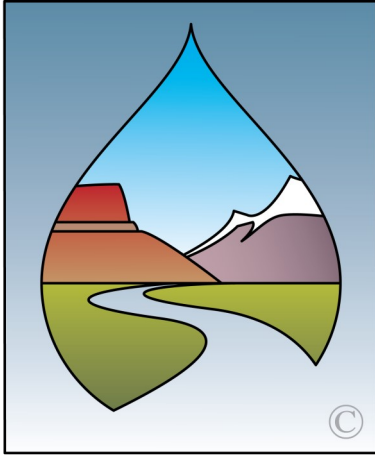


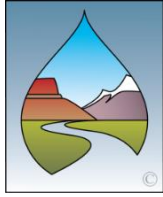
2022 WASHINGTON ROUNDTABLE



WESTERN STATES
WATER COUNCIL



Doubletree Hotel Crystal City
Arlington, Virginia
April 5-7, 2022



WESTERN STATES WATER COUNCIL

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MEMORANDUM

TO: Western States Water Council Members and Others

FROM: Tony Willardson, Executive Director

DATE: March 30, 2022

RE: Briefing Materials for the 198th Western States Water Council Meetings

This is to advise you that briefing materials for our 2022 Spring meetings being held in Arlington, Virginia (a hybrid in-person and virtual event) on April 5-6, may be downloaded on our [meetings webpage](#). The minutes from the Fall 2021 meetings held this past September will be available on our website (under Past Meetings) for your review. As you review the minutes, please bring any necessary changes to the attention of staff.

The meeting schedule and agenda are posted on our [meetings webpage](#). The WSWC is committed to providing a safe meeting environment as a result of the COVID-19 pandemic and will adhere to appropriate health and safety guidelines as conditions warrant.

As a reminder, in order to participate in the meetings, whether in-person or virtually, all must register. Please visit our meetings webpage for guidance regarding registration. When registering for virtual attendance, please mark each day you wish to attend. A confirmation email will be sent containing directions to join the meetings via Zoom webinar. The Zoom link provided in the confirmation email is unique to each individual registrant and should not be shared. However, the meetings are open to the public and you are free to direct others to register. Should you wish to only attend the WSWC Committee / Full Council meetings, payment is not required, and you should contact Cheryl Redding to avoid payment and receive the webinar link.

On Tuesday, April 5th, the meetings will be preceded by registration and a continental breakfast at 7:00 a.m. Eastern Daylight Time with the Water Planner's Conference commencing at 8:00 a.m. The Executive Committee will meet over lunch from 12:00 pm – 1:30 pm in the Monroe Room. Virtual attendance will be accommodated and Executive Committee members will receive a separate email notification with Zoom meeting link details. All others are on their own for lunch. The Water Planner's Conference continues in the afternoon from 1:30 pm – 4:15 pm. The Water Resources Committee meeting will be held directly thereafter from 4:30 – 5:30 p.m. The Water Quality Committee meeting will commence at 5:30 p.m. and adjourn by 6:30 p.m.

We are pleased to invite all attendees and guests to a reception sponsored by **Burns & McDonnell** on the evening of April 5th from 6:30 p.m. – 7:30 p.m. in the Potomac View Room.

On Wednesday morning, April 6th, the Joint ICWP-NWSA-WSWC Roundtable Meeting will commence at 8:00 a.m. with a continental breakfast available at 7:30 a.m.

Following the Roundtable event, the Legal Committee meeting will be held from 4:30 p.m. – 5:30 p.m. This will be immediately followed by the 198th Full Council meeting from 5:30 p.m. – 6:30 p.m.

On Thursday April 7th, we look forward to a discussion with Water Subcabinet and WestFAST Principals from 9:00 a.m. – 11:30 a.m.

We look forward to seeing many of you in the Washington, D.C. area, and anticipate a very interesting set of joint meetings with our cosponsors. The WSWC committees will be reviewing FY2022-2023 work plans and we hope you will review the materials and be prepared to provide comments on the work plan topics.

If you have any questions regarding the meetings or logistics, we hope you will please reach out to the WSWC staff.

Tab A – Schedule of Meetings – Agenda –
30-day Notice

**WESTERN STATES WATER COUNCIL
198th COUNCIL MEETING
Arlington, Virginia
April 5-7, 2022**

TABLE OF CONTENTS

TAB

- A. Schedule of Meetings – Agenda – 30-day Notice
- B. Membership List
- C. WSWC Policy Positions

Sunsetting Positions

Position #432 – supporting Rural Water Infrastructure Needs and Projects
Position #433 – supporting Renewable Hydropower Development

Other Positions under Review

Position #472 – regarding Clean Water Act Jurisdiction
Position #470 – regarding Endangered Species and State Water Rights (Migratory Birds)

List of Current WSWC Policy Statements
List of Sunsetted Positions

- D. Budget
- E. Rules of Organization Changes
- F. Future WSWC Meetings
- G. WSWC Activities and Events

Draft FY2022-2023 Committee Work Plans

- H. Executive Committee
- I. Water Resources Committee
- J. Water Quality Committee
- K. Legal Committee
- L. Drought
- M. WSWC/CDWR Sub-seasonal to Seasonal (S2S) Precipitation Forecasting Workshop and Research to Operations
- N. Legislation and Litigation Update
- O. Water Data Exchange (WaDE) Update
- P. WestFAST
- Q. State Reports
- R. Newsletter Index
- S. Sunsetting Positions for 2022 Summer Meetings (#434-#437)

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XYZ.



SCHEDULE OF MEETINGS

WESTERN STATES WATER COUNCIL

Arlington, Virginia

Doubletree Hotel – Washington DC – Crystal City
April 5-7, 2022

(The times listed are Eastern Daylight Saving Time)

Tuesday, April 5

	Room
7:00 am – Continental Breakfast	Washington Ballroom
8:00 am – 4:15 pm – Joint ICWP-NWSA-WSWC Water Planner's Conference	Washington Ballroom
12:00 pm – 1:30 pm – WSWC Executive Committee Meeting	Monroe Room
4:30 pm – 5:30 pm – WSWC Water Resources Committee Meeting	Washington Ballroom
4:30 pm – 6:00 pm – NWSA Members Policy Discussion (<i>virtual attendance is not available</i>)	Madison Room
5:30 pm – 6:30 pm – WSWC Water Quality Committee Meeting	Washington Ballroom
6:30 pm – 7:30 pm – Joint Reception – sponsored by <u>Burns & McDonnell</u>	Potomac View Room

Wednesday, April 6

7:30 am – Continental Breakfast	Washington Ballroom
8:00 am – 4:15 pm – Joint ICWP-NWSA-WSWC Roundtable Meeting	Washington Ballroom
12:00 pm – 1:30 pm – Joint Luncheon	Commonwealth Room
4:30 pm – 5:30 pm – ICWP Members Meeting (<i>virtual attendance is not available</i>)	Wilson/Harrison Room
4:30 pm – 5:30 pm – WSWC Legal Committee Meeting	Washington Ballroom
4:30 pm – 6:00 pm – NWSA Members Policy Discussion (<i>virtual attendance is not available</i>)	Madison Room
5:30 pm – 6:30 pm – WSWC 198th Full Council Meeting	Washington Ballroom

Thursday, April 7

9:00 am – 11:30 am – Discussion with Water Subcabinet & WestFAST Principals	Washington Ballroom
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AGENDA
EXECUTIVE COMMITTEE
Doubletree Hotel – Washington, DC – Crystal City
Arlington, Virginia
April 5, 2022

Call to Order at: 12:15 p.m. (Eastern Time)
Conducting: Jen Verleger, Chair

Monroe Room

TAB

1. **Welcome and Introductions**
 2. **Approval of Minutes**
 - D 3. **Report on Budget and Finances – Tony Willardson**
 - a. FY2021-22 Budget Status Report
 - b. WaDE Grant Status and Applications
 - IOW BHP & Moore Foundation Grants
 - Water Foundation Grant
 - USBR WaterSMART Applied Science Matching Grant
 - c. FY2022-23 Budget Discussion
 - d. Dues
 - C 4. **Sunsetting Positions – Jen Verleger**

Position #432 – supporting Rural Water Infrastructure Needs and Projects
Position #433 – supporting Renewable Hydropower Development

Other Positions under Review

Position #472 – regarding Clean Water Act Jurisdiction
Position #470 – regarding Endangered Species and State Water Rights
 - E 5. **Rules of Organization Changes – Jennifer Verleger**
 - G 6. **Executive Director’s Report/WSWC Activities and Events – Tony Willardson**
 - F 7. **Future WSWC Meetings – Jen Verleger**

Summer – Polson, Montana – August 2-5
Fall – Oklahoma (OK last hosted on 4/17/15 in Tulsa)
 - B 8. **Council Membership Update – Tony Willardson**
 - H 9. **Draft FY2022-2023 Executive Committee Work Plan – Jen Verleger**
 - S 10. **Summer 2022 Meeting Sunsetting Policies (adopted on 7/18/2019)**

Position #434 – Preservation of Radio Frequencies for Weather forecasting and Water Management
Position #435 – Resiliency of Our Nation to the Impacts of Extreme Weather Events
Position #436 – Regarding Hydraulic Fracturing
Position #437 – Supporting Water Research Department of Energy National Laboratories
 11. **Other Matters**
- 1:30 p.m. Adjourn

AGENDA
WATER RESOURCES COMMITTEE
Arlington, Virginia
Doubletree Hotel – Washington, DC – Crystal City
April 5, 2022

Called to Order at: 4:30 p.m. (Eastern Time)
Conducting: Andrea Travnicek, Vice Chair

Washington Ballroom

TABS

1. **Welcome and Introductions**
2. **Approval of Minutes**
- C 3. **Sunsetting Policies –**
Position #432 – supporting Rural Water Infrastructure Needs and Projects
Position #433 – supporting Renewable Hydropower Development
- L 4. **WSWC Member States Drought/Water Supply Outlook – Roundtable Discussion**
Veva Dehaza/Elizabeth Ossowski – National Integrated Drought Information System
Cara McCarthy – National Water and Climate Center
Roger Gorke, EPA – National Drought Resiliency Partnership
- M 5. **Subseasonal to Seasonal (S2S) Forecasting & Research to Operations – Jeanine Jones**
- I 6. **Draft FY2022-2023 Committee Workplan – Andrea Travnicek**
- S 7. **Sunsetting Positions for 2022 Summer Meetings – (adopted July 18, 2019)**
Position #434 – Preservation of Radio Frequencies for Weather forecasting and Water Management
Position #435 – Resiliency of Our Nation to the Impacts of Extreme Weather Events
Position #436 – Regarding Hydraulic Fracturing
Position #437 – Supporting Water Research Department of Energy National Laboratories
8. **Other Matters**

Adjourn by 5:25 p.m.

WATER QUALITY COMMITTEE MEETING

Arlington, Virginia
Doubletree Hotel – Washington D.C. – Crystal City
April 5, 2022

Call to Order at: 5:30 p.m. (Eastern Daylight Time)
Conducting: Erica Gaddis, Chair

Washington Ballroom

TAB

1. **Welcome and Introductions**
2. **Approval of Minutes**
- C 3. **Proposed Position for Spring 2022 Meeting**
 - a. [Position #472](#) – regarding Clean Water Act Jurisdiction
4. **Discussion: Waters of the United States (WOTUS)**
5. **EPA Federal Baseline Water Quality Standards for Tribes** – Mary Lou Soscia
6. **WestFAST Wildfire and Water Resources Webinar Series** – Chris Carlson
- J 7. **Draft FY2022-2023 Water Quality Committee Work Plan** – Erica Gaddis
- S 8. **Sunsetting Positions for Summer 2022 Meetings**
 - a. [Position #436](#) – regarding Hydraulic Fracturing
9. **Other Matters**
 - a. WOTUS regional implementation workshop

Adjourn by 6:30 pm

AGENDA
LEGAL COMMITTEE MEETING
Doubletree Hotel
Washington, D.C. – Crystal City
April 6, 2022

Call to Order at: 4:30 pm (Eastern Daylight Time)
Conducting: Chris Brown, Chair

Washington Ballroom

TAB

- 4:30pm 1. **Welcome and Introductions**
2. **Approval of Minutes**
3. **Proposed Position**
 a. [Position #470](#) – Endangered Species and State Water Rights
4. **Migratory Bird Treaty Act Regulations** – Stephen Czapka, Division of Bird Conservation, Permits, and Regulations, U.S. Fish and Wildlife Service
5. **Wild and Scenic Rivers** – Mike Eberle, National Water Uses and Rights Program Lead, U.S. Forest Service
6. **Staff Updates** – Michelle Bushman
N a. Legislation and Litigation Updates
 b. Legal Committee Surveys 2021
O c. WaDE terminology
7. **Draft FY2022-2023 Legal Committee Work Plan** – Chris Brown
8. **Sunsetting Positions for Summer 2022 Meetings** – Chris Brown
 None
9. **Other Matters**
- 5:30 pm Adjourn

AGENDA

198th COUNCIL MEETING

Doubletree Hotel – Washington, DC – Crystal City
Arlington, Virginia
April 6, 2022

Call to Order at: 5:30 p.m. (Eastern Daylight Time)
Conducting: Jen Verleger, WSWC Chair

Washington Ballroom

TAB

1. **Welcome and Introductions**
 2. **Approval of Minutes**
 3. **Committee Reports – Action Items**
 - C, I a. Water Resources Committee – Andrea Travnicek
 - C, J b. Water Quality Committee – Erica Gaddis
 - C, K c. Legal Committee – Chris Brown
 - C, H d. Executive Committee – Jon Niermann
 4. **Nominating Subcommittee / Election of Officers – Jerry Rigby**
 5. **Resolutions of Appreciation – Jen Verleger**
 - P 6. **WestFAST Report – Roger Gorke, WestFAST Chair**
 - Q 7. **State Reports**
 - F 8. **Future Council Meetings – Jen Verleger**
 - S 9. **Sunsetting Positions for Summer 2022 Meetings - #434 - #437**
 10. **Other Matters**
- 6:30 p.m. Adjourn



WESTERN STATES WATER COUNCIL

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Web Page: www.westernstateswater.org

MEMORANDUM

TO: Council Members

FROM: Tony Willardson, Executive Director

DATE: March 7, 2022

RE: **30-Day Notice of Spring 2022 (198th) WSWC Meetings & Washington Roundtable**

This memorandum is to advise you that the 198th meetings of the Western States Water Council will be held on April 5-7, 2022 in Arlington, Virginia. Virtual meeting attendance will likewise be accommodated, though we hope you will use this opportunity to enjoy the camaraderie of your fellow colleagues in person. In keeping with our Rules of Organization, any external policy positions to be proposed for WSWC consideration must be noticed 30-days in advance of the meeting.

Two policy resolutions are scheduled to sunset at this meeting if not update and readopted.

WR [Position #432](#) – supporting Rural Water Infrastructure Needs and Projects
WR [Position #433](#) – supporting Renewable Hydropower Development

In addition, there are two positions being revisited by the committees that oversee them.

WQ [Position #472](#) – regarding Clean Water Act Jurisdiction
L [Position #470](#) – regarding Endangered Species and State Water Rights

All of the positions with the suggested revisions are attached. The positions as originally adopted are available on our [website](#). Please note that the Executive Committee will meet virtually to discuss these policy resolutions and recommended revisions on Friday, March 11, at 1:00 p.m. Mountain Daylight Time (12:00 p.m. Pacific; 2:00 p.m. Central). Any proposed changes will be considered at the Full Council meeting on April 6. We would encourage you to consult with your respective Governor's office and Western Governors' Association Staff Advisory Council (SAC) member, regarding these positions in advance of our meetings.

The spring meetings schedule has been designed to accommodate a hybrid format allowing those unable to travel to participate virtually. A [draft agenda](#) is posted on our meetings webpage. All meeting participants, whether attending in-person or virtually, must register in advance and pay the registration fee.¹ Registration and hotel reservation room block information is available on our [meetings webpage](#). **The early bird registration deadline is today, March 7th.** Thereafter, meeting rate will increase from \$425 per person to \$475 per person. Please indicate on the registration form each session that you plan to attend. Virtual attendees will receive a confirmation email that contains a link to join the webinar. Do not share the link. Please advise anyone else wishing to participate to go to our meetings webpage to register for themselves.

¹ The registration fee will be waived for WSWC members who will solely participate in WSWC Committee meetings and/or the Full Council meeting.

As the Council meeting itself will be only one hour, we would encourage each state to submit a brief one-page report on water issues and events in your state by March 23rd for the briefing materials, which will be available for download electronically on our website. If you would like a hard copy mailed to you, please contact Julie at jgroat@wswc.utah.gov.

We look forward to seeing most of you in person! Please contact me with any questions at twillardson@wswc.utah.gov.

Tab B – Membership List

WESTERN STATES WATER COUNCIL

MEMBERSHIP LIST

March 17, 2022

OFFICERS

Chair - **Jennifer Verleger**
Vice-Chair - **Jon Niemann**
Secretary-Treasurer - **Vacant**

STAFF

Executive Director - **Tony Willardson**
Assistant Director/General Counsel - **Michelle Bushman**
Wade Program Manager - **Adel Abdallah**
Data Analyst/Hydroinformatics Specialist - **Ryan James**
Office Manager - **Cheryl Redding**
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NORTH DAKOTA

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Jeanine Jones - California
Karla Nemeth - California
(Alternate)*
Becky Mitchell - Colorado
Jerry Rigby - Idaho
Earl Lewis - Kansas
Vacant - Montana
Tom Riley - Nebraska
Micheline Fairbank - Nevada
Bradley Crowell - Nevada
(Alternate)*
Roland Westergard - Nevada
(Alternate)*
Vacant - New Mexico
Andrea Travnicek - North Dakota
Jennifer Verleger - North Dakota
(Chair) (Alternate)*
Julie Cunningham - Oklahoma
Thomas Byler - Oregon
Hunter Roberts - South Dakota
Nakaila Steen - South Dakota
(Alternate)*
Jon Niermann - Texas
(Vice-Chair)
Candice Hasenyager - Utah
Mary Verner - Washington
Jeff Cowley - Wyoming

Management Subcommittee

Jennifer Verleger
(Chair)
Jon Niermann
(Vice-Chair)
Vacant
(Secretary/Treasurer)
Tony Willardson
(Executive Director)
Jeanine Jones
(Former Chair)

Ex-Officio Representatives

*For purposes of Committee rosters, the designation as an "alternate" only reflect the person's function on the Committee.

