulatory Effect | Legislative Approval of Final Plan  |
|---|---|--|-------------------|---|
| <p>Colorado</p> <p>The CWCB must provide a draft plan for review by the Governor's Office by December 10, 2014, and complete the final plan by December 10, 2015.</p> | <p>Doctrine of prior appropriation for streams and groundwater connected to streams.</p> <p>Statutory allocation of groundwater not connected to streams.</p> | <p>Executive Order D 2013-005 directs the CWCB to commence work on the Colorado Water Plan. The plan must:</p> <ul style="list-style-type: none"> <li>• promote a productive economy that supports vibrant and sustainable cities, viable and productive agriculture, and a robust skiing, recreation, and tourism industry; and</li> <li>• incorporate an efficient and effective water infrastructure promoting smart land use and a strong environment that includes healthy watersheds, rivers and streams, and wildlife.</li> </ul> | <p>None</p>       | <p>The CWCB must submit the scope, fundamental approach, and basic elements of a draft state water plan to the Water Resources Review Committee (committee) by August 1, 2014. The committee must then hold public hearings in each basin roundtable area (basin) to collect feedback from the public. The committee must provide a summary of the public's feedback as well as its own feedback to the CWCB by November 1, 2014. By July 1, 2015, the CWCB is required to submit a draft state water plan to the committee. The committee must then hold at least one public hearing in each basin to collect feedback from the public. The committee must provide a summary of this feedback as well as its own feedback to the CWCB by November 1, 2015. The committee may repeat this process whenever the CWCB submits a significant amendment to the state water plan. By November 1 of each year following the submission of a state water plan or amendment, any member of the General Assembly may request that the committee hold hearings to review the plan or plan amendment. After holding a public hearing, the committee may recommend legislation based on the results of the review (Section 37-60-106 (1)(u), C.R.S.).</p> |

**Table 2  
Major Elements of State Water Plans (Cont.)**

| State  | State Water Law System                 | Major Provisions   | Regulatory Effect   | Legislative Approval of Final Plan   |
|--|--|--|---|--|
| <p>Idaho</p> <p>Last plan issued in 2012.</p> <p>The 90-page plan includes the statewide water policy plan and associated component basin and water body plans which cover specific geographic areas of the state.</p> | <p>Doctrine of prior appropriation</p> | <p>The Idaho constitution authorizes the state water agency to formulate and implement a state water plan for optimum development of water resources in the public interest (Idaho Const. Art. XV, § 7).</p> <p>Pursuant to state statute, the State Water Board must implement a comprehensive state water plan for conservation, development, management, and optimum use of all unappropriated water resources and waterways of the state in the public interest. The plan must consist of statewide policies, goals and objectives; and component water plans for individual waterways, river basins, drainage areas, river reaches, ground water aquifers, or other geographic designations.</p> <p>In adopting the plan, the board must be guided by the following criteria:</p> <ul style="list-style-type: none"> <li>• existing rights, established duties, and the relative priorities of water established in the state constitution must be protected and preserved;</li> <li>• optimum economic development for the benefit of the state as a whole must be achieved by integration and coordination of the use of water and the augmentation of existing supplies and by protection of designated waterways for all beneficial purposes;</li> <li>• adequate and safe water supplies for human consumption and maximum supplies for other beneficial uses must be preserved and protected;</li> <li>• minimum stream flow for aquatic life, recreation, and aesthetics and the minimization of pollution and the protection and preservation of waterways must be fostered and encouraged and consideration must be given to the development and protection of water recreation facilities; and</li> <li>• watershed conservation practices consistent with sound engineering and economic principles must be encouraged.</li> </ul> | <p>The state water plan may designate protected rivers. For such rivers, the board must then prohibit the following activities:</p> <ul style="list-style-type: none"> <li>• construction or expansion of dams or impoundments;</li> <li>• construction of hydropower projects;</li> <li>• construction of water diversion works;</li> <li>• dredge or placer mining;</li> <li>• alterations of the stream bed; and</li> <li>• extraction of mineral or sand and gravel within the stream bed (Idaho Code Ann. §42-1734A (4)).</li> </ul> | <p>The legislature must affirmatively act by concurrent resolution to adopt, reject, or amend the initial state water plan. Subsequent changes to the plan must be submitted to the legislature and become effective unless amended or rejected by law within 60 days of submission (Idaho Code Ann. § 42-1736).</p> <p>This law was repealed in 2014.</p> |