LEGAL COMMITTEE

Vacant- Alaska
Ayesha Vohra - Arizona
Kelly Brown - Arizona
(Alternate)*
Jeanine Jones - California
Kevin Rein - Colorado
Jerry Rigby - Idaho
John Simpson - Idaho
(Alternate)*
Kenneth Titus - Kansas
Jay Weiner - Montana
Jim Macy - Nebraska
Micheline Fairbank - Nevada
James Bolotin - Nevada
(Alternate)*
Vacant - New Mexico
Jennifer Verleger - North Dakota
Sara Gibson - Oklahoma
Thomas Byler - Oregon
Nakaila Steen - South Dakota
Hunter Roberts - South Dakota
(Alternate)*
Jon Niermann - Texas
Norman Johnson - Utah
Alan Reichman - Washington
Chris Brown - Wyoming
(Chair)

Clean Water Act Jurisdiction

Micheline Fairbank - Nevada
Jennifer Verleger - North Dakota

Non-Tribal Federal Water Needs Subcommittee

Tom Barrett - Alaska
Jay Weiner - Montana
Micheline Fairbank - Nevada
Adam Sullivan - Nevada
Jennifer Verleger - North Dakota
Kathy Alexander - Texas
Norm Johnson - Utah
Buck Smith - Washington
Chris Brown - Wyoming

Ex-Officio Representatives

BLM - Ronald McCormick
David Hu
Paula Cutillo
BOR - Arthur Coykendall
DOD - Lauren Dempsey
DOJ - Stephen Bartell
USFS - Michael Eberle
Chris Carlson
Ed Harvey
USFWS - Michael Higgins
USGS - Timothy McHale
NPS - Peter Fahmy

Tribal Reserved Water Rights Subcommittee

Jay Weiner - Montana
Norman Johnson - Utah

WRDA/Corps Policies

Tom Stiles - Kansas
Jennifer Verleger - North Dakota
Kathy Alexander - Texas

WATER QUALITY COMMITTEE

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Betty Olson - California
(Alternate)*
Trisha Oeth - Colorado
Jeremy Neustifter - Colorado
(Alternate)*
Jess Byrne - Idaho
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Amy Steinmetz - Montana
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Jennifer Carr - Nevada
Greg Lovato - Nevada
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Rebecca Roose - New Mexico
David Glatt - North Dakota
Julie Cunningham - Oklahoma
Shellie Chard - Oklahoma
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Todd Parfitt - Wyoming

Abandoned Mines Subcommittee

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Jeremy Neustifter - Colorado
Erica Gaddis - Utah

Clean Water Act Subcommittee

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Greg Lovato - Nevada
Rebecca Roose - New Mexico
Jennifer Verleger - North Dakota
Allison Woodall - Texas
Erica Gaddis - Utah
Lauren Driscoll - Washington
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Tom Stiles - Kansas

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(Chair)
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Climate Adaptation and Drought Subcommittee

Jeanine Jones - California (Chair)

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NRCS - Mike Strobel

Water Information and Data Subcommittee (WIDS)

Lisa Williams - Arizona
Mathew Weaver - Idaho
Lane Letourneau - Kansas
Ginger Pugh - Kansas
Julie Cunningham - Oklahoma
Kent Wilkins - Oklahoma
Ken Stahr - Oregon
Kathy Alexander - Texas
Candice Hasenyager - Utah

Ex-Officio Representatives

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USBOR - Allison Danner
USEPA - Dwane Young
USGS - Nancy Barber
NASA - Brad Doorn
NOAA - DeWayne Cecil
NRCS - Mike Strobel

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April 2022**

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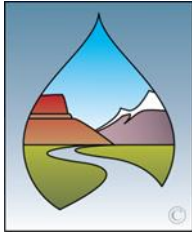
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Tab C – WSWC Policy Positions



**POSITION STATEMENT
of the
WESTERN STATES WATER COUNCIL
in support of
RURAL WATER INFRASTRUCTURE NEEDS & PROJECTS
Chandler, Arizona
March 22, 2019**

WHEREAS, much of the West is characterized by its aridity and drought which highlights the fact that water availability is an ever present constraint defining our economic and environmental well-being and quality of life; and

WHEREAS, this is particularly true for many small rural communities struggling to meet future water supply needs and comply with present federal regulatory mandates; and

WHEREAS, the Bureau of Reclamation's rural water program seeks to identify rural water needs and evaluate rural water supply projects and the demand for new projects; and

WHEREAS, in 2014, the Bureau of Reclamation working with other federal agencies and the Western States Water Council estimated the demand for potable water supply systems in rural areas of the 17 western States to be in the range of \$5 billion to \$9 billion for non-Indian projects and approximately \$1.5 billion for specific Indian water supply projects; and

WHEREAS, Reclamation also estimated that the cost to complete currently authorized projects that are under construction rose from \$2 billion originally authorized to \$2.4 billion in 2014, and continues rising, and that given past levels of funding these priority projects will not likely be completed until well after 2065 at a cost of more than \$5.8 billion; and

WHEREAS, Reclamation has released a blueprint for spending \$1.66 billion annually through 2026 to implement the 2022 Bipartisan Infrastructure Law, including \$420 million for rural water projects to benefit tribal and non-tribal underserved communities by providing better access to potable water;¹ and

WHEREAS, there are several rural water projects that are under construction and two new rural water projects authorized in P.L. 116-260 (one for study only and one for construction) that may be eligible for funding; and

WHEREAS, Reclamation has in the past not requested funds for grants to undertake additional appraisal investigations or feasibility studies for new rural water projects, given the significant authorized backlog and lack of federal funding²; and

WHEREAS, there is an important role for the States in the conduct of appraisal investigations and feasibility studies, preparation of feasibility reports, and identifying other funding sources; and

¹ Bureau of Reclamation Implementation of the Bipartisan Infrastructure Law ([usbr.gov](https://www.usbr.gov)).

² <https://www.usbr.gov/ruralwater/docs/Rural-Water-Assessment-Report.pdf>; pp. 6-7, 11.

WHEREAS, with respect to funding sources, more money is needed to address rural water needs and we continue to strongly support the expenditure of Reclamation Fund revenues for their intended purposes, including rural water projects, as authorized by the Congress; and

WHEREAS, USDA's Rural Development is a leader in helping rural communities with populations of 10,000 or less, including native Alaskan villages, tribal lands and colonias; and

WHEREAS, Rural Development's Water & Environmental Programs (WEP) invest billions to help rural communities improve quality of life and increase economic opportunities through technical assistance and financing to develop safe drinking water, wastewater and sanitary waste disposal systems; and

WHEREAS, WEP provides water and waste disposal grants, loans, loan guarantees, predevelopment planning grants, revolving loan funds, technical assistance and training grants, emergency community water assistance grants, and a circuit rider program, as well as individual water and wastewater grants and household water well system grants; and

WHEREAS, existing federal and state rural water and wastewater programs must be coordinated to facilitate the most efficient and effective solution to meeting the water needs of non-federal project sponsors; and

WHEREAS, upgrading and replacing inadequate rural water systems may require finding new water supplies, which will entail acquiring necessary state water rights; and

WHEREAS, continuing compliance with state water laws and interstate compacts is vital; and

WHEREAS, opportunities exist to leverage non-federal funding through federal loan guarantees and other financial instruments to ensure that water districts can access private sources of financing; and

WHEREAS, water districts and individual water users depend on federal and non-federal infrastructure for their livelihood and the risk of default is minimal.

NOW THEREFORE BE IT RESOLVED that the Western States Water Council supports federal and state legislative and administrative actions to authorize and implement rural water supply projects and programs that enhance water supplies and promote economic development, through streamlined permitting processes and appropriate financing instruments, while appropriately protecting environmental resources and taxpayers.

BE IT FURTHER RESOLVED that the Western States Water Council also supports the development and implementation of appropriate soil, water and watershed conservation programs at all levels to minimize demands placed on our natural resources and ecosystems.

BE IT FURTHER RESOLVED that rural water project development should recognize and ensure consistency with state water law and regulatory authority.



POSITION STATEMENT
of the
WESTERN STATES WATER COUNCIL
in support of
RENEWABLE HYDROPOWER DEVELOPMENT
Chandler, Arizona
March 22, 2019

WHEREAS, the water and hydropower resources of the West have been developed through partnerships between energy and water users, and continue to be inextricably connected; and

WHEREAS, clean, efficient, inexpensive hydropower is a vital part of the energy resources needed to meet our present and future energy demands; and

WHEREAS, hydropower is the primary source of renewable electricity in the United States, representing about 48% of total renewable electricity generation, with approximately 101 gigawatts (GW) of capacity and nearly 7% of total electricity generation¹; and

WHEREAS, the potential exists for further public and private development of this valuable resource, including upgrading existing generators, developing small hydro and the power potential from low-head hydro on existing man-made conduits and canals, as well as hydroelectric pumped storage projects; and

WHEREAS, such development can often be undertaken with little impact on the environmental and important ecological resources, requiring minimal further environmental review; and

WHEREAS, permitting requirements may be appropriately minimized and streamlined so as to promote reasonable development while avoiding unnecessary costs; and

WHEREAS, the future development of potential hydropower resources should be appropriately undertaken in compliance with substantive and procedural state water law and interstate compacts, and consistent with the States' authority under Clean Water Act Section 401; and

WHEREAS, the rights and preference privileges of existing water and power users should be respected; and

WHEREAS, federal legislation has from time to time been introduced to further authorize and promote the wise and sustainable development of our renewable hydropower resources, also creating jobs and reducing carbon emissions; and

WHEREAS, hydropower is a prominent component of electricity generation in a number of western states, and important part of state renewable portfolio standards; and

WHEREAS, the potential exists to increase hydropower productions by as much as 189 GW by rehabilitating, expanding and upgrading existing facilities, powering non-powered dams, installing hydropower at existing conduits and canals, as well as developing new project sites.²

¹ <https://www.energy.gov/sites/prod/files/2016/10/f33/Hydropower-Vision-Chapter-2-10212016.pdf>; p. 3, 76.

² Ibid, pg. 95.

NOW THEREFORE BE IT RESOLVED that the Western States Water Council supports federal legislative and administrative actions to authorize and implement reasonable hydropower projects and programs that enhance our electric generation capacity and promote economic development, through efficient permitting processes, while appropriately protecting environmental resources and respecting States' 401 certification authority under the Clean Water Act and States' authority over water allocation within their borders.

BE IT FURTHER RESOLVED that the Western States Water Council also supports the development and implementation of appropriate energy and water conservation programs at all levels to minimize demands placed on our natural resources and ecosystems.

BE IT FURTHER RESOLVED that past, present and future hydropower development and operational changes should recognize and ensure consistency with state law and regulatory authority and delegated authority under federal law.

Position No. 472
Revised and Readopted
(see former Positions No. 427 – October 26, 2018,
No. 410 – June 29, 2017 and No. 369 – July 18, 2014)



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding
CLEAN WATER ACT JURISDICTION
Deadwood, South Dakota
September 16, 2021**

DRAFT Recommendations for Spring 2022

WHEREAS, the Clean Water Act (CWA) is built upon the principle of cooperative federalism in which Congress intended the states, the Environmental Protection Agency (EPA), and the U.S. Army Corps of Engineers (Corps) to implement the CWA as partners, delegating co-regulator authority to the states;

WHEREAS, the CWA's cooperative federalism framework has resulted in significant water quality improvements since the law's enactment in 1972, and western states have made great strides in protecting water quality and coordinating water quality and water quantity decisions; and

WHEREAS, ~~it is imperative~~ imperative that EPA ~~and the Corps has~~ actively ~~sought~~ seeks meaningful state consultation, engagement, and participation in its review and development of any new proposed or final rule to define Waters of the United States; and

WHEREAS, States are best positioned to manage the water within their borders because of their on-the-ground knowledge of the unique aspects of their hydrology, geology, and legal frameworks; and

WHEREAS, States have both state statutory and constitutional authority pursuant to their "waters of the state" jurisdiction to protect the quality of waters within their borders, and such jurisdiction generally extends beyond the limits of federal jurisdiction under the CWA; and

WHEREAS, CWA Section 101(b) supports the states' critical role in protecting water quality by stating: "It is the policy of Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution;" and

WHEREAS, CWA Section 101(g) further provides that the primary and exclusive authority of each state to "allocate quantities of water within its jurisdiction shall not be superseded, abrogated, or otherwise impaired by this Act;" and

WHEREAS, perennial streams with a relatively permanent surface water connection to navigable waters are presumptively considered to be under federal CWA jurisdiction consistent with *Rapanos*; and

Commented [JC1]: As States, we need involvement between Proposal and Final. We can't just all provide comments and be expected to not hear anything more until they re-emerge from the black box.

Position No. 472
Revised and Readopted
(see former Positions No. 427 – October 26, 2018,
No. 410 – June 29, 2017 and No. 369 – July 18, 2014)

WHEREAS, a one-size-fits-all national approach to federal regulations, guidance, and programs pertaining to the CWA does not recognize specific conditions and needs in the West, where water and precipitation can be scarce and a variety of unique waterbodies exist, including ~~but not limited to~~ small ephemeral washes and arroyos, snow dependent intermittent streams, effluent dependent and dominated streams, prairie potholes, playa lakes, and terminal lakes, as well as numerous man-made reservoirs, impoundments, and water and stormwater conveyance structures; and

WHEREAS, physical, biological, and chemical differences between waters, and hydrologic differences, both spatially and temporally, as well as considerable differences in legal doctrines that govern water in western states, mean that any federal effort to clarify CWA jurisdiction will inevitably impact each State-state differently, thus underscoring the need to thoroughly involve states in developing and implementing any rule so as to clearly respect and avoid conflict with state authority over the regulation of water quality and the allocation of waters and water rights within their respective borders; and

WHEREAS, any efforts to redefine or clarify CWA jurisdiction have, on their face, numerous federalism implications that have the potential to significantly impact states and alter the distribution of power and responsibilities among the states and the federal government; and

WHEREAS, as co-regulators, States-states are separate and apart from the general public, and have a unique role with the federal government in the development and implementation of any rule to clarify or redefine CWA jurisdiction; and

WHEREAS, information-sharing does not equate to meaningful consultation, and the uncertainty and differences of opinion that exist regarding CWA jurisdiction requires EPA and the Corps to develop and implement federal CWA jurisdiction efforts in authentic partnership with the states; and

WHEREAS, uncertainty and differences of opinion have and continue to exist regarding CWA jurisdiction among Statesstates, and challenge EPA and the Corps to develop and implement any new rule in cooperation with the Statesstates, based on principles of cooperative federalism, and together to provide greater certainty and a clearer definition of the limits of federal jurisdiction; and

~~**WHEREAS**, perennial streams with a relatively permanent surface water connection to navigable waters are presumptively considered to be under federal CWA jurisdiction consistent with Rapanos; and~~

WHEREAS, substantial and recurring changes to regulatory definitions, policies, and programs between federal Administrations-administrations create uncertainty for co-regulators and the regulated community, often leading to unreliable results, indecision, inconsistency, and lawsuits.

NOW, THEREFORE BE IT RESOLVED that Congress and the Administration should ensure that any federal effort to clarify or define CWA jurisdiction and define Waters of the United States:

Position No. 472
Revised and Readopted
(see former Positions No. 427 – October 26, 2018,
No. 410 – June 29, 2017 and No. 369 – July 18, 2014)

1. Creates ~~an more~~ enduring and broadly supported definition ~~and the agencies are provided ample time for development of regulatory language.~~

2. ~~Acknowledges and addresses the~~ Gives as much weight and deference as possible to state needs, priorities, and concerns ~~of states as co-regulators.~~

3. Includes robust, ~~and~~ meaningful, ~~and representative~~ state participation and consultation in the development and implementation of any rule, acknowledging the inherent federalism implications.

4. Gives full force and effect to Congress' intent ~~to maintain a reasonable balance of state and federal authority~~ and the purposes of CWA Sections 101(b) and 101(g).

~~5. Considers any clarity and interpretation of jurisdiction that may result from the Sackett v. EPA case (case no 21-454), pending before the Supreme Court.~~

~~56.~~ Appropriately considers that Justice Kennedy's "significant nexus" test in *Rapanos* requires a connection between waters that is more than speculative or insubstantial to establish jurisdiction. Federal CWA jurisdiction efforts should also quantify "significance" to ensure that the term's usage does not extend jurisdiction to waters with a *de minimis* connection to jurisdictional waters, ~~and is~~ applied to individual waters on a case-by-case and not watershed basis.

~~67.~~ Complies with the limits set by Congress and appropriately considers the limits the U.S. Supreme Court has placed on CWA jurisdiction, expressed through the plurality opinion authored by Justice Scalia in *Rapanos*.

~~78.~~ Specifically excludes waters and features outside the scope of the CWA jurisdiction including but not limited to groundwater ~~and historically recognized agricultural exemptions.~~

~~89.~~ Acknowledges that states have authority to protect all "waters of the state," and that excluding waters from federal jurisdiction does not ~~always~~ mean that they will be exempt from state regulation and protection.

~~910.~~ Continues to provide access to appropriate technical and financial assistance to the ~~States-states~~ to protect and improve water quality under existing EPA programs without regard to jurisdictional determinations.

~~4011.~~ Provides a clearly delineated process for resolving differences of opinion over federal and non-federal jurisdiction, and jurisdiction between different States and ~~Tribes-tribes~~ (treated as ~~States-states~~).

~~412.~~ Provides for mapping of jurisdictional waters as a joint federal/state/tribal effort employing the best available data and tools, with appropriate provisions and processes for map maintenance.

Position No. 472
Revised and Readopted
(see former Positions No. 427 – October 26, 2018,
No. 410 – June 29, 2017 and No. 369 – July 18, 2014)

~~1213~~. Includes an appropriate delay in the effective date of any new rule or otherwise allows for a transition enabling ~~States-states~~ to take such actions as may be necessary to address any gaps in state law, regulation and protection, and to ensure sufficient time for tools to be developed by federal agencies, in collaboration with states, that facilitate implementation of the new rule.

~~1314~~. Recognizes the ~~need to balance definitional clarity with unique landscapes and flow regimes in various regions of the Nation and the need for~~ flexibility in implementation ~~to address the unique landscapes, flow regimes, and legal frameworks in various regions of the Nation.~~

~~15~~. Incorporates ~~or define~~ a regional ~~approach~~ ~~nature~~ to the definitions of terms for foundational ~~and~~ ~~categorical~~ waters included in ~~of~~ the rule including terms such as “relatively permanent” and “significant nexus” and defines regions using existing classification systems based on hydrology, geology, and climate. ~~;~~

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~~1416~~. Provides, in the rule development process, a representative number of states, as co-regulators, with diverse perspectives and regions to engage actively in an integrated way with EPA and ~~USACE-Corps~~ staff to provide direct and effective feedback on the implementability of a proposed rule ~~which requires ample time for development of new regulatory language.~~ ~~;~~

Revised and Readopted (see former Positions 427 – October 26, 2018, No. 410 – June 29, 2017, and No. 369 – July 18, 2014)



RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding

**ENDANGERED SPECIES AND MIGRATORY BIRDS AND THE
MANAGEMENT OF STATE WATER RIGHTS AND RESOURCES**

**Cody, Wyoming
June 25, 2021**

WHEREAS, Section 2(c)(2) of the Endangered Species Act declares it is the policy of Congress that Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species (16 U.S.C. 1531); and

WHEREAS, the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 et seq.) prohibits the taking of various migratory birds and the -United States Fish and Wildlife Service (USFWS) revoked its~~their~~ regulation establishing that a taking under the MBTA does not include an incidental taking (86 FR 54668); and

-WHEREAS, the USFWS seeks to promulgate for the first time a new regulation under the MBTA that would codify a prohibition on incidental takes and would also allow incidental takes for government agency activities through general and specific permits~~also permit incidental takes by general and specific permits, including government agency activities; and~~

WHEREAS, water in the West is often a scarce resource critical for both a healthy economy and healthy environment, including protected endangered and threatened species; and

WHEREAS, water is both a public and a private resource, with some uses reserved for the public good, while others are recognized as protected private property rights; and

WHEREAS, the States are primarily responsible for the allocation, administration, management, and protection of the water resources and rights to the use of water within their borders, as well as the management and protection of diverse fish and wildlife species and the aquatic and terrestrial environments upon which they depend; and

WHEREAS, many states and various units of local government operate facilities that allow the full utilization of water resources for the benefit of the public as well as diverse fish and wildlife species and their respective environments; and

WHEREAS, many, if not most, of the senior state granted rights to the use of waters in western rivers and streams predate federal environmental protections by decades, and the

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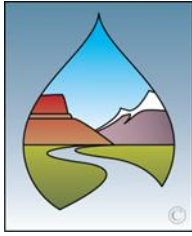
certainty provided by early water rights continues to be the foundation for past, present and future investments; and

WHEREAS, the West and its flora and fauna, including protected species, are part of a unique and unparalleled heritage reflecting the Nation's value for wild and open spaces, as well as a western conservation ethic; and

WHEREAS, western States and many western water uses are also committed to the preservation of western species through reasonable, transparent and effective regulatory protections and restrictions, as well as conservation incentives for private property owners; and

WHEREAS, opportunities exist for greater collaboration and cooperation to conserve threatened and endangered species, while recognizing state granted water rights and addressing western water issues, without unmitigated or uncompensated "takings" of either water rights or threatened and endangered species where provided for under state or federal law.

NOW, THEREFORE, BE IT RESOLVED that the Council calls upon federal agencies to engage in a substantive discussion of past, present and future efforts to work in concert with State agencies to implement Congress' intent to resolve water and species protection issues and to ensure the creation of flexible regulations that do not interfere with state management of water resources.



**POSITION STATEMENT
of the
WESTERN STATES WATER COUNCIL
in support of
RURAL WATER INFRASTRUCTURE NEEDS & PROJECTS
Chandler, Arizona
March 22, 2019**

WHEREAS, much of the West is characterized by its aridity and drought which highlights the fact that water availability is an ever present constraint defining our economic and environmental well-being and quality of life; and

WHEREAS, this is particularly true for many small rural communities struggling to meet future water supply needs and comply with present federal regulatory mandates; and

WHEREAS, the Bureau of Reclamation's rural water program seeks to identify rural water needs and evaluate rural water supply projects and the demand for new projects; and

WHEREAS, in 2014, the Bureau of Reclamation working with other federal agencies and the Western States Water Council estimated the demand for potable water supply systems in rural areas of the 17 western States to be in the range of \$5 billion to \$9 billion for non-Indian projects and approximately \$1.5 billion for specific Indian water supply projects; and

WHEREAS, Reclamation also estimated that the cost to complete currently authorized projects that are under construction rose from \$2 billion originally authorized to \$2.4 billion in 2014, and continues rising, and that given past levels of funding these priority projects will not likely be completed until well after 2065 at a cost of more than \$5.8 billion; and

WHEREAS, Reclamation has released a blueprint for spending \$1.66 annually through 2026 to implement the 2022 Bipartisan Infrastructure Law, including \$420 million for rural water projects to benefit tribal and non-tribal underserved communities by providing better access to potable water;¹ and

WHEREAS, there are several rural water projects that are under construction and two new rural water projects authorized in P.L. 116-260 (one for study only and one for construction) that may be eligible for funding; and

WHEREAS, Reclamation has in the past not requested funds for grants to undertake additional appraisal investigations or feasibility studies for new rural water projects, given the significant authorized backlog and lack of federal funding²; and

WHEREAS, there is an important role for the States in the conduct of appraisal investigations and feasibility studies, preparation of feasibility reports, and identifying other funding sources; and

¹ Bureau of Reclamation Implementation of the Bipartisan Infrastructure Law ([usbr.gov](https://www.usbr.gov)).

² <https://www.usbr.gov/ruralwater/docs/Rural-Water-Assessment-Report.pdf>; pp. 6-7, 11.

WHEREAS, with respect to funding sources, more money is needed to address rural water needs and we continue to strongly support the expenditure of Reclamation Fund revenues for their intended purposes, including rural water projects, as authorized by the Congress; and

WHEREAS, USDA's Rural Development is a leader in helping rural communities with populations of 10,000 or less, including native Alaskan villages, tribal lands and colonias; and

WHEREAS, Rural Development's Water & Environmental Programs (WEP) invest billions to help rural communities improve quality of life and increase economic opportunities through technical assistance and financing to develop safe drinking water, wastewater and sanitary waste disposal systems; and

WHEREAS, WEP provides water and waste disposal grants, loans, loan guarantees, predevelopment planning grants, revolving loan funds, technical assistance and training grants, emergency community water assistance grants, and a circuit rider program, as well as individual water and wastewater grants and household water well system grants; and

WHEREAS, existing federal and state rural water and wastewater programs must be coordinated to facilitate the most efficient and effective solution to meeting the water needs of non-federal project sponsors; and

WHEREAS, upgrading and replacing inadequate rural water systems may require finding new water supplies, which will entail acquiring necessary state water rights; and

WHEREAS, continuing compliance with state water laws and interstate compacts is vital; and

WHEREAS, opportunities exist to leverage non-federal funding through federal loan guarantees and other financial instruments to ensure that water districts can access private sources of financing; and

WHEREAS, water districts and individual water users depend on federal and non-federal infrastructure for their livelihood and the risk of default is minimal.

NOW THEREFORE BE IT RESOLVED that the Western States Water Council supports federal and state legislative and administrative actions to authorize and implement rural water supply projects and programs that enhance water supplies and promote economic development, through streamlined permitting processes and appropriate financing instruments, while appropriately protecting environmental resources and taxpayers.

BE IT FURTHER RESOLVED that the Western States Water Council also supports the development and implementation of appropriate soil, water and watershed conservation programs at all levels to minimize demands placed on our natural resources and ecosystems.

BE IT FURTHER RESOLVED that rural water project development should recognize and ensure consistency with state water law and regulatory authority.



**POSITION STATEMENT
of the
WESTERN STATES WATER COUNCIL
in support of
RENEWABLE HYDROPOWER DEVELOPMENT
Chandler, Arizona
March 22, 2019**

WHEREAS, the water and hydropower resources of the West have been developed through partnerships between energy and water users, and continue to be inextricably connected; and

WHEREAS, clean, efficient, inexpensive hydropower is a vital part of the energy resources needed to meet our present and future energy demands; and

WHEREAS, hydropower is the primary source of renewable electricity in the United States, representing about 48% of total renewable electricity generation, with approximately 101 gigawatts (GW) of capacity and nearly 7% of total electricity generation¹; and

WHEREAS, the potential exists for further public and private development of this valuable resource, including upgrading existing generators, developing small hydro and the power potential from low-head hydro on existing man-made conduits and canals, as well as hydroelectric pumped storage projects; and

WHEREAS, such development can often be undertaken with little impact on the environmental and important ecological resources, requiring minimal further environmental review; and

WHEREAS, permitting requirements may be appropriately minimized and streamlined so as to promote reasonable development while avoiding unnecessary costs; and

WHEREAS, the future development of potential hydropower resources should be appropriately undertaken in compliance with substantive and procedural state water law and interstate compacts, and consistent with the States' authority under Clean Water Act Section 401; and

WHEREAS, the rights and preference privileges of existing water and power users should be respected; and

WHEREAS, federal legislation has from time to time been introduced to further authorize and promote the wise and sustainable development of our renewable hydropower resources, also creating jobs and reducing carbon emissions; and

WHEREAS, hydropower is a prominent component of electricity generation in a number of western states, and important part of state renewable portfolio standards; and

WHEREAS, the potential exists to increase hydropower productions by as much as 189 GW by rehabilitating, expanding and upgrading existing facilities, powering non-powered dams, installing hydropower at existing conduits and canals, as well as developing new project sites.²

¹ <https://www.energy.gov/sites/prod/files/2016/10/f33/Hydropower-Vision-Chapter-2-10212016.pdf>; p. 3, 76.

² Ibid, pg. 95.

NOW THEREFORE BE IT RESOLVED that the Western States Water Council supports federal legislative and administrative actions to authorize and implement reasonable hydropower projects and programs that enhance our electric generation capacity and promote economic development, through efficient permitting processes, while appropriately protecting environmental resources and respecting States' 401 certification authority under the Clean Water Act.

BE IT FURTHER RESOLVED that the Western States Water Council also supports the development and implementation of appropriate energy and water conservation programs at all levels to minimize demands placed on our natural resources and ecosystems.

BE IT FURTHER RESOLVED that past, present and future hydropower development and operational changes should recognize and ensure consistency with state law and regulatory authority and delegated authority under federal law.

Position No. 472
Revised and Readopted
(see former Positions No. 427 – October 26, 2018,
No. 410 – June 29, 2017 and No. 369 – July 18, 2014)



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding
CLEAN WATER ACT JURISDICTION
Deadwood, South Dakota
September 16, 2021**

DRAFT Recommendations for Spring 2022

WHEREAS, the Clean Water Act (CWA) is built upon the principle of cooperative federalism in which Congress intended the states, the Environmental Protection Agency (EPA), and the U.S. Army Corps of Engineers (Corps) to implement the CWA as partners, delegating co-regulator authority to the states;

WHEREAS, the CWA's cooperative federalism framework has resulted in significant water quality improvements since the law's enactment in 1972, and western states have made great strides in protecting water quality and coordinating water quality and water quantity decisions; and

WHEREAS, ~~it is imperative~~ imperative that EPA ~~and the Corps has~~ actively ~~sought~~ seeks meaningful state consultation, engagement, and participation in its review and development of any new proposed or final rule to define Waters of the United States; and

WHEREAS, States are best positioned to manage the water within their borders because of their on-the-ground knowledge of the unique aspects of their hydrology, geology, and legal frameworks; and

WHEREAS, States have both state statutory and constitutional authority pursuant to their "waters of the state" jurisdiction to protect the quality of waters within their borders, and such jurisdiction generally extends beyond the limits of federal jurisdiction under the CWA; and

WHEREAS, CWA Section 101(b) supports the states' critical role in protecting water quality by stating: "It is the policy of Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution;" and

WHEREAS, CWA Section 101(g) further provides that the primary and exclusive authority of each state to "allocate quantities of water within its jurisdiction shall not be superseded, abrogated, or otherwise impaired by this Act;" and

WHEREAS, perennial streams with a relatively permanent surface water connection to navigable waters are presumptively considered to be under federal CWA jurisdiction consistent with *Rapanos*; and

Commented [JC1]: As States, we need involvement between Proposal and Final. We can't just all provide comments and be expected to not hear anything more until they re-emerge from the black box.

Position No. 472
Revised and Readopted
(see former Positions No. 427 – October 26, 2018,
No. 410 – June 29, 2017 and No. 369 – July 18, 2014)

WHEREAS, a one-size-fits-all national approach to federal regulations, guidance, and programs pertaining to the CWA does not recognize specific conditions and needs in the West, where water and precipitation can be scarce and a variety of unique waterbodies exist, including ~~but not limited to~~ small ephemeral washes and arroyos, snow dependent intermittent streams, effluent dependent and dominated streams, prairie potholes, playa lakes, and terminal lakes, as well as numerous man-made reservoirs, impoundments, and water and stormwater conveyance structures; and

WHEREAS, physical, biological, and chemical differences between waters, and hydrologic differences, both spatially and temporally, as well as considerable differences in legal doctrines that govern water in western states, mean that any federal effort to clarify CWA jurisdiction will inevitably impact each State-state differently, thus underscoring the need to thoroughly involve states in developing and implementing any rule so as to clearly respect and avoid conflict with state authority over the regulation of water quality and the allocation of waters and water rights within their respective borders; and

WHEREAS, any efforts to redefine or clarify CWA jurisdiction have, on their face, numerous federalism implications that have the potential to significantly impact states and alter the distribution of power and responsibilities among the states and the federal government; and

WHEREAS, as co-regulators, States-states are separate and apart from the general public, and have a unique role with the federal government in the development and implementation of any rule to clarify or redefine CWA jurisdiction; and

WHEREAS, information-sharing does not equate to meaningful consultation, and the uncertainty and differences of opinion that exist regarding CWA jurisdiction requires EPA and the Corps to develop and implement federal CWA jurisdiction efforts in authentic partnership with the states; and

WHEREAS, uncertainty and differences of opinion have and continue to exist regarding CWA jurisdiction among Statesstates, and challenge EPA and the Corps to develop and implement any new rule in cooperation with the Statesstates, based on principles of cooperative federalism, and together to provide greater certainty and a clearer definition of the limits of federal jurisdiction; and

~~**WHEREAS**, perennial streams with a relatively permanent surface water connection to navigable waters are presumptively considered to be under federal CWA jurisdiction consistent with Rapanos; and~~

WHEREAS, substantial and recurring changes to regulatory definitions, policies, and programs between federal Administrations-administrations create uncertainty for co-regulators and the regulated community, often leading to unreliable results, indecision, inconsistency, and lawsuits.

NOW, THEREFORE BE IT RESOLVED that Congress and the Administration should ensure that any federal effort to clarify or define CWA jurisdiction and define Waters of the United States:

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1. Creates ~~an more~~ enduring and broadly supported definition ~~and the agencies are provided ample time for development of regulatory language.~~

2. ~~Acknowledges and addresses the~~ Gives as much weight and deference as possible to state needs, priorities, and concerns ~~of states as co-regulators.~~

3. Includes robust, ~~and~~ meaningful, ~~and representative~~ state participation and consultation in the development and implementation of any rule, acknowledging the inherent federalism implications.

4. Gives full force and effect to Congress' intent ~~to maintain a reasonable balance of state and federal authority~~ and the purposes of CWA Sections 101(b) and 101(g).

~~5. Considers any clarity and interpretation of jurisdiction that may result from the Sackett v. EPA case (case no 21-454), pending before the Supreme Court.~~

~~56.~~ Appropriately considers that Justice Kennedy's "significant nexus" test in *Rapanos* requires a connection between waters that is more than speculative or insubstantial to establish jurisdiction. Federal CWA jurisdiction efforts should also quantify "significance" to ensure that the term's usage does not extend jurisdiction to waters with a *de minimis* connection to jurisdictional waters, ~~and is~~ applied to individual waters on a case-by-case and not watershed basis.

~~67.~~ Complies with the limits set by Congress and appropriately considers the limits the U.S. Supreme Court has placed on CWA jurisdiction, expressed through the plurality opinion authored by Justice Scalia in *Rapanos*.

~~78.~~ Specifically excludes waters and features outside the scope of the CWA jurisdiction including ~~but not limited to~~ groundwater ~~and historically recognized agricultural exemptions.~~

~~89.~~ Acknowledges that states have authority to protect all "waters of the state," and that excluding waters from federal jurisdiction does not ~~always~~ mean that they will be exempt from state regulation and protection.

~~910.~~ Continues to provide access to appropriate technical and financial assistance to the ~~States-states~~ to protect and improve water quality under existing EPA programs without regard to jurisdictional determinations.

~~4011.~~ Provides a clearly delineated process for resolving differences of opinion over federal and non-federal jurisdiction, and jurisdiction between different States and ~~Tribes-tribes~~ (treated as ~~States-states~~).

~~412.~~ Provides for mapping of jurisdictional waters as a joint federal/state/tribal effort employing the best available data and tools, with appropriate provisions and processes for map maintenance.

Position No. 472
Revised and Readopted
(see former Positions No. 427 – October 26, 2018,
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~~1213.~~ Includes an appropriate delay in the effective date of any new rule or otherwise allows for a transition enabling ~~States-states~~ to take such actions as may be necessary to address any gaps in state law, regulation and protection, and to ensure sufficient time for tools to be developed by federal agencies, in collaboration with states, that facilitate implementation of the new rule.

~~1314.~~ Recognizes the need to balance definitional clarity with unique landscapes and flow regimes in various regions of the Nation and the need for flexibility in implementation to address the unique landscapes, flow regimes, and legal frameworks in various regions of the Nation.

~~15.~~ ~~Incorporates or define~~ a regional ~~approach nature~~ to the definitions of terms for foundational waters included in of the rule including terms such as “relatively permanent” and “significant nexus” and defines regions using existing classification systems based on hydrology, geology, and climate.-

~~1416.~~ Provides, in the rule development process, a representative number of states, as co-regulators, with diverse perspectives and regions to engage actively in an integrated way with EPA and ~~USACE Corps~~ staff to provide direct and effective feedback on the implementability of a proposed rule which requires ample time for development of new regulatory language.-

Revised and Readopted (see former Positions 427 – October 26, 2018, No. 410 – June 29, 2017, and No. 369 – July 18, 2014)



RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding
ENDANGERED SPECIES AND STATE WATER RIGHTS-RESOURCES
Cody, Wyoming
June 25, 2021

WHEREAS, Section 2(c)(2) of the Endangered Species Act declares it is the policy of Congress that Federal agencies shall cooperate with State and local agencies to resolve water resource issues in concert with conservation of endangered species (16 U.S.C. 1531); and

WHEREAS, the Fish and Wildlife Service notes the potential water-related impacts of regulating the incidental take of migratory birds under the Migratory Bird Treaty Act; and

WHEREAS, water in the West is often a scarce resource critical for both a healthy economy and healthy environment, including protected endangered and threatened species; and

WHEREAS, water is both a public and a private resource, with some uses reserved for the public good, while others are recognized as protected private property rights; and

WHEREAS, the States are primarily responsible for the allocation, administration, management, and protection of the water resources and rights to the use of water within their borders, as well as the management and protection of diverse fish and wildlife species and the aquatic and terrestrial environments upon which they depend; and

WHEREAS, many, if not most, of the senior state granted rights to the use of waters in western rivers and streams predate federal environmental protections by decades, and the certainty provided by early water rights continues to be the foundation for past, present and future investments; and

WHEREAS, the West and its flora and fauna, including protected species, are part of a unique and unparalleled heritage reflecting the Nation's value for wild and open spaces, as well as a western conservation ethic; and

WHEREAS, western States and many western water uses are also committed to the preservation of western species through reasonable, transparent and effective regulatory protections and restrictions, as well as conservation incentives for private property owners; and

WHEREAS, opportunities exist for greater collaboration and cooperation to conserve threatened and endangered species, while recognizing state granted water rights and addressing western water issues, without unmitigated or uncompensated "takings" of either water rights or threatened and endangered species where provided for under state or federal law.

NOW, THEREFORE, BE IT RESOLVED that the Council calls upon federal agencies to engage in a substantive discussion of past, present and future efforts to work in concert with State agencies to implement Congress' intent to resolve water and species protection issues.