**Table 2  
Major Elements of State Water Plans (Cont.)**

| State         | State Water Law System | Major Provisions  | Regulatory Effect | Legislative Approval of Final Plan |
|---------------|------------------------|---|-------------------|------------------------------------|
| Idaho (Cont.) |                        | <p>Component water plans for specific water areas must include:</p> <ul style="list-style-type: none"> <li>• a map of the geographic area;</li> <li>• a description of significant resources including existing and planned uses and undeveloped areas; and</li> <li>• a discussion of goals, objectives, and recommendations for improving, developing, or conserving the water resources and waterway or waterways in relation to these resources, including an examination of how different uses will promote the overall public interest, a statement as to the goals the plan expects to achieve, and an analysis of how any specific recommendations further those goals (Idaho Code Ann. § 42-1734A).</li> </ul> |                   |                                    |

**Table 2  
Major Elements of State Water Plans (Cont.)**

| State   | State Water Law System  | Major Provisions   | Regulatory Effect   | Legislative Approval of Final Plan           |
|---|---|--|---|--|
| <p>Kansas</p> <p>Last plan issued in 2009.</p> <p>The 518-page plan includes a history of water planning in Kansas; an overview of statewide water management policies and objectives; and plans for 12 water basins.</p> <p>Next update due in 2014.</p> | <p>Doctrine of prior appropriation.</p> <p>Kansas Department of Agriculture issues permits to appropriate water, regulates usage, and keeps records of all water rights in the state.</p> | <p>The Kansas Water Office, with the approval of the Kansas Water Authority, must annually submit to the legislature and to the Governor an updated water plan containing recommendations which are necessary to achieve the long-range goals and objectives for the management, conservation and development of the waters of the state (Kan. Stat. Ann. § 82a-906).</p> <p>In formulating the plan, the office must consider the:</p> <ul style="list-style-type: none"> <li>• management, conservation, and development of the water resources of the state for the benefit of the state as a whole;</li> <li>• benefits from development of reservoir sites for the combined purposes of flood control, water supply storage, and recreation;</li> <li>• safeguards to public health and aquatic and animal life established by state water quality laws;</li> <li>• water development policies consistent with the beneficial development of other natural resources;</li> <li>• public health and general welfare of the people of the state;</li> <li>• appropriation and other rights to the use of water that exist pursuant to the Kansas law;</li> <li>• interrelationship of groundwater and surface water supplies and the effects of evapotranspiration on water supply;</li> <li>• alternative plans, programs, and projects in the interest of effective water resource management, conservation, and development;</li> <li>• protection of aquatic and other wildlife;</li> <li>• use of waters to augment surface streams for aquatic and other wildlife, improve water quality, and protect the public health;</li> </ul> | <p>State law creates the Kansas Water Plan Fund that receives moneys collected from penalties imposed for certain violations of state water quality and other laws (Kan. Stat. Ann. § 82a-952). Moneys in the fund must be expended in accordance with appropriations acts for implementation of the state water plan including water projects or programs, and related technical assistance. Moneys may not be used to replace full time positions of any state agency, or for recreational projects which do not meet one or more of the long-range goals, objectives, and considerations set forth in the state water resource planning act (Kan. Stat. Ann. § 82a-951).</p> | <p>Legislative approval is not required.</p> |

**Table 2  
Major Elements of State Water Plans (Cont.)**

| State          | State Water Law System | Major Provisions   | Regulatory Effect | Legislative Approval of Final Plan |
|----------------|------------------------|--|-------------------|------------------------------------|
| Kansas (Cont.) |                        | Kansas (cont.) <ul style="list-style-type: none"> <li>• inclusion of conservation storage in reservoir development and planning for the regulation of streamflow for quality control;</li> <li>• state sovereignty over all waters in the state;</li> <li>• plans, projects, and recommendations of public corporations, the federal government, and state agencies prepared pursuant to statutory authority;</li> <li>• plans, recommendations, and projects of private associations or organizations;</li> <li>• the need of the state to control storage in federal reservoirs; and</li> <li>• such other matters as the office deems proper or desirable (Kan. Stat. Ann. § 82a-907).</li> </ul> |                   |                                    |