DRAFT

WSWC POLICY STATEMENTS

Position Number	Committee Oversight	Date Adopted	POSITIONS (Policy positions will be deactivated three (3) years after their adoption, unless extended by formal action of the Council.)
477	WQ	9/16/2021	regarding Abandoned Hardrock Mine Cleanup
476	L	9/16/2021	regarding States' Water Rights and Natural Flows
475	WR	9/16/2021	regarding Bureau of Reclamation Drought Response Program
474	WR	9/16/2021	regarding Drought Preparedness, Prediction and Early Warning Programs
473	WR	9/16/2021	regarding Federal Water and Climate Data Collection and Analysis Programs
472	WQ	9/16/2021	regarding Clean Water Act Jurisdiction
471	WQ	9/16/2021	supporting State Clean Water Act Section 401 Certification Authority
470	L	6/25/2021	regarding Endangered Species and State Water Rights
469	WQ	6/25/2021	regarding Water Transfers and National Pollutant Discharge Elimination System (NPDES) Discharge Permits
468	WR	6/25/2021	regarding the Rural Water Supply Project/Infrastructure Needs
467	L	3/25/2021	regarding the Dividing the Waters program
466	L	3/25/2021	on State primacy over groundwater
465	L	3/25/2021	supporting universal access to reliable, clen drinking water for federally recognized Indian tribes and Alaska native communities
464	WR	3/25/2021	supporting federal research on climate adaptation
463	WR	3/25/2021	regarding water and energy planning and policy
462	WR	3/25/2021	supporting water infrastructure funding
461	WR	3/25/2021	supporting weather station networks
460	WR	3/25/2021	supporting the use of Forecast Informed Reservoir Operations and Innovations
459	WR	3/25/2021	regarding probable maximum precipitation standards
458	L	10/15/2020	outlining actions Federal agencies should take to expedite State General Stream Adjudications
457	L	10/15/2020	supports the Dividing the Waters Program
456	WQ	10/15/2020	asserting state primacy on Protecting Ground Water Quality
455	WR	10/15/2020	supporting U.S. Department of Agriculture (USDA) Conservation Programs and Water Resources
454	L	10/15/2020	supporting Indian Water Rights Settlements
453	WR/E	7/22/2020	emphasizes state primacy over water and call for cooperative federalism and substantive consultation by federal agencies regarding water-related rules, regulations, directives, orders and policies
452	WR	7/22/2020	support federal authorization and financial support through the U.S. Geological Survey (USGS) for State Water Resources Research Institutes
451	WR	7/22/2020	requests Congress fully appropriate receipts accruing to the Reclamation Fund for their intended purpose
450	WR	7/22/2020	supporting NOAA data, forecasting, and research programs
449	L	7/22/2020	opposes any federal legislation intended to preempt state water law
448	WR	7/22/2020	supporting national dam safety programs
447	WR	3/6/2020	regarding the rural water and wastewater project/infrastructure needs and U.S. Department of Agriculture programs
446	WQ	3/6/2020	regarding the clean and drinking water state revolving funds and state and tribal assistance grants
445	WR	3/6/2020	regarding the National Levee Safety Act of 2007, levees and canal structures
444	WR	3/6/2020	regarding the transfer of federal water and power projects and related facilities
443	WR	3/6/2020	regarding the Reclamation Safety of Dams Act of 1978
442	WR	3/6/2020	regarding the Bureau of Reclamation's maintenance, repair and rehabilitation needs
441	WR	3/6/2020	urging Congress to support subseasonal to seasonal weather research, forecasting, and innovation
440	L	10/18/2019	supporting legislation requiring the federal government to pay state filing fees in state general stream adjudications
439	WR	10/18/2019	expressing support for implementation of the SECURE Water Act
438	WR	10/18/2019	urges the Administration and NASA to enhance focus on research for water resources applications and promote long term engagement with the WSWC
437	WR	7/18/2019	urging the Administration and Congress to Support Water Research and Development Programs at the Department of Energy National Laboratories
436	WR	7/18/2019	regarding Hydraulic Fracturing
435	WR	7/18/2019	supporting Strengthening the Resiliency of Our Nation to the Impacts of Extreme Weather Events
434	WR	7/18/2019	on the Preservation of Radio Frequencies necessary for Weather forecasting and Water Management
433	WR	3/22/2019	supporting Renewable Hydropower Development
432	WR	3/22/2019	supporting Rural Water Infrastructure Needs & Projects

Sunsetted Positions

2020

- #410 Acknowledges state authority over “waters of the State” and called for recognizable limits to federal Clean Water Act jurisdiction. (*superseded by more recent position*)

2019

- #394 Urging Congress to authorize and the Administration to complete a comprehensive study of the Missouri River Mainstem Reservoir System’s authorized purposes and related benefits before addressing an appropriate balance and mix of uses. (*outdated*)
- #389 Urging Congress and the Administration to prioritize federal programs that provide the translation function between basic scientific research on climate and weather extremes to water resources management actions. (*positions more recently adopted*)

2017

- #373 Letter commenting on the proposed rule developed by the EPA and the USACE to clarify the scope of Clean Water Act jurisdiction. (*proposed rule became the 2015 Clean Water Rule*)
- #372 Letter sending comments on the USFS Proposed Directive on Groundwater Resource Management, Forest Service Manual 2560. (*Forest Service has withdrawn their activity*)
- #370 The Interpretive Rule Regarding Applicability of the Exemption from Permitting under Section 404(f)(1)(A) of the Clean Water Act to Certain Agricultural Conservation Practices. (*proposed rule was withdrawn*)

2016

- #359 Opposing requiring pesticide applications for National Pollutant Discharge Elimination System (NPDES) discharge permits. (*outdated*)

2015

- #338 Energy and Water Integration Act of 2011. (*outdated*)
- #341 Letter regarding concerns with the Bureau of Reclamation’s proposed changes to the Reclamation Manual. (*outdated*)

2013

- #323 A Shared Vision on Water Planning and Policy. (*superceded by more recent position*)

2012

- #313 Letter Regarding National Water Research and Development Initiative Act. (*There is no current legislation*)
- #315 Letter to House Transportation and Infrastructure Committee leaders raising concerns regarding a draft bill entitled the Sustainable Watershed Planning Act. (*outdated, not reintroduced*)

- #317 Supporting the Bureau of Reclamation's Field Services Program. (*outdated*)
- #318 Offering general comments to CEQ on the Principles and Guidelines. (*outdated*)
- #319 Describing principles that are important to the Western states in considering a "national vision" for water policy. (*superceded by more recent position*)

2011

- #297 Strong support for legislation to establish a National Drought Council to improve national drought preparedness, mitigation, and response efforts. (*There is no current legislation*)
- #298 In cooperation with the Interstate Council on Water Policy expressing strong support for increased funding for the Cooperative Water Program and the National Streamflow Information Program. (*superceded by more recent position statements and letters*)
- #299 Supporting S. 2842, the Aging Water Infrastructure and Maintenance Act. (*enacted*)
- #300 Regarding introduction of the Cooperative Watershed Management Act of 2008 (S. 3085). (*enacted*)
- #301 Commenting on H.R. 135, the "21st Century Water Commission," specifically declaring that the WSWC be involved in the selection of members and that it include State and Native American involvement. (*Bill has not been reintroduced*)
- #302 Supporting the enactment of S. 895 to provide the Bureau of Reclamation with authority to assess rural water supply needs and for sufficient funding. (*enacted*)
- #303 Revised resolution in support of the Weather Modification Research and Technology Transfer Act. (*No federal research program or legislation has been reintroduced*)
- #306 Urging support for full funding of the USGS National Streamflow Information Program (NSIP) and sufficient funding for the Cooperative Water Program to match non-USGS contributions. (*outdated*)
- #307 Letter to Senator Bingaman, Senate Energy and Natural Resources Committee, expressing interest in S. 3231, the Omnibus Public Lands Management Act. (*outdated*)
- #311 Letter to Steve Stockton offering assistance to the Corps in their water planning initiative. (*outdated*)

2010

- #287 Setting forth the Council's past perspectives on a proposed "Twenty-First Century Water Commission." (*outdated - see #301 above*)
- #289 Support of the proposed Water Conservation, Efficiency and Management Act, to specifically authorize the Bureau of Reclamation's water conservation programs. (*separately authorized*)
- #290 Concern over the Administration's decision to zero out funding for the U.S. Bureau of Reclamation's Technical Assistance to States (TATS) Program. (*outdated*)
- #291/#292 Regarding the proposed Agricultural Water Enhancement Program. (*enacted*)

#295 Concern over budget request for federal funding for water and wastewater treatment, specifically EPA's State Revolving Fund (SRF) Capitalization Grants. (*combined with #296 and replaced with #330 – Apr 15, 2011*)

#296 Concern with OMB directive to EPA disallowing the use of SRF revenues to repay bonds. (*combined with #295 and replaced with #330 – Apr 15, 2011*)

2009

#276 Urging the Congress and Administration to Continue to Recognize State Primacy Regarding Water Rights and Water Quality Certification in the Federal Licensing of Hydroelectric Projects. (*supplanted by WGA resolution*)

#277 Letter commending the American Indian Environmental Office of EPA for its efforts in establishing the Tribal Water Program Council and expressing a hope that it would "offer an ongoing opportunity for state-tribal cooperation on issues of mutual interest." (*outdated*)

#279 Support for legislation (S. 2751 and H.R. 5136) to create a National Integrated Drought Information System within the National Oceanic and Atmospheric Administration. (*authority enacted*)

#280 Strong support for federal legislation, the National Drought Preparedness Act, to establish a national policy for drought and coordinate "proactive measures at all levels of government to plan, prepare and mitigate the serious impacts of drought." (*deferred to WGA resolution*)

#281 Support for Reclamation's Water Conservation Field Services Program and "Bridging-the-Headgate" Partnerships. (*outdated*)

#282 Regarding Federal Non-Tribal Fees in General Adjudications asking the Congress to pass legislation requiring the Federal government, when a party to a general water rights adjudication, to pay fees for costs imposed by the state to conduct the proceedings to the same extent as all other users. (*deferred to WGA resolution*)

#283 Reiterating strong support for maintaining a thermal band as part of the Landsat Data Continuity Mission, and the necessary funding. (*separately updated*)

2008

#262 Support for the U.S. Geological Survey's Cooperative Water Program (CWP) and opposes any effort to force the privatization of related USGS services. (*separately updated*)

#268 The WSWC endorses policy resolutions adopted by the Western Governors' Association, and will allow these policies to guide the Council in matters relevant to implementation and potential reauthorization of the Clean Water Act. (*deferred to WGA resolution*)

#269 Water Efficiency Standards for Plumbing Products. (*subsequently enacted*)

#270 Reauthorization of the Farm Bill. (*reauthorized*)

#271 Support for the National Aeronautics and Space Administration's Landsat Data Continuity Mission and calling for continued funding to include a thermal infrared sensor. (*superceded by 2009 WSWC Position No. 283*)

#273 Support for the Nonpoint Source Grant program administered by the U. S. Environmental Protection Agency under Section 319 of the Clean Water Act. (*outdated*)

Tab D – Budget

DRAFT FY2021-2022 WSWC & WaDE Budget

	FY2022 July-Mar (pro forma)		FY2022 Apr-June (est.)	WSWC FY2022 Final Estimates	WSWC FY 2022 Approved Budget	FY2022 WaDE Income & Expense Estimates	FY2022 WSWC Income & Expense Estimates	WSWC FY 2022 Comments
INCOME								
Member States Assessments	\$ 544,500.00	1	\$ 16,500.00	\$ 561,000.00	\$ 561,000.00		\$ 561,000.00	Full dues from 17 States
Newsletter	\$ 200.00		\$ -	\$ 200.00	\$ -		\$ 200.00	
Council Meeting Sponsors	\$ 2,711.15		\$ 1,500.00	\$ 4,211.15	\$ -		\$ 4,211.15	
Interest	\$ 1,705.88		\$ 420.00	\$ 2,248.72	\$ 3,500.00		\$ 2,248.72	
Symposium/Workshop Sponsors	\$ -		\$ 8,000.00	\$ 8,000.00	\$ -		\$ 8,000.00	CDWR June Workshop
NARF WSWC Symposium	\$ 9,260.00		\$ -	\$ 9,260.00	\$ -		\$ 9,260.00	
NASA JPL WWAO (Tech Xfer) Wkshp	\$ -		\$ -	\$ -	\$ -		\$ -	
USBR Water SMART (\$200k/2 years)	\$ -		\$ -	\$ -	\$ -		\$ -	
Water Foundation Grant	\$ -							
Moore Foundation - Internet of Water	\$ 195,375.47		\$ 111,499.70	\$ 306,875.17	\$ 195,393.00	\$ 270,707.42	\$ 36,167.75	WSWC salaries/overhead at 10% of MTDC.
BHP Foundation - Internet of Water	\$ -		\$ 149,894.17	\$ 149,894.17	\$ 125,000.00	\$ 137,258.34	\$ 12,635.83	WSWC salaries/overhead at 10% of MTDC.
TOTAL INCOME	\$ 753,752.50		\$ 287,813.87	\$ 1,041,689.21	\$ 884,893.00	\$ 407,965.76	\$ 633,723.45	
EXPENSE								
Accounting	\$ 6,600.00		\$ 2,500.00	\$ 9,100.00	\$ 10,000.00	\$ -	\$ 9,100.00	
Annual & Sick Leave Funding (HRA)	\$ -		\$ 6,974.96	\$ 6,974.96	\$ -	\$ -	\$ 6,974.96	
Audit	\$ 3,500.00		\$ -	\$ 3,500.00	\$ 3,250.00	\$ -	\$ 3,500.00	
Contingencies	\$ 3,834.96		\$ 4,000.00	\$ 7,834.96	\$ 2,000.00	\$ 3,089.00	\$ 4,745.96	
Contract Services	\$ 2,397.50		\$ 3,000.00	\$ 5,397.50	\$ 12,700.00	\$ -	\$ 5,397.50	
Equipment Replacement Fund	\$ 2,250.00		\$ 750.00	\$ 3,000.00	\$ -	\$ -	\$ 3,000.00	
Furniture-Equipment	\$ 300.29		\$ 300.00	\$ 600.29	\$ 1,526.00	\$ -	\$ 600.29	
Insurance	\$ -		\$ 4,920.00	\$ 4,920.00	\$ 1,215.00	\$ 3,600.00	\$ 1,320.00	
Maintenance Contracts	\$ 2,579.25		\$ 723.78	\$ 3,303.03	\$ 5,000.00	\$ -	\$ 3,303.03	
Meetings & Arrangements	\$ 5,933.76		\$ 8,000.00	\$ 13,933.76	\$ 16,000.00	\$ 998.77	\$ 12,934.99	
Office Supplies	\$ 485.10		\$ 500.00	\$ 985.10	\$ 2,000.00	\$ 268.53	\$ 716.57	
Payroll Benefits	\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	
Dental Insurance	\$ 2,523.41		\$ 630.85	\$ 3,154.26		\$ 1,003.06	\$ 2,151.21	
Life Insurance	\$ 280.68		\$ 70.17	\$ 350.85		\$ 172.97	\$ 177.88	
LT Disability Insurance	\$ 1,593.64		\$ 398.41	\$ 1,992.05		\$ 685.27	\$ 1,306.78	
Medical Insurance	\$ 57,387.19		\$ 14,346.80	\$ 71,733.99		\$ 18,650.84	\$ 53,083.15	
Pension	\$ 54,181.42		\$ 13,545.36	\$ 67,726.78		\$ 35,488.83	\$ 32,237.94	
Payroll Salaries	\$ 320,433.61		\$ 80,108.40	\$ 400,542.01	\$ 760,997.00	\$ 136,985.37	\$ 263,556.64	
Payroll Taxes	\$ 26,131.08		\$ 6,532.77	\$ 32,663.85	\$ -	\$ 9,995.14	\$ 22,668.71	
Pension Management	\$ 3,675.93		\$ 1,200.00	\$ 4,875.93	\$ 5,690.00	\$ -	\$ 4,875.93	
Postage & Freight	\$ 190.05		\$ 300.00	\$ 490.05	\$ 1,000.00	\$ -	\$ 490.05	
Printing & Reproduction	\$ 785.80		\$ 845.00	\$ 1,630.80	\$ 2,000.00	\$ -	\$ 1,630.80	
HOA Fees (w/o Property Tax)	\$ 2,932.50		\$ 810.00	\$ 3,742.50	\$ 7,000.00	\$ -	\$ 3,742.50	
Property Tax	\$ 3,422.74		\$ -	\$ 3,422.74		\$ -	\$ 3,422.74	
Storage Rent	\$ 2,177.00		\$ 900.00	\$ 3,077.00	\$ 3,500.00	\$ -	\$ 3,077.00	
Reports & Publications	\$ 6,615.42		\$ 855.00	\$ 7,470.42	\$ 7,200.00	\$ -	\$ 7,470.42	
Symposium (CDWR-S2S/NWS)	\$ -		\$ 8,000.00	\$ 8,000.00	\$ 5,000.00	\$ -	\$ 8,000.00	
Symposium (WIMS/WaDE)	\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	
Symposium (WSWC / NARF)	\$ 441.56		\$ -	\$ 441.56	\$ -	\$ -	\$ 441.56	
Telephone (UBS/Comcast/Cellphone)	\$ (195.96)		\$ 1,320.00	\$ 1,124.04	\$ 4,000.00	\$ -	\$ 1,124.04	reduced w/credits
Travel	\$ 10,018.86		\$ 8,819.81	\$ 18,838.67	\$ 10,000.00	\$ 4,985.46	\$ 13,853.21	increased with the use of airline credits
Utilities (Questar & Murray Power)	\$ 1,097.73		\$ 600.00	\$ 1,697.73	\$ 1,600.00	\$ -	\$ 1,697.73	
Other - Software & Licensing	\$ 960.18		\$ 1,000.00	\$ 1,960.18	\$ 7,220.00	\$ 1,960.18	\$ -	
WaDE DPL Payments	\$ 41,202.00		\$ 141,888.48	\$ 183,090.48	\$ 15,995.00	\$ 183,090.48	\$ -	
WaDE State Assistance	\$ 6,991.00	]]]]]]		\$ 6,991.00	\$ -	\$ 6,991.00	\$ -	
TOTAL EXPENSES	\$ 570,726.70		\$ 313,839.79	\$ 884,566.49	\$ 884,893.00	\$ 407,964.88	\$ 476,601.60	
Balance	\$ 183,025.80		\$ (26,025.92)	\$ 157,122.72	\$ -	\$ 0.88	\$ 157,121.85	

1 Full dues from 17 states

Tab E – Rules of Organization Changes



WESTERN STATES WATER COUNCIL

682 East Vine Street, Suite 7 | Murray, Utah 84107-5501 | (801) 685-2555 | FAX (801) 685-2559

Web Page: www.westernstateswater.org

March 17, 2022

MEMORANDUM

TO: Executive Committee

FROM: Tony Willardson, Executive Director

RE: Proposed Alternative Changes to WSWC Rules of Organization

I wanted to again bring your attention to potential changes to our rules of organization that will be discussed at our upcoming meetings. These changes also impact related policy development and coordination with the Western Governors' Association (WGA). Consistent with WGA's practice, the Council's rules of organization direct that position statements sunset after three years if not readopted.

New and sunseting WSWC positions are provided to WGA with our 30-day notice in advance of our meetings and WSWC members are encouraged to reach out to their governors' offices and WGA Staff Advisory Council members for comment and direction. Any external actions raised between meetings may be acted upon by the Executive Committee, but are then referred to WGA for a 10-day review. If no objections, are raised, then the WSWC position may be distributed. However, it is not clear what should happen if there are objections. For example, if one or two governors have objections, does that invalid the WSWC position?

WSWC positions require a two-thirds majority for adoption or revision. In practice, we strive for consensus and there has rarely ever been a negative vote, though some states have abstained. While a state may request that their opposition or abstention be noted on a position statement, this has been even more unusual.

After rigorous debate over the federal 2015 Waters of the United States (WOTUS) jurisdiction rule, under the Clean Water Act, our position was adopted with the required two-thirds majority. It was adopted without a negative vote, but a number of states did choose to abstain, without asking that it be so noted on the position itself. The position was first approved by the Executive Committee on a special call so as to be used to comment by a deadline set before the next regular meeting of the Council. It was then forwarded to WGA and no governor provided any response, yea or nay, leaving its status uncertain. Subsequently, however, the federal comment deadline was extended allowing the proposed position to come before the full Council with regular notice.

This led to a change in our rules noting that if there were no objections from WGA after 10 days, then our position was effective and could be distributed. However, it didn't resolve the question of whether or not one or two governors objecting would nullify a position adopted by a two-thirds

majority of states via these special procedures. Informally, it was assumed a majority of the governors would need to object.

Another question arose when we considered and revised our sunseting CWA WOTUS position last September 2021. There were differences of opinion among our states, and I explained that our rules allow any one state to request a delay in a vote until the next regular meeting, but that would essentially leave us without a position, as it would sunset without affirmative action. We would then not have a specific position to be able to comment on any proposed WOTUS-related rule. No state requested a delay and some common ground was found related to requesting consultation and a flexible regional approach to federal jurisdictional determinations. It was determined that the revised position would be reconsidered at our 2022 spring meetings.

Staff drafted the attached proposed changes to address these situations in the future, as well as clarify the present practice of addressing sunseting resolutions at the next regular Council meetings (as opposed to literally 3 years following their adoption). The red-line changes and explanations follow.

Please let me know if you have any comments or concerns related to these proposed changes, which will be considered at meetings next month.

Proposed Changes to WSWC Rules of Organization

Article X – Voting and Policy Development

(4) In any matter put before the Council for a vote, other than the election officers, or sunseting positions, any member state may upon request obtain one automatic delay in the voting until the next regular meeting of the Council. Further delays in voting on such matters may be obtained only by a majority vote.