**Table 2  
Major Elements of State Water Plans (Cont.)**

| State  | State Water Law System   | Major Provisions  | Regulatory Effect   | Legislative Approval of Final Plan   |
|--|--|---|---|--|
| <p>Montana</p> <p>Last plan issued in 1987.</p> <p>The 253-page plan includes an overview of water planning and management in Montana and water management plans for two river basins and a groundwater protection plan.</p> <p>Next update due in 2015.</p> | <p>Doctrine of prior appropriation.</p> <p>Montana Water Court has jurisdiction over the adjudication of pre-1973 water right claims. Post-1973 water rights must obtain a permit from the Department of Natural Resources and Conservation.</p> | <p>The Department of Natural Resources and Conservation must adopt a state water plan that sets out a progressive program for the conservation, development, utilization, and sustainability of the state's water resources and proposes the most effective means by which these water resources may be applied for the benefit of the people, with due consideration of alternative uses and combinations of uses. Sections of the state water plan must be completed for the Missouri, Yellowstone, and Clark Fork River basins, submitted to the 2015 legislature, and updated at least every 20 years. These basinwide plans must include:</p> <ul style="list-style-type: none"> <li>• an inventory of consumptive and nonconsumptive uses associated with existing water rights;</li> <li>• an estimate of the amount of surface and ground water needed to satisfy new future demands;</li> <li>• analysis of the effects of frequent drought and new or increased depletions on the availability of future water supplies;</li> <li>• proposals for the best means, such as an evaluation of opportunities for storage of water by both private and public entities, to satisfy existing water rights and new water demands;</li> <li>• possible sources of water to meet the needs of the state; and</li> <li>• any legislation necessary to address water resource concerns in the identified basins (Mont. Code Ann. § 85-1-203).</li> </ul> | <p>None. State water plan is a recommendation to the legislature.</p> | <p>Legislative approval is not required. The legislature, by joint resolution, may revise the state water plan (Mont. Code Ann. § 85-1-203 (7)).</p> |

**Table 2  
Major Elements of State Water Plans (Cont.)**

| State   | State Water Law System   | Major Provisions   | Regulatory Effect  | Legislative Approval of Final Plan   |
|---|--|--|--|--|
| <p>Nevada</p> <p>Last plan issued in 1999.</p> <p>The 959-page plan discusses water planning and management; identifies water resources; provides socioeconomic data; and discusses policies related to water allocation, water quality, resource conservation and recreational uses, and flood management.</p> | <p>Doctrine of prior appropriation.</p> <p>All surface and ground waters in Nevada belong to the public and are managed by the state. The State Engineer is responsible for the administration of water rights and the approval of new water rights.</p> | <p>The Division of Water Resources was charged with developing a State Water Plan to:</p> <ul style="list-style-type: none"> <li>• provide arid regions with information, alternatives, and recommendations including courses of planning and actions for acquiring additional water or for conserving water;</li> <li>• investigate new sources of water such as desalinization, importation, and conservation;</li> <li>• consider issues of water quantity and quality simultaneously;</li> <li>• develop forecasts of future supply and demand;</li> <li>• include provisions designed to protect the need for water for current and future development in the rural areas of the state, considering the economy and quality of life in the affected areas; and</li> <li>• develop recommendations to the Legislature to improve state water policy (Nev. Rev. Stat. Ann. § 540.101, <i>repealed in 2005</i>).</li> </ul> <p>The law authorizing the Nevada State Water Plan was repealed in 2005. However, state law recognizes the importance of water resource planning in identifying current and future needs for water (Nev. Rev. Stat. Ann. § 540.011). It also requires the Division of Water Resources to compile and update summarized data concerning hydrographic basins to support decisions that the State Engineer makes regarding these basins, and provide this information to the public. The division must also generate and update a summary for each hydrographic basin that shows:</p> <ul style="list-style-type: none"> <li>• whether the basin is designated (State Engineer has greater administrative control over such groundwater);</li> <li>• all appurtenant or associated studies related to the availability of water;</li> <li>• rulings and orders affecting new appropriations of water;</li> <li>• the availability of crop and pumpage inventories;</li> <li>• the availability of data regarding water levels; and</li> <li>• current commitments of water from the basin that are attributable to existing water rights (Nev. Rev. Stat. Ann. § 540.051).</li> </ul> | <p>None. State water plan was a recommendation to the legislature.</p> | <p>The Division of Water Resources was required to obtain legislative approval prior to implementing the plan.</p> |