This change would avoid any position from sunseting due to any one state's request for a delay in voting (leaving it as a standing position for future reconsideration).

OR (alternatively)

(4) ~~In any matter~~ For any new external policy position put before the Council for a vote, ~~other than the election officers~~, any member state may upon request obtain one automatic delay in the voting until the next regular meeting of the Council. Further delays in voting on such matters may be obtained only by a majority vote.

This change would allow a delay in voting only for new external policy positions and not sunseting positions or internal policy matters, including budget resolutions, etc.

Article XI - Policy Coordination and Deactivation

With regard to external positions adopted at special meetings or added to the agenda of a meeting by unanimous consent, such external policy positions shall be communicated to the member governors of the Western Governors' Association (WGA) and the WGA Executive Director for review. If after 10 days no objection is raised by the governors, then the policy position may be distributed to appropriate parties. The Council will attempt to resolve any objections raised through WGA, and will not distribute any position if a majority of WSWC-member state governors object. In extraordinary cases, these procedures may be suspended by the WGA Executive Director, who will consult with the appropriate WGA lead governors before doing so.

The intent is to clarify that only a majority of governors can object to any resolution adopted under the WSWC's alternative notice and adoption procedures.

Policy positions will be deactivated three years after their adoption, if not readopted at the closest regularly-scheduled Council meeting. The Executive Committee will review prior to each regular meeting those policy statements or positions due for sunseting. If a majority of the Executive Committee members recommend that the position be readopted by the Council, then such position shall be forwarded subject to the same rules and procedures with regard to new positions that are proposed for Council adoption consideration.

This clarifies that sunseting resolutions can be forwarded for Council consideration with a recommendation from the Executive Committee to readopt, but again would not be subject to the one meeting delay in a vote rule applicable to new positions.

Tab F – Future WSWC Meetings

WESTERN STATES WATER COUNCIL

FUTURE MEETINGS

Upcoming Council Meetings/Host States

Summer – Polson, Montana
August 2-5, 2022
KwaTaqNuk Resort/Casino

2022 Meetings Projections

Fall – Oklahoma last held 4/17/15 in Tulsa

2023 Meetings Projections

Spring – Kansas last held 10/9/15 in Manhattan
Summer – North Dakota last held 7/15/16 in Bismarck
Fall – Nevada last held 7/10/15 in Stateline

2022 Symposia/Workshops

May 17-19, 2022 **Improving Subseasonal to Seasonal Forecasts /
Research to Operations Workshop**
San Diego, California
Doubletree San Diego Downtown

June 1-3 (to be narrowed) **Colorado River Runoff Forecasting Workshop**
Salt Lake City, Utah

June (to be determined)
22, 23, 28, or 29 **NOAA Leadership Workshop on S2S Precipitation
Prediction**
Washington, DC area

August 16-18, 2022 **Water Information Management Systems Workshop**
Salt Lake City, Utah
Utah Department of Environmental Quality Building

MEETING SCHEDULE

W:\USERS\CHERYL\COMTGT\CODY, WY - 2021 JUNE\FUTURE MEETINGS CHART_2021.DOCX

[illegible]

	Alaska	Arizona	California	Colorado	Idaho	Kansas	Montana	Nebraska	Nevada	New Mexico	North Dakota	Oklahoma	Oregon	South Dakota	Texas	Utah	Washington	Wyoming	Other
180																			Wash. DC 3/22/16
181											Bismarck 7/15/16								
182																St. George 9/30/16			
183								Nebraska City 4/14/17											
184			Eohmert Park 6/29/17																
185										Albuquerque 10/20/17									
186																			Wash. DC 3/14/18
187													Newport 8/3/2018						
188					Coeur d'Alene 10/26/8														
189		Chandler 3/22/19																	
190																	Leavenworth 7/18/19		
191				Breckenridge 10/18/19															
192																			Cancelled - Wash.-DC 4/1/20 COVID-19
193																			No Host 7/22/20
194																			No Host 10/15/20
195															Virtual Texas 3/25/21				
196																		Cody 6/25/21	
197														Deadwood 9/16/21					
198																			Arlington, VA 4/6/2022

Tab G – WSWC Activities and Events

Western States Water Council Summary of Activities September 2021 – March 2022

WASHINGTON, DC CONGRESSIONAL AND ADMINISTRATION OUTREACH

On October 4, 2021, the WSWC sent a letter to the Environmental Protection Agency (EPA) and Army (Civil Works) expressing the need for more robust and ongoing consultation with states on the development of a new rule defining the jurisdictional scope of “Waters of the United States.”

On October 21, 2021, the WSWC submitted written testimony for the record to the House Science, Space and Technology Committee in connection with the Committee’s hearing on October 14, on the Future of Forecasting: Building a Weather-Ready National on all Fronts and Improving Subseasonal and Seasonal Forecasts. It expressed strong support for the U.S. Weather Research Program within the National Oceanic and Atmospheric Administration’s (NOAA) Office of Oceanic and Atmospheric Research (OAR). It also, referred to a letter of support for improving subseasonal to seasonal (S2S) forecasting from several House members.

On November 4, 2021, the WSWC submitted written testimony to the House Committee on Natural Resources Subcommittee on Water, Oceans, and Wildlife expressing support for the various provisions regarding H. Res. 320, H.R. 4832, H.R. 5001, and H.R. 5345.

On November 30, the WSWC submitted a comment letter to the Fish and Wildlife Service regarding proposed incidental take regulations under the Migratory Bird Treaty Act and the potential impact on water resource management.

On January 4, 2022, the WSWC and the Association of State Wetland Managers sent a letter to EPA Administrator Michael Regan, Assistant Administrator Radhika Fox, and Assistant Secretary of the Army (Civil Works) Michael Connor regarding a proposal that the agencies reach out to the governors and invite them (or their designees) to participate in a future workshop(s) as co-regulators to discuss regional differences in the development of a new WOTUS Rule.

On January 21, 2022, the House Natural Resources Committee hosted a Congressional briefing with WSWC and Native American Rights Fund (NARF) to discuss Indian Water Rights Settlements

On February 7, 2022, the WSWC submitted a comment letter to Administrator Regan, Assistant Administrator Fox, and Assistant Secretary Connor regarding the revised definition of Waters of the United States (WOTUS Rule 1).

March 3, 2022, the WSWC and the Native American Rights Fund (NARF) sent a letter to the House and Senate Leadership expressing strong support for legislation securing future funding for tribal water rights settlements through extension of the transfer of dedicated revenues from the Reclamation Fund.

WESTERN GOVERNORS’ ASSOCIATION COORDINATION

The WSWC is a member of the Western Policy Network, led by WGA, and participates in quarterly calls and provides information for the Western Policy Network Roundup Monthly Newsletter.

The Executive Director keeps in contact with the WGA's Water Policy Advisor on various water issues.

September 29-30 – WGA Working Lands, Working Communities Initiative Utah Workshop.

December 9-10 – Executive Director attended WGA Winter Meeting in Coronado, CA.

WSWC CALLS, MEETINGS, SURVEYS, SYMPOSIA AND WORKSHOPS

September 14-16 – WSWC Summer 197th Meetings held in Deadwood, South Dakota (w/virtual participation option).

October 22 and January 24 - Agency Staff Retention Concerns Calls.

COORDINATION WITH WESTFAST AGENCIES

WSWC and WestFAST leadership regularly communicate and staff join monthly WestFAST calls as needed.

NASA Applied Sciences Program, WWAOW Water Resources Team collaboration (ongoing).

WSWC/NASA WWAOW co-authoring paper on Research to Operations (R2O) (ongoing).

WSWC, USGS, USBOR, NASA, and others co-authoring paper on Water Use Estimates and Data Sharing in the US: Challenges and Future Directions (ongoing).

September 27 – Landsat 9 launch from Vandenberg AFB – Executive Director attended at invitation of NASA/USGS

September 29 –NOAA NIDIS 2021 Southwest Drought Virtual Forum with WSWC Executive Director and Assistant Director/General Counsel participating

WestFAST WEBINARS

September 8 – The New Drought.Gov: Advancing Drought Resilience Through Innovation and Collaboration.

October 20 – Droughts and Wildfires Be Dammed: How Beavers Help Build Landscape-Scale Climate Resilience.

November 18 – Denver Water's Post-Fire Lessons Learned: Why It's a Smart Business Decision to Invest in Forest and Watershed Resilience.

January 5, 2022 – The Relationship Between Wildfires, Geologic Hazards, and Climate Change.

January 27, 2022 – Burned Area Emergency Response (BAER) Program.

March 2, 2022 – Does Community Driven Strategic Planning Reduce Impact of Large Wildfires?

COORDINATION WITH OTHER ORGANIZATIONS

Conversations with Clive Strong representing the Conference of Western Attorneys General (CWAG) on proposed WRDA language regarding a Corps-Western States Cooperative Federalism Committee.

Numerous calls, webinars and discussions with the Western Regional Partnership (on Department of Defense related water and readiness issues) as part of their Water Deep Dive (ongoing).

Participation with the Interstate Council on Water Policy (ICWP) Water Data Committee (ongoing).

September 8 – Lessons from the Colorado River: Climate, Land, and Drought virtual forum hosted by Lincoln Institute featuring Bruce Babbitt, Brenda Burman and Jim Holway.

September 28 – Executive Director presented at the CSG-West Colorado River Forum in Colorado Springs, Colorado.

November 8-10 – 2021 Annual American Water Resources Association Conference held virtually, with WaDE Program Manager presenting.

November 15-19 – Executive Director met with National Water Resources Association and U.S. Chamber of Commerce staff in Washington, DC.

December 13-16 – Executive Director and WaDE Program Manager attended the Colorado River Water Users Association (CRWUA) meetings held in Las Vegas, NV.

January 25-26 – Executive Director presented before the Colorado Water and Energy Institute on the WSWC's energy and water planning position.

March 17-18 – WaDE Program Manager, and WSWC Director: The Colorado River Compact Symposium, Salt Lake City, Utah.

March 22 – Executive Director provided the keynote address at the Western Water Network/Western Association of Agricultural Experiment Station Directors/Western Extension Directors Association meeting in Reno, Nevada.

WaDE DEVELOPMENT AND OUTREACH

Ongoing work with the Interstate Council on Water Policy (ICWP) Water Data Committee.

WaDE and Internet of Water (IOW) discussions about connecting WaDE and the Geoconnex project.

WaDE data interoperability work with USGS, EPA, and U.S. Bureau of Reclamation data (ongoing).

WaDE water use data sharing with USGS Water Use Census (ongoing).

WSWC discussions with Olsson and Sitka on Open Water Accounting and Trading Platform (ongoing).

WaDE 2.0 Western States Water Data Access and Analysis Tool (WestDAAT) design with the IT contractor, Don't Panic Labs (ongoing).

October 8, 2021 – WaDE and ECOS.org Call.

October 21 – California Water Data Consortium - Urban Water Outreach.

October 27 – Water-Use Open Forum: Water Withdrawals by Public Water Suppliers: Findings from Validated Water Audit Data.

November 1 – USGS and WaDE Water Use Discussion – Review WaDE API Calls.

November (each Tuesdays) WaDE Program Manager participated in the CUAHSI Cyberseminar Series on Digital Hydroconnectivity.

November 4 – Montana's Stream Gage Network by StoryMap.

November 8 -10 – WaDE Presentation at the 2021 American Water Resources Association (AWRA) Annual Virtual Conference.

November 30-December 3 – WaDE Program Manager served on Panel Review: NASA Research Opportunities in Space and Earth Science (ROSES) – Water Resources.

December 13-16 – WaDE Engagement Workshop: the Colorado River Water Users Association (CRWUA).

January 18, 2022 – Call: Tech for River Conservation with EarthViews Introduction.

January 20, 2022 – Call: Arizona participation in WaDE + USGS WUDR Grants.

January 26, 2022 – USGS Webinar: Cloud-based Water Conservation Reporting Tool for the State of Minnesota.

January 27, 2022 – WaDE and NJ Water Data Sharing Discussion.

February 2-3, 2022 – WaDE Program Manager: Nevada Water Resources Association (NWRA) 2022 Annual Conference, Las Vegas, Nevada.

February 9, 2022 – WaDE Program Manager and WSWC Director: IoW Steering Committee Meeting.

February 24, 2022 – WaDE Program Manager and Data Analyst: Internet of Water Webinar: Lessons from the Field: Stakeholder Engagement for Sustainable Outcomes.

March 16, 2022 – Lincoln Institute Webinar: Climate Smart Agriculture in the Southwest: A Discussion with State and Federal Policy Leaders.

COMMITTEES, TASK FORCES AND WORKGROUPS

Ad Hoc Group on Indian Water Rights Settlements – WSWC Executive Director/Assistant Director

American Water Resources Association (AWRA) – WSWC Executive Director and WaDE Program Manager

AWRA 2021 Summer Land and Water Conference Program Planning Committee – WSWC Executive Director

CUAHSI Hydroinformatics Conference Planning Committee – WaDE Program Manager

Internet of Water Advisory Board (IOW) – WSWC Executive Director, Board Member

IOW Coalition – WSWC Executive Director (Vice-Chair) and WaDE Program Manager (alternate)

National Integrated Drought Information System (NIDIS) Executive Council – WSWC Executive Director, Co-Chair

National Water Census Ad Hoc Group – WaDE Program Manager

National Drought Resilience Partnership – WSWC Executive Director

OpenET API Working Group -- WaDE Program Manager

USGS Water Use Strategic Planning Team – WaDE Program Manager

Western Association of Fish and Wildlife Agencies (WAFWA) – WSWC Executive Director (liaison)

Western Policy Network – WSWC Executive Director

Western Regional Partnership – WSWC Executive Director/Assistant Director

Tab H – Draft FY2022-2023 Executive Committee Work Plan

**EXECUTIVE COMMITTEE
WORK PLAN
2022/2023**

1. WGA/WSWC COORDINATION and COLLABORATION

Work to date: The Western Governors' Association (WGA) has adopted two comprehensive policy statements, one focused on water quantity, Water Resource Management in the West (~~2018~~2021-08) and the other on water quality, Water Quality in the West (~~2018-12~~2021-10), as well as other policy statements with water-related implications.

The Council has worked closely with WGA on various regulatory and other issues, especially the Corp's Water Supply Rule, EPA's proposed and final rules related to Clean Water Act (CWA) jurisdiction and the definition of Waters of the United States, as well as the CWA 401 State Water Quality Certification.

WGA has deferred to the Council to take the lead on some issues, such as tribal water rights settlements.

2022/23: The Council and the Committee will continue to coordinate and consult with the WGA on matters that come before the Council and assist as requested in the development and implementation of WGA water-related policies. WGA staff are invited to attend and participate in our meetings, workshops and symposia. WGA and WSWC staff collaborate on a continuing basis.

As in the past, the Council may propose policy resolutions for WGA consideration. Further, the WSWC Chair and/or Executive Director will participate in WGA meetings as appropriate. Working with the WGA, the Council will also coordinate Western Federal Agency Support Team (WestFAST) activities and needs. WGA and WSWC will also work together as part of the Western Policy Network.

Subcommittee: Management Subcommittee

Time Frame: ongoing

2. WESTFAST

Work to date: WestFAST's creation in 2008 has had many benefits. It is a unique forum for addressing western (and national) water issues that has brought together over a dozen federal agencies to collaborate with each other and state agencies with water-related responsibilities. WestFAST addresses issues raised with the Council and WGA (which in turn support development and implementation of related federal policies and programs). WestFAST and the Council have also discussed collaborative federalism principles to guide federal/state working relationships.

2022/23: The Executive Committee will continue to oversee the Council's work with WestFAST. Further, the Committee will work to ensure participating agencies realize the real and potential benefits of WestFAST, helping to build a sound foundation for continuing collaboration. The WSWC will meet regularly with WestFAST representatives and will continue building and maintaining closer ties with WestFAST principals. The Council will also advocate for continued WestFAST funding.

Time Frame: Ongoing

3. FEDERAL ADMINISTRATION and CONGRESSIONAL VISITS/CONTACTS

Work to date: In an ongoing effort to promote WSWC and WGA positions and priorities, Council officers, members and staff often travel to Washington, D.C. to visit with Administration officials and Congressional members and staff. WSWC members and staff have also previously hosted or presented at briefings for congressional staff on the importance of federal data gathering activities, including Landsat thermal data, U.S. Geological Survey streamgaging programs, USDA's National Weather and Climate Center and its snow survey activities, National Oceanic and Atmospheric Administration programs (including the National Integrated Drought Information System and improving subseasonal to seasonal (S2S) forecasting), as well as Indian water rights settlements. Some of the feedback from these meetings has suggested a need for greater contact and communication between the Council and federal and congressional policymakers.

Of note, the Council is often invited to testify on proposed legislation. Further, the Council also distributes policy positions adopted at its meetings to House and Senate members of western state delegations, key Congressional leadership and staff, and senior Administration officials. ~~Due to the Corona-19 pandemic and related restrictions on travel and meetings, the Council cancelled its Spring 2020 meetings in the Washington, D. C. area, but followed up with a number of virtual webinars with Administration officials. Following the elections, members and staff met virtually with a leader of the Biden transition team for the Department of the Interior.~~

2022/23: The Council will continue to communicate our positions with the new Administration and the Congress. Future meetings when appropriate will be scheduled with Administration and Congressional contacts and advise them on major national water issues from the perspective of western states. The WestFAST Liaison Officer and WestFAST members will assist with and participate in visits with Executive Branch agencies. The WSWC will meet with WestFAST principals. Other trips and visits may be made as needed. The Council staff and members will also communicate our external positions as the need arises and continue to respond to requests for testimony, briefings and information from the Congress and the Administration.

Subcommittee: Management Subcommittee

Time frame: Ongoing

4. REGULAR COUNCIL MEETINGS

Work to date: The first meeting of the Council was held in Stateline, Nevada in 1965, and regular meetings have been held since. Currently, the Council meets three times per year, rotating among the member states, which host the meetings at a location of their choice. Given the current pandemic, meetings have been held virtually. One benefit has been expanded participation and reduced meeting and travel costs. Guest speakers and topics for discussion are scheduled according to members' interests and needs. External policy positions for consideration are noticed 30-days before the Council meets and are distributed not only to members, but also to WGA staff and the governors' staff. Any position statement not noticed may be brought before the Council for consideration at a meeting by unanimous consent, but if approved, must be sent to WGA for review prior to distribution consistent with mutually agreed upon WGA and WSWC procedures for policy coordination.

2022/23: The Summer 2022 meetings are scheduled to be held in [Polson, Montana](#). The Fall 202~~21~~²² meetings are scheduled to be held in [Oklahoma](#).

5. NEWSLETTER

Work to date: *Western States Water* provides members and others with accurate and timely information on various water resources topics, activities and events at state, regional and national levels. It is provided as a free service to members, governors and their staff, member state water resource agencies, state water users associations, selected multi-state organizations, key congressmen and their staffs, and top federal administration officials. ~~Other public and private agencies and individuals may subscribe for a fee.~~ It is primarily distributed via email, and is posted on our website, with password protection (for recent issues).

2021/22: Along with the Council's regular meetings, the newsletter requires our most significant commitment of staff resources, though that is usually ancillary to other efforts. The response from members and others receiving the newsletter has been consistently positive. The Council will continue to provide this service weekly via email, except for those who request a hard copy.

Time Frame: Ongoing

6. WATER MANAGEMENT SYMPOSIA

Work to date: An annual WSWC Water Management Symposium has traditionally been held under the auspices of the Executive Committee. However, the Committee has usually asked one of the other committees to take the lead. This includes a biennial Indian Water Rights Settlement Symposia cosponsored with the Native American Rights Fund. The next Council and NARF Symposium will be held in 202~~31~~³².