**Table 2  
Major Elements of State Water Plans (Cont.)**

| State   | State Water Law System  | Major Provisions  | Regulatory Effect   | Legislative Approval of Final Plan   |
|---|---|---|---|--|
| <p>New Mexico</p> <p>Last plan issued in 2003 and updated in 2008.</p> <p>The 85-page plan provides an inventory of the quantity and quality of the state's water resources, population projections, water budgets for the state and for major river basins and aquifers, and policy recommendations.</p> | <p>Doctrine of prior appropriation</p> <p>The New Mexico Constitution establishes that all the water in the state belongs to the public and that unappropriated water is available for appropriation according to state law.</p> <p>The State Engineer has power over the supervision, measurement, appropriation, and distribution of all surface and groundwater in New Mexico.</p> | <p>Every five years, the Interstate Stream Commission, in collaboration with the Office of the State Engineer and the Water Trust Board, must prepare and implement a comprehensive state water plan that is to be a strategic management tool for the purposes of:</p> <ul style="list-style-type: none"> <li>• promoting stewardship of the state's water resources;</li> <li>• protecting and maintaining water rights and their priority status;</li> <li>• protecting the diverse customs, culture, environment, and economic stability of the state;</li> <li>• protecting both the water supply and water quality;</li> <li>• promoting cooperative strategies, based on concern for meeting the basic needs of all New Mexicans;</li> <li>• meeting the state's interstate compact obligations;</li> <li>• providing a basis for prioritizing infrastructure investment; and</li> <li>• providing statewide continuity of policy and management relative to the state's water resources.</li> </ul> <p>The water plan must:</p> <ul style="list-style-type: none"> <li>• identify and reflect the common priorities, goals and objectives that will have a positive impact on the public welfare of the state;</li> <li>• establish a clear vision and policy direction for active management of the state's waters;</li> <li>• include an inventory of the quantity and quality of the state's water resources, population projections, and other water resource demands under a range of conditions;</li> <li>• include water budgets for the state and for all major river basins and aquifer systems;</li> <li>• develop water conservation strategies and policies to maximize beneficial use, including reuse and recycling by conjunctive management of water resources and by doing so to promote nonforfeiture of water rights;</li> <li>• include a drought management plan designed to address drought emergencies, promote strategies for prevention of drought-related emergencies in the future, and coordinate drought planning statewide;</li> <li>• recognize the relationship between water availability and land-use decisions;</li> </ul> | <p>None. State water plan is a recommendation to the legislature.</p> | <p>Following its adoption by the Interstate Stream Commission, the state water plan must be presented to the interim legislative committee that studies water and natural resources (N.M. Stat. Ann. § 72-14-3.1 (G)). No further action is required by the legislature.</p> |

**Table 2  
Major Elements of State Water Plans (Cont.)**

| State              | State Water Law System | Major Provisions   | Regulatory Effect | Legislative Approval of Final Plan |
|--------------------|------------------------|--|-------------------|------------------------------------|
| New Mexico (cont.) |                        | <ul style="list-style-type: none"> <li>• promote river riparian and watershed restoration that focuses on protecting the water supply, improving water quality, and complying with federal Endangered Species Act;</li> <li>• consider water rights transfer policies that balance the need to protect the customs, culture, environment, and economic health and stability of the state's diverse communities while providing for timely and efficient transfers of water between uses to meet both short-term shortages and long-term economic development needs;</li> <li>• promote strategies and mechanisms for achieving coordination with all levels of government;</li> <li>• integrate regional water plans into the state water plan;</li> <li>• integrate plans of water supply purveyors, including those of local governments, privately owned public utilities, associations, cooperatives, irrigation districts, and acequias;</li> <li>• identify water-related infrastructure and management investment needs and opportunities to leverage federal and other funding; and</li> <li>• promote collaboration with the state's national laboratories and research institutions to address the state's water challenges and to bring to the state demonstration projects in desalination, conservation, watershed restoration, weather modification, and other technological approaches to enhancing water supply and management (N.M. Stat. Ann. § 72-14-3.1).</li> </ul> |                   |                                    |

**Table 2  
Major Elements of State Water Plans (Cont.)**

| State  | State Water Law System   | Major Provisions  | Regulatory Effect  | Legislative Approval of Final Plan  |
|--|--|---|--|---|
| <p>Oklahoma</p> <p>Last plan issued in 2012.</p> <p>The 172-page plan contains technical data, policy recommendations, and 13 watershed planning region reports.</p> | <p>Doctrine of prior appropriation for water running in a definite stream which is considered public water subject to appropriation.</p> <p>Groundwater is owned by the owner of the land.</p> | <p>The Oklahoma Water Resources Board is required to prepare a comprehensive state water plan, with decennial updates, that provides for the management, protection, conservation, structural and nonstructural development, and utilization of water resources of the state in accordances with the following principles:</p> <ul style="list-style-type: none"> <li>• maximum use of multiple-purpose dams and reservoir sites where excess or surplus water originates;</li> <li>• water storage during periods of surplus supply for use during periods of short supply and that is in the area of usage;</li> <li>• water use should be developed to the maximum extent feasible for the benefit of Oklahoma so that out-of-state downstream users will not acquire vested rights;</li> <li>• only excess or surplus water should be utilized outside of the areas of origin and citizens within the areas of origin have a prior right to this water for beneficial use; and</li> <li>• water users in need of water for beneficial use are entitled to appropriate water and vest rights in accordance with priorities as provided by law (Okla. Stat. Ann. tit. 82 §-1086.1).</li> </ul> <p>The comprehensive state water plan must include a definition of excess and surplus water of the state and recommend a procedure for determining excess and surplus water to ensure that the area of origin will never be made water deficient (Okla. Stat. Ann. tit. 82 §1086.1).</p> | <p>Fifty percent of the gross production tax revenue (a tax on oil, gas, and other minerals) that is allocated to the Oklahoma Water Resources Board must be used to accomplish all phases and funding needs for the Oklahoma Comprehensive Water Plan (Okla. Stat. Ann. tit. 82 § 1085.7A (D) (2)).</p> | <p>The board is prohibited from implementing the state water plan unless expressly authorized by the legislature (Okla. Stat. Ann. tit. 82 § 1086.2).</p> |

**Table 2  
Major Elements of State Water Plans (Cont.)**

| State   | State Water Law System   | Major Provisions   | Regulatory Effect   | Legislative Approval of Final Plan  |
|---|--|--|---|---|
| <p>Texas</p> <p>Last plan issued in 2012.</p> <p>The 283-page water plan includes 16 regional water plans, identifies water supplies and current water usage, estimates future water needs, and provides policy recommendations to the legislature.</p> | <p>Doctrine of prior appropriation for water rights applications after 1913. Some riparian water rights were granted prior to that date.</p> <p>All surface water is held in trust by the state, which grants permission to use the water.</p> | <p>Every five years, the Texas Water Development Board must adopt a comprehensive state water plan that incorporates regional water plans. The state water plan must provide for the orderly development, management, and conservation of water resources and preparation for and response to drought conditions, in order that sufficient water will be available at a reasonable cost to ensure public health, safety, and welfare; further economic development; and protect the agricultural and natural resources of the entire state. The state water plan must include:</p> <ul style="list-style-type: none"> <li>• an evaluation of the state's progress in meeting future water needs, including an evaluation of the extent to which water management strategies and projects implemented after the adoption of the preceding state water plan have affected that progress; and</li> <li>• an analysis of the number of projects included in the preceding state water plan that received financial assistance from the board.</li> </ul> <p>The state water plan must include legislative recommendations to facilitate more voluntary water transfers. It must also identify river and stream segments of unique ecological value and sites of unique value for the construction of reservoirs that the board recommends for protection (Tex. Water Code § 16.051).</p> | <p>The Texas Natural Resource Conservation Commission may not issue a new water right unless it addresses a water supply need in a manner that is consistent with the state water plan and the relevant regional water plan unless the commission determines that conditions warrant waiver of this requirement (Tex. Water Code § 11.134 (b)(3)(E)).</p> <p>The Texas Commission on Environmental Quality administers a grant program to implement new air emissions control technologies for facilities and other stationary sources. Water usage for such projects must be consistent with the state water plan (Tex. Health &amp; Safety Code § 391.201 (f)).</p> | <p>The plan must be provided to the Governor, the Lieutenant Governor, and the Speaker of the House of Representatives and presented for review to the appropriate legislative committees (Tex. Water Code § 16.051 (e)).</p> <p>The legislature may designate a river or stream segment of unique ecological value and preclude state agencies and political subdivisions from financing a reservoir on the river or stream. It may also designate a site of unique value for the construction of a reservoir. State agencies and political subdivisions would thereby be precluded from obtaining a fee title or easement that would prevent the development of that reservoir site (Tex. Water Code § 16.051 (f) and (g)).</p> |