In 2019, the Council held a number of meetings and webinars in collaboration with relevant federal agencies, multiple stakeholders, and public and private experts on water resources infrastructure needs and financing strategies. This included exploring state financing authorities, policies, programs and projects, as well as public-private financing and cost sharing mechanisms. One goal is identifying common interests and promoting partnerships.

The Water Resources Committee, under the direction of the Executive Committee, and working with WestFAST, had planned to co-host a symposium on infrastructure with members of the federal Water Subcabinet during the cancelled 2020 Spring meetings, and will continue to pursue future options to address infrastructure needs, strategies, and federal and state programs.

The Executive Committee considers hosting symposia on any topic and issues as their importance merits.

2022/23: The Legal Committee, under the direction of the Executive Committee, will coordinate with NARF in sponsoring the next Indian Water Rights Settlement Symposium.

Time Frame — Fall 2023

7. ANNUAL REPORT

Work to date: Since its organization in 1965, the Council has prepared and published an annual report, with a brief discussion of the Council's formation and a detailed summary of its current membership and activities. It is a report of the Council's meetings and provides an explanation of resolutions and positions and other actions taken by the Council. Further, it includes a description of workshops, seminars and symposia sponsored by the Council, as well as other important activities and events. It also describes the Council's involvement in major current water policy issues. Lastly, biennially, it includes an audit of the Council's finances, and current rules of organization. Recently, electronic copies have been distributed.

Time frame: January – September

8. HISTORICAL REVIEW: ISSUES & OUTCOMES

Background: The Council has positions addressing numerous issues and has taken various actions and invested significant resources in attempting to influence outcomes. While the annual report, newsletter, meeting minutes and other sources document such work, there has never been a comprehensive review of some of the major topics addressed and outcomes achieved. Such a summary evaluating the influence the Council has had on outcomes would be useful. The Council has been active in both administrative and congressional affairs, including federal regulatory matters and federal budgeting and appropriations processes. The Council has also provided a forum for states to learn from each other, as well as serving as a resource and catalyst for innovation, such as the WSWC Water Data Exchange. Selecting appropriate metrics for measuring results could be challenging.

2022/23: The Committee will consider the best means of undertaking such a review and metrics for evaluating the Council's influence on matters that have been brought before the Council. The

Committee, given its oversight functions, will use the results of any summary to guide the investment of Council staff and budgetary resources.

Subcommittee:

Time frame:

9. STATE WATER AGENCY STAFFING AND RETENTION CONCERNS

Background: During the Deadwood, South Dakota meeting in September 2021, various WSWC members raised concerns about hiring, training, and retaining technical and professional staff to carry out essential agency functions. Some turnover or lack of new applicants may be attributable to: (1) high specialization of western water challenges; (2) shuffling among state/federal agencies; (3) smaller salaries compared to the private sector; (4) limited advancement opportunities for mid-level staff; and (5) retirements, pandemic-related adjustments, and younger generation career-culture shifts. On October 22, 2021 and January 24, 2022, various WSWC members discussed challenges and potential solutions that the WSWC might work together to be able to accomplish.

2022/23: The Committee will consider: (1) a brief survey of states to identify obstacles, with the intent to create a report that may be utilized to demonstrate the staffing needs of state water agencies across the West; (2) a mechanism for sharing job postings at state water agencies across the West that is cost-effective; and (3) developing a pipeline of incoming staff by introducing a younger generation of potential employees to day-to-day work of technical and professional staff, complex western water challenges, and benefits beyond salaries (e.g., through webinar series, cooperation with universities or other organizations).

Subcommittee: Henry Brooks, Jerry Rigby, Mary Anne Nelson, Connie Owen, Earl Lewis, Matt Unruh, Jesse Bradley, Sara Gibson, Jeanne Goodman, Kathy Alexander, Kim Nygren, Norm Johnson, Mary Verner, Jeff Cowley

Time frame:

Tab I – Draft FY2022-2023 Water Resources Committee Work Plan

**WATER RESOURCES COMMITTEE
WORK PLAN
2022/2023**

1. WATER AVAILABILITY & USE - WATER DATA EXCHANGE (WaDE)

Background/Work-to-date: The Council continues to work with member states and federal agencies through the Western States Federal Agency Support Team (WestFAST) to build a robust and performant architecture for accessing and sharing water data – Phase 2. WaDE 2.0 is a cloud-based schema centered around supporting use cases for data queries to support decision making within and across state boundaries. Along with the development of the WaDE 2.0 system, WSWC have been working on connecting publicly available water rights and water use datasets as published by our member state agencies into the WaDE SQL database. WSWC is working towards a user-friendly portal to access, filter, and analyze water rights and water use data.

With WSWC assistance, Member States are developing WaDE-compliant data services that will feed directly into the new WaDE platform. Some eastern states have expressed interest in deploying to the WaDE platform also, with a proto-type completed for New Jersey. WSWC will work with ICWP and through the USGS Water Use Data and Research (WUDR) program to engage states and other entities that wish to serve data in the WaDE platform.

WaDE is collaborating with and seeking to help integrate other national efforts, including the Water Availability and Use Program (WAUSP), which is led by the U.S. Geological Survey (USGS), as well as federal and non-federal open water data initiatives. WaDE supports these efforts by laying the groundwork for exchanging the core state data. Greater interoperability and consistent data standards are goals of the program.

The WSWC co-hosted a Water Information Management System (WIMS) workshop with NASA's Western Water Applications Office (WWAO) in 2018 and in September 2019 cohosted a WIMS workshop with USGS. Other events were planned, before meeting and travel restrictions were imposed due to the Covid-19 pandemic.

2022/2023: WSWC is work with its renovated WaDE architecture using cloud computing technology and adapting the current system to support specific use cases of the data, including a streamlined, spatially and temporally consistent water budget implementation for selected states. WSWC will also continue assisting participating member states to refine their data, find optimal ways to publish those data that are compatible with WaDE, as well as providing funding and internship support for states' data programs (subject to available funding). A WaDE beta portal with water rights and water use data is nearing completion.

The Council will also continue working with member states, USGS, NASA and various federal agencies to gather and disseminate water resources data using WaDE and other resources. The Council will also partner with USGS on facilitating funding to states for water data through the WUDR program.

The Committee, through the Water Information and Data Subcommittee (WIDS) and various other work groups, will continue to gather information on state water availability and use data and summarize existing state capabilities. Work to help states develop, disseminate, visualize and review data on water availability will continue. The WSWC seeks resources to maintain current efforts and assist states. A number of foundations are providing support.

Further, WSWC will assist CUAHSI by advising on data-standards and interoperability, reviewing their data products, assisting with the planning of data-related workshops.

Subcommittee: Sam Hermitte (TX), Lisa Williams, Natalie Mast (AZ), Mat Weaver, Linda Davis (ID), Ken Stahr (OR), Julie Cunningham, Kent Wilkins (OK), Gary Darling (CA), Todd Adams, Candice Hasenyager (UT), Lane Letourneau, Ginger Pugh (KS), Nancy Barber (USGS), Allison Danner (USBOR), Dwane Young (USEPA), Forrest Melton (NASA)

Timeframe: Ongoing

2. WESTERN WATER OBSERVING SYSTEMS

Background/Work-to-date: The Council has a long history of working to support federal programs to maintain and improve the observation, measurement, monitoring and management of western water resources and related data, including related Interior, NASA, NOAA and USDA programs (see Positions #450, July 2020; #438 and #439, October 2019; and ~~#428~~[473, October 2018](#)[September 2021](#)). Such programs include but are not limited to USGS cooperative streamgaging and groundwater monitoring, NRCS snow survey and water supply forecasting, NASA/USGS Landsat, and EPA water quality monitoring. These data are important for a number of applications. Some examples include, but are certainly not limited to: (a) state and regional water planning and water rights administration; (b) local watershed and urban planning and development; (c) analyzing water balances and water budgets; (c) siting of electric power generation and other energy production facilities; and (d) enabling a better understanding of the links between energy, water quantity, and water quality.

2022/2023: The Council will communicate the critical need for federal water data related programs and will revise and renew its message to better bring attention to water data needs and develop strategies to meet those needs. Consistent reliable future funding will be one major focus. There are a number of items under this functional area. Part of this effort will be to highlight critical measuring and monitoring “tools” for any water management “toolbox,” and communicating their value for enhancing our ability to wisely manage water resources.

Subcommittee:

Timeframe: Ongoing

3. SUB-SEASONAL to SEASONAL PRECIPITATION FORECASTING

Work to date: The Western States Water Council (WSWC) and California Department of Water Resources (CDWR) have entered into a number of agreements to assist with efforts to

improve sub-seasonal to seasonal (S2S) forecasting skill (2 weeks to one year). Several workshops were held in between 2015 and 2019. The Council prepared a report on these meetings and an outreach publication with recommendations to NOAA on improvements regarding sub-seasonal to seasonal precipitation forecasting. Additional workshops in 2020 were precluded by the pandemic. In 2020, NOAA released a report to Congress on efforts to improve S2S forecasting, as required by the Weather Research Act of 2017. The report recommendations included developing four pilot projects.

2022/2023: Additional S2S workshops are anticipated, and the Council will otherwise work to support federal efforts to improve our predictive capabilities and skill. The Council will support efforts to acquire sufficient federal appropriations for appropriate programs. The WSWC will work to promote federal funding to implement the 2017 Act, and the recommended S2S pilot projects in the West. (Position #441, March 2020)

Subcommittee:

Timeframe:

4. RESEARCH to OPERATIONS (R2O)/TECHNOLOGY TRANSFER

Background: Too often promising water resources related discoveries and scientific advances fail to lead to widespread improvements, for a variety of reasons, some technical, but often institutional, financial, economic or political. Research to Operations (R2O) and technology transfer success requires advance planning and effective partnerships that are often lacking. Academic and government research agencies may focus on important basic research, but even applied research organizations are generally not designed and staffed to bridge the so-called “valley of death” between researchers and those entities and individuals that can successfully envision and leverage resources to add value to that research through management, policy and operational changes.

Work to date: In August 2019, in cooperation with NASA’s Western Water Applications Office (WWAO), the Council sponsored a workshop intended to identify and begin to address the challenges inherent in effectively moving research advances towards improvements in water resources management and project operations. The workshop brought together partners from federal and state agencies that have experience with technology transfer, or that have programs that could be adopters of new technology and remotely sensed information products. Next steps were outlined in the workshop summary report.

2022/2023: A second planned WSWC/NASA workshop was postponed due to the pandemic. Future workshops will build upon the insights identified and connections established to: (1) Strengthen agency partnerships and continue building an inter-agency community to facilitate R2O in water resource management; (2) Develop WSWC’s WestFAST network to help transition new technologies and information products for water resources management to operational federal programs, including, but not limited to, remote sensing-based measurement technologies and sub-seasonal to seasonal (S2S) weather forecasting; and (3) Develop a strategy for raising awareness and support within state and federal government for R2O. Together we

will identify best practices to transfer applied research to operational programs in western federal, state, and local water agencies and tribes.

5. DROUGHT, NIDIS and EXTREME WEATHER EVENTS

Work to Date: Drought is a recurring natural phenomenon, the effects of which can be minimized through appropriate planning and preparedness activities. The Council has expressed its support for federal applied research and hydroclimate data collection programs to assist water agencies at all levels of government in adapting to weather extremes and climate variability and change (Position #~~464~~~~421~~, ~~March 14, 2018~~March 2021 and #~~473~~~~428~~ ~~October 26, 2018~~September 2021). The Council also supports development of an improved western observing system for extreme precipitation events and research to better understand hydroclimate processes (Position #450, July 2020). The Council's Executive Director serves as Co-Chair of the National Integrated Drought Information System (NIDIS) Executive Council with NOAA and USDA.

2022/2023: The Committee will continue working to improve preparedness and response to drought, floods and other extreme events in cooperation with member states, the WGA and WestFAST. The Council will also continue to support and advise WGA and NOAA with respect to NIDIS, and other weather/climate monitoring and adaptation efforts (including RISAs work). The Council will work to evaluate proposed climate, drought and weather legislation and drought related authorities and programs of federal agencies, and support appropriate authorizing legislation and appropriations.

Subcommittee:

Time Frame: Ongoing

6. GROUNDWATER RECHARGE PROJECT PROGRAMS & POLICIES

Work to Date: The Council has in the past addressed groundwater management programs and policies, including recharge and aquifer storage and recovery projects. The Council prepared a number of reports covering financial feasibility, legal and institutional issues, and water reuse for recharge (1990-2012). Much of the work is now dated, and many changes have taken place.

2022/2023: Working with the Legal Committee and the Council, the Committee will update past reports on state groundwater management programs and especially efforts to promote conjunctive use of surface and groundwater resources through artificial aquifer storage and recovery projects. This may include the use or reuse of waters of impaired quality.

Subcommittee:

Timeframe:

7. WESTERN WATER INFRASTRUCTURE PROJECTS AND PROGRAM FUNDING

Work to date: Many western states face overwhelming infrastructure financing needs, as well as declining budgets for ongoing services. The Council's origins are associated with challenges to augment and better manage the West's water supply, which continues to be a priority. The Council has in the past prepared reports on state water resources programs and project cost sharing and financing and analyzed state water use fees. The Council has also convened symposia and workshops and summarized the proceedings. Further, the Council has compiled summaries of western state infrastructure financing authorities, funding sources, policies and programs. Further, the Council has supported expenditures from the Reclamation Fund for authorized project purposes, including specifically authorized rural water supply projects and authorized projects as part of negotiated Indian water rights settlements.

2022/2023: The Council will continue to call on the Congress to ensure that revenues raised from the development of western resources, specifically revenues accruing to the Reclamation Fund, are appropriated and expended as intended for the development and management of western water resources (consistent with Position #451, July 2020). The Council will otherwise support efforts to secure adequate federal funding to meet growing western water demands, and work to develop a strategy to communicate important infrastructure needs. The Council will promote development of public-private partnerships to support this effort. As conditions permit, the Council will sponsor a symposium on infrastructure needs, strategies, and federal and state programs, under the direction of the Executive Committee, with WestFAST's assistance and in cooperation with other non-federal and federal interests. Regulatory streamlining is also important for water resource projects. The Council will work with the Administration and Congress towards successful water project development. Finally, the Council will provide a summary of western state water financing authorities and programs, as time and resources permit.

Subcommittee:

Time Frame:

8. ENERGY & WATER RESOURCES – INTEGRATED MANAGEMENT

Work to date: The increase in demands for water to meet energy needs is raising interest in the interrelationship between water and power resources, including opportunities to better understand the energy-water nexus and maximize efficiencies. The Council has addressed various aspects of energy issues as they relate to water resources as part of its regular meetings, including the demand for water resources created by new energy development. Hydraulic fracturing is a current issue and long standing practice with which the states have considerable experience. The use of water produced by energy development has also been discussed. The Council has also urged the Administration and Congress to support Department of Energy hosted energy-water programs conducted at national laboratories (Position #437, July 2019). The Council has participated with the Western Electric Coordinating Council (WECC) and related State Provincial Steering Group and Environmental Data Work Group.

2022/2023: As resources permit, the Council will continue to compile existing information through WaDE addressing water availability and anticipated demands for energy resources development (and the implications for water use in the West). Further, the Council will consider and evaluate any federal legislation and other potential collaborative efforts in addressing energy and water needs, as well as related water quality concerns. The Council will evaluate as appropriate specific energy and water-related issues as they arise, such as hydraulic fracturing, hydropower licensing, Clean Water Act Section 401 certification, and other practices.

Subcommittee:

Timeframe: Ongoing

Tab J – Draft FY2022-2023 Water Quality Committee Work Plan

**WATER QUALITY COMMITTEE
WORK PLAN
July 1, 2022 to June 30, 2023**

1. WATER QUALITY/QUANTITY NEXUS

Background: Western Governors' Association (WGA) Policy Resolution 20~~21~~¹⁴-08, Water Resource Management in the West, states: "Western Governors believe effective solutions to water resource challenges require an integrated approach among states and with federal, tribal and local partners. Federal investments should assist states in implementing state water plans designed to provide water for municipal, rural, agricultural, industrial and habitat needs, and should provide financial and technical support for development of watershed and river basin water management plans when requested by states. Integrated water management planning should also account for flood control, water quality protection, and regional water supply systems. Water resource planning must preserve state authority to manage water through policies which recognize state law and the financial, environmental and social values of water to citizens of western states today and in the future." (Paragraph (B)(3), emphasis added)

Work-to-Date: On October 6-7, 2015, the Water Quality Committee held a workshop in conjunction with the WSWC's 2015 fall meetings in Manhattan, Kansas. The workshop provided insights on: (1) how state water quantity and quality (WQ2) regulations interact with each other; (2) how states can protect water quality within the existing framework of the prior appropriation doctrine; and (3) the proper relationship between federal environmental protections and the states' primary and exclusive authority over the allocation of water resources. WSWC staff prepared a preliminary report of the meeting, which included recommendations for WSWC next steps.

During the WSWC October 2019 meeting in Breckenridge, Colorado the Committee heard a presentation from Alex Davis, Deputy Director of Water Resources for the City of Aurora about the city's challenges related to the water quantity-quality nexus and the complex efforts to ensure adequate source water protection across several water basins.

20~~22~~²¹-20~~23~~²²: The Committee supports WGA Resolution 20~~21~~¹⁴-08, and directs staff to follow up on the next steps recommended in the 2015 WQ2 workshop, including: (1) create a nexus Toolbox of useful and accessible information, including interagency MOUs, instream flow legislation, case studies, and reports of additional workshops, to provide a resource for the states seeking to learn from each other's experiences; (2) identify and coordinate with federal agencies and other technical or national organizations with common interests to co-host educational workshops or symposia on relevant nexus topics, both to develop better relationships and to find additional potential solutions to nexus problems; and (3) provide updated information from states on current water quality-water quantity issues at Council meetings. Initial conversations with the subcommittee have occurred.

Time Frame: Ongoing

WQ2 Nexus Workgroup – goal to re-establish in ~~2024~~²⁰²³

2. CLEAN WATER ACT ISSUES

There are several ongoing Clean Water Act (CWA) issues that pertain to WSWC policies or are otherwise of interest that the Committee will monitor and address on an as-needed basis. These issues are listed below in order of priority.

a. CWA Jurisdiction*

Background: In 2011, the EPA and the U.S. Army Corps of Engineers released draft guidance intended to provide clearer, more predictable guidelines for determining which water bodies are subject to Clean Water Act (CWA) jurisdiction, consistent with the U.S. Supreme Court's decisions in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001), and *Rapanos v. United States*, 547 U.S. 715 (2006). This was followed by the Clean Water Rule (2015 WOTUS Rule), finalized on June 29, 2015 (80 FR 37054). Many of our member states filed lawsuits challenging the 2015 WOTUS Rule in federal court. The 2015 WOTUS Rule was rescinded, and was replaced by the Navigable Waters Protection Rule (2020 WOTUS Rule), finalized on April 21, 2020 (85 FR 22250). Several of our member states filed lawsuits challenging the 2020 WOTUS Rule in federal court. On January 20, 2021, President Biden issued Executive Order 13990, *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*, directing EPA and the Corps to review the 2020 WOTUS Rule. On August 30, 2021 the Arizona U.S. District Court vacated and remanded the 2020 Navigable Waters Protection Rule to EPA and the Corps. The agencies halted implementation of the 2020 Rule, relying on pre-2015 guidance, and continued efforts toward the new rulemakings: (1) to codify the pre-2015 guidance, and (2) a new rule intended to be durable. On January 24, 2022, the U.S. Supreme Court granted the petition for certiorari in *Sackett v. EPA* (21-454).