**Table 2  
Major Elements of State Water Plans (Cont.)**

| State   | State Water Law System  | Major Provisions   | Regulatory Effect | Legislative Approval of Final Plan           |
|---|---|--|-------------------|--|
| <p>Utah</p> <p>Last plan issued in 2001.</p> <p>The 88-page plan estimates Utah's available water supply, projects water demands, identifies policies to meet future water demands, and to protect water quality and the environment. The Division of Water Resources also drafted separate plans, with similar provisions, for three river basins.</p> | <p>Doctrine of prior appropriation</p> <p>All surface and subsurface waters are held in trust by the state as public property. The use of these waters is subject to rights administered by the State Engineer.</p> | <p>The director of the Division of Water Resources has the power within policies established by the Board of Water Resources to initiate and conduct water resource investigations, surveys, and studies; prepare plans and estimates make reports; and perform necessary work to develop an over-all state water plan (Utah Code § 73-10-19).</p> | <p>None.</p>      | <p>Legislative approval is not required.</p> |

**Table 2  
Major Elements of State Water Plans (Cont.)**

| State  | State Water Law System   | Major Provisions   | Regulatory Effect | Legislative Approval of Final Plan           |
|--|--|--|-------------------|--|
| <p>Wyoming</p> <p>Last plan issued in 2007.</p> <p>The 542-page plan includes plans for each of the state's seven basins and a framework water plan. The framework plan includes an inventory of the state's water resources and related lands; a summary of current water uses; and a projection of future water needs. It also identifies policies to meet future water needs.</p> | <p>Doctrine of prior appropriation</p> <p>Under the Wyoming Constitution, all natural waters in the state are the property of the state. The Wyoming State Engineer's Office is charged with the regulation and administration of the water resources, including the approval of new water rights.</p> | <p>The Wyoming Water Development Commission must formulate and revise water and related land resources plans for the state of Wyoming and for its regions and river basins. The plans must implement the policies stated in the Wyoming Constitution and in statutes pertaining to the state's water and related land resources (Wyo. Stat. § 41-2-107).</p> <p>The water resources plans must, to the extent deemed practical:</p> <ul style="list-style-type: none"> <li>• identify, describe, and inventory the occurrence, amounts, availability, and quality of water resources, current uses of water, activities that affect the quality of water, and activities that are dependent on, affected by, or relate to water and uses of water;</li> <li>• identify and describe prospective needs and demands for water and opportunities for water development, control, withdrawal, storage, conservation, supply, distribution, drainage, and disposal;</li> <li>• identify and specify for each plan appropriate state, regional, and local goals and objectives for management of water resources, including the obtaining of economic efficiency and a desirable distribution of income, the protection of the health, safety, and welfare of the people, the protection and encouragement of particular industries and activities, the protection and enhancement of the environment and recreation; and</li> <li>• evaluate and compare prospective and anticipated uses and projects, uses of alternative sources of water, and alternative uses of water (Wyo. Stat. § 41-2-109).</li> </ul> | <p>None.</p>      | <p>Legislative approval is not required.</p> |