On January 23, 2020, the Environmental Protection Agency and the Army Corps of Engineers finalized the Navigable Waters Protection Rule to create a new definition of protected waters consistent with the opinion of Justice Scalia in *Rapanos v. United States*, 547 U.S. 715 (2006). The rule defines four categories of waters subject to federal jurisdiction:

Territorial seas and traditional navigable waters
Perennial and intermittent tributaries to those waters
Certain lakes, ponds, and impoundments
Wetlands adjacent to jurisdictional waters

There are 12 exclusions that narrow the scope of the new rule compared to the 2015 Waters of the United States (WOTUS) rule and prior laws and guidance.

The new rule was initiated after Executive Order 13788, Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the "Waters of the United States" Rule was signed by President Trump on February 28, 2017. EPA and the Corps engaged in various levels of outreach in 2017 and 2018, including a State-Co Regulators meeting on March 8-9, 2017 that the WSWC Executive Director and representatives from Arizona, Oregon, and Wyoming participated in. The 2015 WOTUS rule was formally repealed on December 23, 2019, which re-codified the 1986 WOTUS definition to be informed by applicable guidance documents, legal definitions, and longstanding agency action (84 FR

56626). The new final rule was published in the Federal Register on April 21, 2020 (85 FR 22250).

On January 20, 2021, President Joe Biden rescinded EO 13788, though it is not anticipated to have any impacts since the Navigable Waters Protection Rule has been finalized.

Work-to-Date: WSWC adopted positions #369 and #373 regarding CWA rulemaking efforts and state-federal collaboration. Position #369 was revised and readopted as Position #410, while Position #373 was allowed to sunset and acknowledged as a letter with continued historical value. At the October 2018 meeting in Coeur d'Alene, Idaho, Position #410 was revised and readopted as #427, with the State of Washington abstaining from the vote. At the September 2021 meeting in Deadwood, South Dakota, Position #472 was again revised and adopted, with the understanding that further efforts would be made to improve the position the following Spring. WSWC sent various letters and comments to EPA and the Corps.

In 2013, the WSWC wrote EPA and the Corps a series of five letters requesting greater state consultation in the development of the rule. In March 2014, the WSWC sent another letter to EPA and the Corps, setting forth a list of additional consensus comments on the rulemaking. WGA sent a subsequent letter on March 25, 2014, that cited the WSWC's letter and urged the agencies to consult with the states individually and through the WGA before taking further action on the rulemaking.

The WSWC adopted Position #369 regarding CWA rulemaking efforts on July 18, 2014, during its summer meetings in Helena, Montana. The resolution served as the basis of a comment letter the WSWC sent to EPA and the Corps on October 15, 2014. That letter called for the creation of a state-federal workgroup to refine and revise the rule and set forth several requested changes. This Position was revised and readopted as #410 during WSWC summer meetings in Rohnert Park, California in 2017. In anticipation of the new proposed rule, the position was revised and readopted as #427 during WSWC fall meetings in Coeur d'Alene, Idaho in 2018. The State of Washington abstained from the vote. On April 12, 2019, WSWC submitted a comment letter with Position #427 to the proposed rule docket.

2021-2023: The Committee will continue to work with the Water Resources and Legal Committees through the Workgroup to understand and share how states are affected by and dealing with the changes to the "waters of the United States" definition. Staff will track any developments in agency actions regarding the WOTUS definition, and report on potential impacts to states.

Time Frame: Ongoing

CWA Rulemaking Workgroup: Erica Gaddis (UT), Tom Stiles (KS), Jennifer Verleger (ND), Julie Cunningham (OK), Todd Chenoweth (TX), Laura Driscoll (WA), Jennifer Carr (NV), and Kevin Frederick (WY).

*See Item 2 of the Legal Committee Workplan

b. Water Reuse

Background: In 2011, the WSWC prepared a report summarizing state responses to survey questions on water reuse standards, regulations, issues, projects and funding titled “Water Reuse in the West: State Programs and Institutional Issues.” Given that it has been nearly a decade since those responses were compiled, the Committee decided to update the report. At the October 2019 meeting in Breckenridge, the Committee expressed interest in coordinating survey responses with the Association of Clean Water Administrators (ACWA) and other organizations. Additionally, the Environmental Protection Agency recently unveiled their Water Reuse Action Plan (WRAP), a collaborative effort across federal agencies, water organizations and the private water sector. This is the first of its magnitude, intended to innovate, scale and implement water reuse technologies and policies. The WRAP identifies 37 actions and 200 implementation milestones. WSWC’s and ACWA’s survey update will help implement action 2.2.1: Compile Existing State Policies and Approaches to Water Reuse.

Work-to-Date: From November 2019 – January 2020, WSWC staff and council members worked with ACWA and other organizations to update survey questions. These questions were somewhat different from the 2011 questions and provided a comprehensive picture of what is happening in water reuse across the states. States submitted responses to the survey in mid-2020, and staff compiled these into a final report. This report will be available on the WSWC website.

2022-2023: With the report finalized, staff will work with ACWA to determine next steps, including potential publication in a national water policy or law journal.

Time Frame: 2021-2022

c. State Revolving Funds (SRFs) and Infrastructure Financing

Background: The Clean Water and Drinking Water SRFs provide states with capitalization grants that are leveraged with state contributions to offer financial assistance to cities, towns, communities and others to improve and construct water quality infrastructure. These programs are widely used and have been critically important for improving and maintaining water infrastructure at the local level. Over the years, some budget requests from the Administration have proposed cuts to the SRF programs. Various acts of Congress have also authorized or retained a number of limitations on the use of SRF funds, including: (1) “Buy American” provisions for iron and steel; (2) requirements that between 20% and 30% of SRF funds be used for principal forgiveness, negative interest loans, or grants subject to additional provisions; and (3) requirements that states use at least 10% of their SRF funds for green infrastructure, water or energy efficiency improvements, or other “environmentally innovative” activities.

When Congress enacted the Water Infrastructure Finance and Innovation Act (WIFIA) in 2014, there was some concern that the subsequent WIFIA loan and guarantee program would redirect critical funds from the SRF programs. Thus far, this has not been the case (see table below). Since 2017, the WIFIA program has invited a total of 89 projects to apply for funding, with over \$13B in financing requests. SRFs have access to this funding and are also able to jointly fund projects in conjunction with WIFIA loans. In 2019, both types of funding mechanisms were used by projects. To date, 16 WIFIA loans have been

closed totaling over \$3.5B in credit assistance to help finance \$8B for water infrastructure projects and create 16,000 jobs.

Congressional Appropriations for Water Infrastructure (FY2017-19), in millions

	Clean Water SRF & Title II	Drinking Water SRF	WIFIA
FY2017	\$1,393.9	\$863.2	\$30.0
FY2018	\$1,696.9	\$1,163.2	\$63.0
FY2019	\$1,694.0	\$1,164.0	\$68.0

Source: Congressional Research Service Report R43871

Work-to-Date: During the July 2018 meeting in Newport, Oregon, the Committee heard reports from Kansas and Washington on the process they went through to apply for WIFIA loans during the first round, and on the water projects that were built with these low-interest loans. Since then, projects in member states Arizona, California, Nebraska, North Dakota, Oklahoma, Oregon and Utah have been funded. Overall, WIFIA funded projects are larger than typical SRF-funded projects, while both programs prioritize those that are shovel-ready and credit-worthy.

WSWC Position #446 urges the Administration and Congress to provide greater flexibility and fewer restrictions on state SRF management and stable and continuing appropriations to the SRF capitalization grants at funding levels that are adequate to help states address their water infrastructure needs and meet federal mandates. WGA Policy Resolution ~~2018-12~~ **2021-10**, Water Quality in the West, also supports the SRFs as “important tools” and requests greater flexibility and fewer restrictions on state SRF management.

~~2021-2023~~ **2021-2023**: The Committee will continue to support the WGA and WSWC positions. WSWC staff will update the Committee on developments within Congress and the Administration that have potential to impact SRFs. As needed, Committee members and WSWC staff will meet with the Administration and Congress officials to further the objectives of the WGA and WSWC positions. Some topics for discussion include state experiences with Buy American and Davis-Bacon, whether there are otherwise eligible entities, but for the limitations, and how many are walking away from SRFs because of these restrictions, as well as options for a right of first refusal by the SRFs prior to funding projects through WIFIA.

Commented [MB1]: Updates to this considering IJA, ARPA, and coordinating state funding, federal requirements for disadvantaged communities, etc.?

Time Frame: Ongoing

d. EPA’s Water Transfers Rule

Background: On January 18, 2017, the 2nd Circuit upheld the EPA’s Water Transfers Rule, 40 CFR §122.3(i), in *Catskills Mountains Chapter of Trout Unlimited v. EPA*, No. 14-01991. The Court of Appeals reversed the decision of the U.S. District Court for the Southern District of New York, which previously vacated the EPA’s rule. On February 26, 2018, the Supreme Court denied the petition for certiorari, allowing the Water Transfers Rule to stand.

WGA Policy Resolution 20~~21~~~~18-12-10~~ (paragraph B(2)(c)) and WSWC Position #~~424~~~~469~~ support EPA's Water Transfers Rule, which clarifies that water transfers from one "navigable" water to another are exempt from National Pollutant Discharge Elimination System (NPDES) permitting under Section 402 of the CWA. The rule states that transfers do not require NPDES permits if they do not add pollutants and if there is no intervening municipal, industrial, or commercial use between the diversion and the discharge of the transferred water.

On February 18, 2020, WGA sent a letter to the Committee on Energy and Natural Resources in support of the Drought Resiliency and Water Supply Infrastructure Act (S. 1932), in which it suggested including language to affirm the rule in federal statute in order to "add a needed measure of stability and certainty to western water planning and drought mitigation efforts." WSWC and other state organizations also signed onto this letter.

~~2021-2023~~~~22~~: The Committee and WSWC staff will: (1) continue to support the WGA and WSWC positions; (2) monitor any and all activities impacting EPA's rule, including but not limited to future litigation and possible efforts by EPA to reconsider the rule; (3) inform the WSWC of ongoing developments; and (4) take any other actions needed to support the WGA/WSWC positions regarding the rule.

Time Frame: Ongoing

e. Nutrients

Background: EPA's Office of Water released the Nancy Stoner memo *Working in Partnership with States to Address Phosphorus and Nitrogen Pollution through Use of a Framework for State Nutrient Reductions* on March 16, 2011, and the Joel Beauvais memo *Renewed Call to Action to Reduce Nutrient Pollution and Support for Incremental Actions to Protect Water Quality and Public Health* on September 22, 2016.

The Beauvais memo highlights the continued need for action by states and other stakeholders to reduce the threat of nutrients to water quality and public health by:

- Reducing nitrates in sources of drinking water and nitrogen and phosphorus pollution contributing to harmful algal blooms;
- Reducing nutrients from point and nonpoint sources;
- Prioritizing watersheds and setting load reductions;
- Strengthening water quality standards;
- Highlighting high priority incremental actions of states;
- Issuing biennial reports that assess progress and provide accountability, and
- Encouraging EPA to continue to provide support and financial assistance.

Work-to-Date: The Committee and WSWC staff continue to follow and update the WSWC on EPA efforts involving nutrients. Various Committee meetings have featured presentations from EPA and state officials on federal and state nutrient management efforts. At the October 2019 meeting in Breckenridge, the Committee heard from Jennifer Carr, Deputy Administrator of the Nevada Division on Environmental Protection, on multi-agency coordination on harmful algal blooms in several water bodies in Nevada.

Remote sensing is also becoming an increasingly important method for monitoring water quality and water supplies. Landsat 8 can provide images in near-real time that provide water quality managers with information on where harmful algal blooms may be forming and allows them to rapidly respond. WSWC was instrumental in ensuring Landsat 8 was equipped with the data collection tools needed for these assessments.

On August 14, 2019, EPA and USDA co-hosted a workshop titled Innovative Financing Strategies for Reducing Nutrients. The workshop explored private, state, and federal funds that could be combined and leveraged for nutrient reduction projects, and ways that the agencies could increase funding opportunities and awareness of innovative funding approaches.

2022-2023: The Committee and WSWC staff will monitor and update the Council on any changes to EPA's nutrient efforts, including those related to Harmful Algal Blooms (HABs) and cyanotoxin criteria. Each state is encouraged to develop its own strategy to control nutrient pollution. The Committee will ask states with a strategy to share highlights from their nutrient and HABs strategies and efforts that they think could benefit other Council member states. The Association of Clean Water Administrators has a Nutrients Reduction Progress Tracker that has some state strategies that the Committee can use as a starting point.

Time Frame: Ongoing

f. Section 401 Certifications

Background: In early 2019, WSWC and WGA became aware of a potential executive order from the White House to address energy infrastructure development that would have included provisions affecting the implementation of state water quality certification programs under Section 401 of the CWA. This was in response to denials by some states, based on section 401 authority, for permits to build energy infrastructure that would allow other states to export coal and natural gas. WGA sent a letter strongly opposing "any changes to agency rules, guidance, or policy that may diminish, impair, or subordinate states' well-established sovereign and statutory authorities to protect water quality within their boundaries."

On April 10, 2019, President Trump issued an Executive Order 13878, Promoting Energy Infrastructure and Economic Growth, in which EPA was directed to review regulations and guidance, in consultation with states, tribes, and federal agencies, on state certification under section 401. WSWC and WGA submitted comments during the pre-proposal period in April and May 2019 expressing continued concern over changes to section 401. Following this consultation, EPA released new guidance on implementing 401, including statutory and regulatory timelines for 401 certification requests, the appropriate scope of 401 certification conditions, and the scope of a state or authorized tribe's 401 review. In early August, the Corps also released guidance on "Timeframes for Clean Water Act Section 401 Water Quality Certifications and Clarifications of Waiver Responsibility," establishing a 60-day window for 401 certification review by the states, despite statutory allowance of a year-long timeframe the state agencies have to act.

On August 22, 2019, EPA issued a proposed rule to include definitions of various terms to provide greater clarity. The proposed rule limited the scope of certification to assuring that any discharge from a federal project will comply with state and federal water quality requirements, changed the definition of a “complete application” and placed a mandatory maximum timeframe on certification of one year from submission of the application, which is consistent with the Clean Water Act. It required justification for conditions imposed on licenses or permits, and limit conditions only to water-related concerns. It also removed the enforcement authority from the certifying body, and instead placed that responsibility on the federal agency issuing the permit. The final rule was published in the Federal Register on July 13, 2020 (85 FR 42210).

The WSWC closely followed this issue, given the implications for state authority over water quality certification requests provided under Section 401. The Council submitted numerous letters to the Administration and Congress, and formal comments during the public comment periods both individually and in conjunction with WGA and other stakeholders.

Work-to-Date: In 2020, the Committee formed a workgroup to explore the possibility of developing a template for Memorandums of Understanding between states and federal agencies that will be implementing the new 401 certification rule. The new rule expands the number of federal agencies responsible for obtaining 401 certifications, many of which have not previously engaged in this process. States are concerned about maintaining and opening lines of communication regarding project activities so that they can conduct their process to certify projects without waiving their ability to do so due to the strict time constraints. This workgroup has created a list of needs and wants from such a document, and are now moving towards determining what outputs would be most helpful.

2022-2023: Staff will continue to facilitate the 401 MOU workgroup, track the implementation of the rule, and report on challenges or experiences that states have had regarding how the changes are working on-the-ground.

Timeframe: 2021-22

g. Tribal Treatment as States

Background: In 2016, EPA finalized two separate but related rulemaking efforts regarding the tribes’ ability to obtain “treatment as states” (TAS) status under CWA Section 518, necessary for delegation of regulatory programs to the tribes. The first involved an interpretive rule regarding inherent authority of tribes, considering CWA Section 518 an express delegation of authority from Congress. The second rule sets forth a regulatory process for TAS status to operate impaired listing and total maximum daily load (TMDL) programs. WSWC and various states sent letters commenting on concerns with how the programs would be implemented.

EPA also engaged in a pre-rulemaking outreach to states, tribes, and other stakeholders, soliciting input on setting federal baseline water quality standards for tribes without TAS status. WSWC submitted comments in December 2016. EPA heard from 12 tribal governments and associations and 11 state officials, agencies and associations, among

others, and reported that most tribes were largely supportive while most states raised concerns. As of Fall 2020, the proposed rulemaking is not part of the Regulatory Plan. In Summer 2022, EPA plans to submit a proposed rule for public comment.

~~2022-0~~ ~~2023~~ ~~4~~: The Committee will continue to monitor the potential rulemakings and their implementation and engage with EPA as appropriate.

Time Frame: Ongoing

h. Abandoned Hardrock Mine Remediation

Background: The West has an undetermined number of abandoned hardrock mines that have the potential to or unknowingly already do affect water quality. “Good Samaritan” bills have been introduced in Congress over the years to protect public entities that are willing to voluntarily clean up these sites from legal liability under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the CWA. These bills have been unsuccessful due to concerns about the potential impacts of amending the CWA and perceptions that sufficient protections already exist under CERCLA. However, considerable uncertainty exists as to whether CERCLA and other existing authorities provide Good Samaritans with sufficient protection.

In December 2012, EPA issued a memorandum to clarify administrative protections for Good Samaritans. It clarified that Good Samaritans who complete cleanup efforts pursuant to EPA policies will not be considered “operators” responsible for obtaining NPDES permits if they lack: (1) access and authority to enter the site; (2) an ongoing contractual agreement or relationship with the site owner to control discharges; (3) power or responsibility to make timely discovery of changes to the discharges; (4) power or responsibility to direct persons who control the mechanisms, if any, causing the discharges; and (5) power or responsibility to prevent and abate the environmental damage caused by the discharges. Nevertheless, the memorandum states that it “...does not address or resolve all potential liability associated with discharges from abandoned mines.”

In September 2020, EPA announced a new office, the Office of Mountains, Deserts, and Plains, to primarily work with Good Samaritan organizations and tribes, and ensure more efficient clean-up of both Superfund and non-Superfund sites in the West, including abandoned mines.

In September 2021, the WSWC passed Position #477 regarding Abandoned Hard Rock Mine Cleanup (in the middle of two letters to Administration and Congress....) On February 3, 2022, Senator Martin Heinrich (D-NM) introduced the Good Samaritan Remediation of Abandoned Hardrock Mines Act (S. 3571).

Work-to-Date: The WGA and WSWC have long supported legislation to amend the CWA to protect Good Samaritans from inheriting perpetual liability for the site under the CWA (WGA Policy Resolution ~~2021-09~~ ~~2018-11~~ ~~and 2018-12~~, Paragraph ~~(B)~~(5)). Over the past several years, the Committee has worked to support Good Samaritan legislation and other efforts to clean up abandoned hardrock mines, including multiple visits with Congress and the Administration, Congressional testimony in support of such legislation,

and involvement in a former WGA-organized Task Force focused on crafting an exemption for Good Samaritan activities by state governments.

At the Fall 2020 WSWC meeting, Roger Gorke presented an update on the creation of the new Office, including that it will be lead by Shamid Mahmud. Mahmud has decades of experience leading the Good Samaritan Abandoned Mine Internal Working Group.

2021-2022: The Committee will continue to coordinate with the WGA and encourage efforts to clean up abandoned hardrock mines, including but not limited to enactment of Good Samaritan legislation and efforts to support utilization of EPA's 2012 memorandum. The Committee will work with key Congressional members/staff, Administration officials, and other stakeholders to develop and support efforts to clean up abandoned hardrock mines in accordance with the WGA's policies, including the possible reactivation of a workgroup and/or developing a workshop to bring together interested stakeholders to identify ways to facilitate abandoned hardrock mine remediation. Staff will also track activities of the Office of Mountains, Deserts, and Plains and report back to the Committee any developments of interest.

Time Frame: Ongoing

3. **HYDRAULIC FRACTURING**

Background: In June 2015, the Environmental Protection Agency (EPA) published a study on the relationship between hydraulic fracturing and drinking water, titled "Assessment of the Potential Impacts of Hydraulic Fracturing for Oil and Gas on Drinking Water Resources." In March 2015, the Bureau of Land Management (BLM) issued a final rule for hydraulic fracturing on public lands, which includes a variance process that would allow states to propose their own standards if they can prove that their regulations meet or exceed the requirements in BLM's rule. In addition, EPA, the Department of Energy (DOE), and the Department of the Interior (DOI) agreed in April 2012 to develop a "Multi-Agency Unconventional Oil and Gas Research Program" to support policy decision by relevant state and federal agencies. The effort is intended to help support the White House's March 2011 "Blueprint for a Secure Energy Future."

In December 2016, EPA published its report, Hydraulic Fracturing for Oil and Gas: Impacts from the Hydraulic Fracturing Water Cycle on Drinking Water Resources in the United States, available at <https://cfpub.epa.gov/ncea/hfstudy/recordisplay.cfm?deid=332990>

On December 28, 2017, BLM rescinded the 2015 hydraulic fracturing rule, noting that "all 32 of the 32 states with federal oil and gas leases have regulations that address hydraulic fracturing" and that "since the 2015 final rule was published, more companies are using state regulatory agencies and/or databases such as FracFocus to disclose the chemical content of hydraulic fracturing fluids." Litigation pending in the U.S. District Court for the Northern District of California (*California v. Bureau of Land Mgmt.*, #18-521) seeks to vacate the rescission and reinstate all of the 2015 rule's provisions. The Court heard arguments on motions for summary judgment in February 2020, and a decision is still pending.

The Western Governors' Association (WGA) Resolution #20~~148-1210~~ and WSWC Position #~~393-436~~ state that: (1) federal efforts involving hydraulic fracturing should leverage state knowledge, experience, policies, and regulations; (2) such efforts should be limited, based upon

sound science, and driven by states; and (3) that both organizations oppose any and all efforts that would diminish the primary and exclusive authority of states over the allocation of water resources used in hydraulic fracturing.

2021-2023: The Committee will work with the Water Resources and Legal Committees to support the WGA and WSWC positions, and will continue to monitor and update the WSWC on developments involving hydraulic fracturing, including but not limited to EPA's study, BLM's rule, and the EPA/DOE/DOI research program.

The Committee will also work in collaboration with the Water Resources and Legal Committees to prepare a summary of the applicable WSWC states' experiences with hydraulic fracturing. The summary will complement previous reports by the Groundwater Protection Council and others that describe how state programmatic elements and regulations ensure that hydraulic fracturing does not impair water resources and environmental values. Examples of the types of information sought for the summary include but are not limited to: (1) the impacts of hydraulic fracturing on water quality, if any; (2) examples of how state regulations and other efforts protect water quality; (3) the economic benefits of hydraulic fracturing; (4) water supplies and amounts used for hydraulic fracturing; (5) state interaction with federal agencies involving hydraulic fracturing; and (6) the degree to which states use oil and gas taxes and other revenue related to hydraulic fracturing to fund water-related efforts, including but not limited to water planning, water management, and water regulation and protection. WSWC staff will prepare the summary under the direction of the Committees and will gather the necessary information through independent research and focused telephone interviews with select staff from the applicable WSWC state agencies. WSWC staff will also coordinate with other relevant state associations and organizations to avoid duplicating prior efforts. It is envisioned that the full WSWC will review the summary.

Time Frame: 2016-2020, pending available staff time and resources.

Tab K – Draft FY2022-2023 Legal Committee Work Plan

**LEGAL COMMITTEE
WORK PLAN
July 1, 2022 to June 30, 2023**

**1. STATE AND FEDERAL COLLABORATION REGARDING THE
ADJUDICATION OF FEDERAL NON-TRIBAL WATER RIGHTS**

Background: On July 15-16, 2014, the WSWC and WestFAST held a workshop in Helena, Montana to discuss ways to improve the resolution of federal non-tribal water rights claims and to begin the process of developing a clearinghouse of information that states and tribes can use to resolve these claims. The WSWC and WestFAST subsequently created a joint state-federal workgroup to help develop the clearinghouse and implement the other recommendations that emerged from the workshop.

Work-to-Date: The Committee created a Federal Non-Tribal Water Claims Subcommittee to evaluate ways the WSWC and WestFAST can improve the effective resolution of federal non-tribal water rights claims. The Subcommittee consists of WSWC members and WestFAST members, who serve in an *ex officio* capacity. Past webinars and workshops include:

November 10, 2015	McCarran Amendment – state and federal perspectives
July 13, 2016	Groundwater and Meeting Federal Water Needs (ND)
October 18, 2017	Continuing State-Federal Relationships through the Implementation Phase of Decreed and Adjudicated Water Rights (NM)
October 24, 2018	State and Federal Agencies’ Approach to Grazing Water Rights (ID)
October 15, 2019	Grazing Water Rights (CO)
September, 2021	Wild and Scenic Rivers (SD)

As of March 24, 2020, the WSWC-WestFAST Clearinghouse is available on the Council’s website under Member Resources, and additional documents may be added by contacting Council staff.

2022-2023: The Committee will work to carry out the recommendations and next steps that emerged from the workshops and webinar. Under the direction of the Committee, the workgroup will hold calls on a quarterly basis to discuss the development of the clearinghouse and to serve as a forum for information sharing and relationship building. The Workgroup will also advise the Committee about potential future actions the WSWC and WestFAST may take to address federal water needs and may hold webinars on specific topics of interest. The workgroup will continue to hold workshops. Additional topics to pursue include (1) water rights related to Wild and Scenic Rivers, and (2) identifying useful principles for state-federal memoranda of understanding to develop a useful framework and recommended approaches.

Time Frame: Ongoing

Federal Non-Tribal Water Claims Subcommittee: Jay Weiner (MT), Jennifer Verleger (ND), Micheline Fairbank (NV), Todd Chenoweth (TX), Norm Johnson (UT), Buck Smith (WA), and Chris Brown (WY). WestFAST members and agency staff participating in the Subcommittee in an *ex officio* capacity include: Michael Higgins (U.S. Fish and Wildlife Service), Donald Anderson (Bureau of Reclamation), (National Park Service), Stephen Bartell (Department of Justice), Lauren Dempsey (Air Force) and Chris Carlson (U.S. Forest Service).

2. CWA JURISDICTION*

Work-to-Date: In 2011, the EPA and the U.S. Army Corps of Engineers released draft guidance intended to provide clearer, more predictable guidelines for determining which water bodies are subject to Clean Water Act (CWA) jurisdiction, consistent with the U.S. Supreme Court's decisions in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001), and *Rapanos v. United States*, 547 U.S. 715 (2006). This was followed by the Clean Water Rule (2015 WOTUS Rule), finalized on June 29, 2015 (80 FR 37054). Many of our member states filed lawsuits challenging the 2015 WOTUS Rule in federal court. The 2015 WOTUS Rule was rescinded, and was replaced by the Navigable Waters Protection Rule (2020 WOTUS Rule), finalized on April 21, 2020 (85 FR 22250). Several of our member states filed lawsuits challenging the 2020 WOTUS Rule in federal court. On January 20, 2021, President Biden issued Executive Order 13990, *Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis*, directing EPA and the Corps to review the 2020 WOTUS Rule. On June 9, 2021, the EPA and Corps announced their intent to revise the definition of WOTUS, and filed motions seeking a remand of the 2020 WOTUS Rule in various courts. The 2020 WOTUS Rule will remain effective until a court remand or other rulemaking steps are taken. On August 30, 2021 the Arizona U.S. District Court vacated and remanded the 2020 Navigable Waters Protection Rule to EPA and the Corps. The agencies halted implementation of the 2020 Rule, relying on pre-2015 guidance, and continued efforts toward the new rulemakings: (1) to codify the pre-2015 guidance, and (2) a new rule intended to be durable. On January 24, 2022, the U.S. Supreme Court granted the petition for certiorari in *Sackett v. EPA* (21-454).

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WSWC adopted positions #369 and #373 regarding CWA rulemaking efforts and state-federal collaboration. Position #369 was revised and readopted as Position #410, while Position #373 was allowed to sunset and acknowledged as a letter with continued historical value. At the October 2018 meeting in Coeur d'Alene, Idaho, Position #410 was revised and readopted as #427, with the State of Washington abstaining from the vote. At the September 2021 meeting in Deadwood, South Dakota, Position #472 was again revised and adopted, with the understanding that further efforts would be made to improve the position the following Spring. WSWC sent various letters and comments to EPA and the Corps.

2022-2023: The Committee will continue to work with the Water Resources and Water Quality Committees through the Workgroup to follow and comment on federal actions regarding CWA jurisdiction in accordance with the WSWC's and WGA's positions, as well as consider the impacts of the new rule(s) on state policies, programs and regulations.

Time Frame: Ongoing

CWA Rulemaking Workgroup: Erica Gaddis (UT), Tom Stiles (KS), Jennifer Verleger (ND), and Julie Cunningham (OK).

*See Item 2(a) of the Water Quality Committee Workplan

3. AD HOC GROUP ON RESERVED INDIAN WATER RIGHTS

Work-to-Date: The Western Governors' Association (WGA) and WSWC have long supported the negotiated resolution of Indian water rights claims (WSWC Position #454). As a result, the WGA and WSWC have worked with the Native American Rights Fund (NARF) for over thirty years as part of an Ad Hoc Group on Reserved Indian Water Rights to promote negotiated settlements.

Over the years, the Ad Hoc Group has carried out a number of activities to support the negotiated settlement of Indian reserved water rights claims, including frequent trips to Washington, D.C. to support policies and legislation that facilitate settlements. A biennial symposium on settlements is held by the WSWC and NARF every odd year. The Group has also worked to highlight the need to secure a permanent funding mechanism for authorized settlements and to identify alternative funding sources to help ensure that settlements authorized by Congress and approved by the President will be implemented.

In recent years, the WSWC and NARF have established regular meetings with the Deputy Secretary of the Interior's Office, the Secretary of the Interior's Indian Water Rights Office, and other Interior and Department of Justice officials engaged in Indian water rights settlement efforts. The WSWC and NARF have also held regular meetings with the White House Office of Management and Budget and other White House officials to support the WSWC's settlement policies.

The 116th Congress passed legislation approving the Navajo-Utah settlement, the Confederated Salish and Kootenai settlement in Montana, increased funding and a time extension for the settlement in Aamodt in New Mexico, and approval for a 2-year NRCS study for a dam that would help settle the Kickapoo tribe water claims in Kansas.

2024-2025: The Committee will oversee WSWC's Ad Hoc Group efforts in the following areas: (1) activities to gather support for an appropriate remedy to settlement funding issues, including the development of a permanent settlement funding mechanism, the identification of other possible funding sources, and funding for federal assessment, negotiation, and implementation teams; (2) continue meeting with the Administration via quarterly conference calls and other face-to-face opportunities to discuss key issues associated with Indian water rights settlements, including possible modifications to the Criteria & Procedures; and (3) prepare to hold the 2024 virtual Symposium on the Settlement of Indian Reserved Water Rights Claims in partnership with the Native American Rights Fund. ~~on August 24-25.~~

Time Frame: Ongoing

Reserved Rights Subcommittee: Jay Weiner (MT), ~~Greg Ridgley and Arianne Singer (NM), and Norman Johnson (UT).~~ NARF members participating in the Subcommittee in an *ex officio* capacity include: John Echohawk, Joel Williams, Steve Moore, Dan Lewerenz, and David Gover. Other *ex officio* members include Stanley Pollack, Ryan Smith, Vanessa Ray-Hodge, and Melanie Stansbury.

4. WRDA/CORPS POLICIES

Work to date: The Council has in the past supported regular passage of a Water Resources Development Act (WRDA), and has addressed a number of specific policy issues, while not taking any position on specific project authorizations. The Council has raised concerns with the U.S. Army Corps of Engineers' approach to identifying and regulating the use of "surplus waters," and Corps drought authorities related to Corps projects. The Council also worked successfully to exclude irrigation water supply canals from federal levee safety program, and to encourage the Corps to withdraw the Surplus Water Supply rulemaking.

2021-2022: The Council will continue to work with the Congress and Corps on WRDA and Corps-related issues, to ensure that state water rights and prerogatives are protected, specifically as it relates to natural flows, Corps storage and other issues.

Subcommittee: Jennifer Verleger (ND); ~~Tracy Streeter (KS)~~

5. GROUNDWATER

There are a number of ongoing groundwater issues that pertain to WSWC policies or are otherwise of interest that the Committee will monitor and address on an as-needed basis.

A. Reserved Water Rights

Background: On March 7, 2017 the 9th Circuit (849 F.3d 1262) upheld the California District Court's summary judgment from Phase I of the trifurcated case, *Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District* (No. 15-55896). The 9th Circuit decision holds that the United States implicitly reserved a right to water when it created the Agua Caliente Reservation, and that the Tribe's reserved water right extends to the groundwater underlying the Reservation. The court acknowledged that it was unable to find any controlling federal appellate authority explicitly holding that the federal reserved water rights doctrine in *Winters v. United States*, 207 U.S. 564 (1908), extends to groundwater. Instead, it pointed to *United States v. Cappaert*, 426 U.S. 128 (1976) and *In re General Adjudication of All Rights to Use Water in Gila River System and Source*, 989 P.2d 739 (Ariz. 1999) as persuasive and implied authority for its decision, emphasizing that *Winters* does not distinguish between surface and groundwater or prohibit the inclusion of groundwater.

Given that the federal agencies have relied on tribal water rights cases in the past to press for reserved water rights to groundwater, the implications of the 9th Circuit decision could be far reaching, not only for states and tribes outside the 9th Circuit's jurisdiction, but also for federal agencies seeking to control groundwater appurtenant to federal lands.

As one example, the Forest Service issued a proposed groundwater directive May 6, 2014. Although the Forest Service asserted that the directive would not infringe on state-issued water rights or change how state groundwater and surface water quality regulations affect federal lands, the proposed directive would have: (1) required application of "...the Reservation or Winters Doctrine to groundwater, as well as surface water, consistent with the purposes of the Organic Administration Act, the Wild and Scenic Rivers Act, and the Wilderness Act;" (2) required the

Forest Service to evaluate all applications to states for water rights on lands adjacent to NFS lands; and (3) would have presumed that groundwater and surface water are connected unless proven otherwise. Western Governors strongly objected to the directive, as did the WSWC, which worked with the Forest Service to modify it. The Forest Service later withdrew this proposed directive.

WSWC position #466 notes that no federal statute has addressed any federal property or other rights to groundwater, and opposes “...efforts that would establish a federal ownership interest in groundwater or diminish the primary and exclusive authority of States over groundwater.”

Subsequent court decisions that have cited to *Agua Caliente*’s groundwater holding include: (1) *Silver v. Pueblo Del Sol Water Co.*, 423 P.3d 348, 353 (Ariz. 2018); (2) *State ex rel. State Eng’r v. United States*, 425 P.3d 723, 733-734 (N.M. Ct. App. 2018) (oblique reference, as the settlement at issue included reserved groundwater); (3) *United States v. State (In re CSRBA Case No. 49576 Subcase No. 91-7755)*, 448 P.3d 322, 350-351 (Idaho 2019); (4) *Baley v. United States*, 942 F.3d 1312, 1338, (Fed Cir. 2019) (although for the discussion on groundwater this case cites to *Cappaert v. United States*, 426 U.S. 128, 142-43 (1976)); (5) *United States v. Walker River Irrigation Dist.*, 473 F. Supp. 3d 1150, 1156-1157 (D. Nev. 2020).

2022-2023: The Committee will continue to work to ensure that state water rights and prerogatives are protected, specifically as they relate to tribal and non-tribal federal water rights and state authority over groundwater.

B. Groundwater Storage Projects

Background: In 1983, Congress passed the High Plains States Ground Water Demonstration Project Act, authorizing the Bureau of Reclamation to undertake a westwide groundwater recharge program. In 1989, WSWC and Reclamation entered a cooperative agreement to prepare a number of case studies to evaluate project effectiveness, identify economic and institutional problems such as the allocation of project costs and requisite legal authorities, and recommend alternative solutions to improve public policymaking with respect to future groundwater programs and projects. As a result of this agreement, WSWC prepared two reports in 1991 and 1998, titled Ground Water Recharge Projects in the Western United States. Among other recommendations to encourage recharge opportunities, the 1998 report suggested that each state examine its own legal and institutional systems to assure that they adequately address groundwater recharge, amending statutes as necessary to recognize it as a beneficial use, and reasonably protect the right to recover recharged waters.

2022-2023: In coordination with the Water Resources Committee, the Legal Committee will work on updating the information in the old reports, and prepare a new summary report. The Committee will query the states to review and update their relevant laws on groundwater storage, particularly as they relate to groundwater banking or Aquifer Storage and Recovery (ASR) projects.

6. WATER RIGHTS

Some of our states have expressed interest in understanding how other states approach different aspects of the management and administration of water rights, including what qualifies as beneficial uses, extensions of time to prove beneficial use to perfect a water right application, and statutes or rules or court procedures governing curtailments in times of scarce water resources, and regulation

of water wells. In December 2020, Council staff began distributing a series of survey questions to member states to facilitate this understanding. In 2021, WSWC members responded to the survey questions, and WSWC staff began compiling the responses into four separate reports.

A. State Water Well Construction Rules and Regulations

Background: The State Engineer, or other state official, is required to make rules regarding well construction and related regulated activities and the licensing of water well drillers and pump installers. Various states have varying requirements, which may change from time to time. The purpose of these rules is to: (1) assist in the orderly development of underground water; (2) insure that minimum construction standards are followed in the drilling, construction, deepening, repairing, renovating, cleaning, development, testing, disinfection, pump installation/repair, and abandonment of water wells and other regulated wells; (3) prevent pollution of aquifers within the state; (4) prevent wasting of water from flowing wells; (5) obtain accurate records of well construction operations; and (6) insure compliance with the state's authority for appropriating water. The rules establish administrative procedures for applications, approvals, hearings, notices, revocations, orders and their judicial review, as well as requirements related to well construction standards, such as casing, and procedures for monitoring, reporting and criteria for the waivers of certain requirements.

~~2020-2023:~~ The Committee will prepare and distribute a series of survey questions to address member states' interests related to administering water and related well drilling programs and then compile and report on the results. This will include the types of wells covered or excluded from registration and regulation. Council staff will prepare a report of the 2021 responses to the survey questions. The Committee and Council will also provide a forum for the discussion of best management practices.

Subcommittee:

Timeframe:

B. Proof of Beneficial Use of Water and Extension Criteria

Background: Beneficial use is the measure of any right to the use of water in the West. The State Engineer, or other state official, on behalf of the State, may grant a permit to put water to beneficial use but evidence or proof of completion of the work necessary to then actually put the water to use is also required. Only after development is done and the water is being fully put to beneficial use, will a water right be granted, which will be limited to the extent and nature of use in the accepted proof. This also applies to requests to change the use of a water rights, whether changing the point of diversion, use or purpose of use, or location water is returned to a natural source. Generally, some specific period of time will be allowed to complete the work, and if needed applicants may request an extension of time. The specific criteria for proof of beneficial use and extending timelines may vary by state.

~~2020-2023:~~ The Committee will prepare and distribute a series of survey questions to address member states' interests related to administering proof of beneficial use requirements, and criteria for granting extensions to complete necessary work, then Council staff will compile responses to

the 2021 survey questions and report on the results. The Committee and Council will also provide a forum for the discussion of best management practices.

Subcommittee:

Timeframe:

C. Calls and Curtailments

Background. Droughts in many areas of the West have highlighted state procedures and methods of enforcing curtailment of water uses and administration of water rights in a priority system, particularly where junior groundwater pumping, insufficient carriage water, instream flow for fish and wildlife, junior municipal supply, and federal reserved rights are at issue.

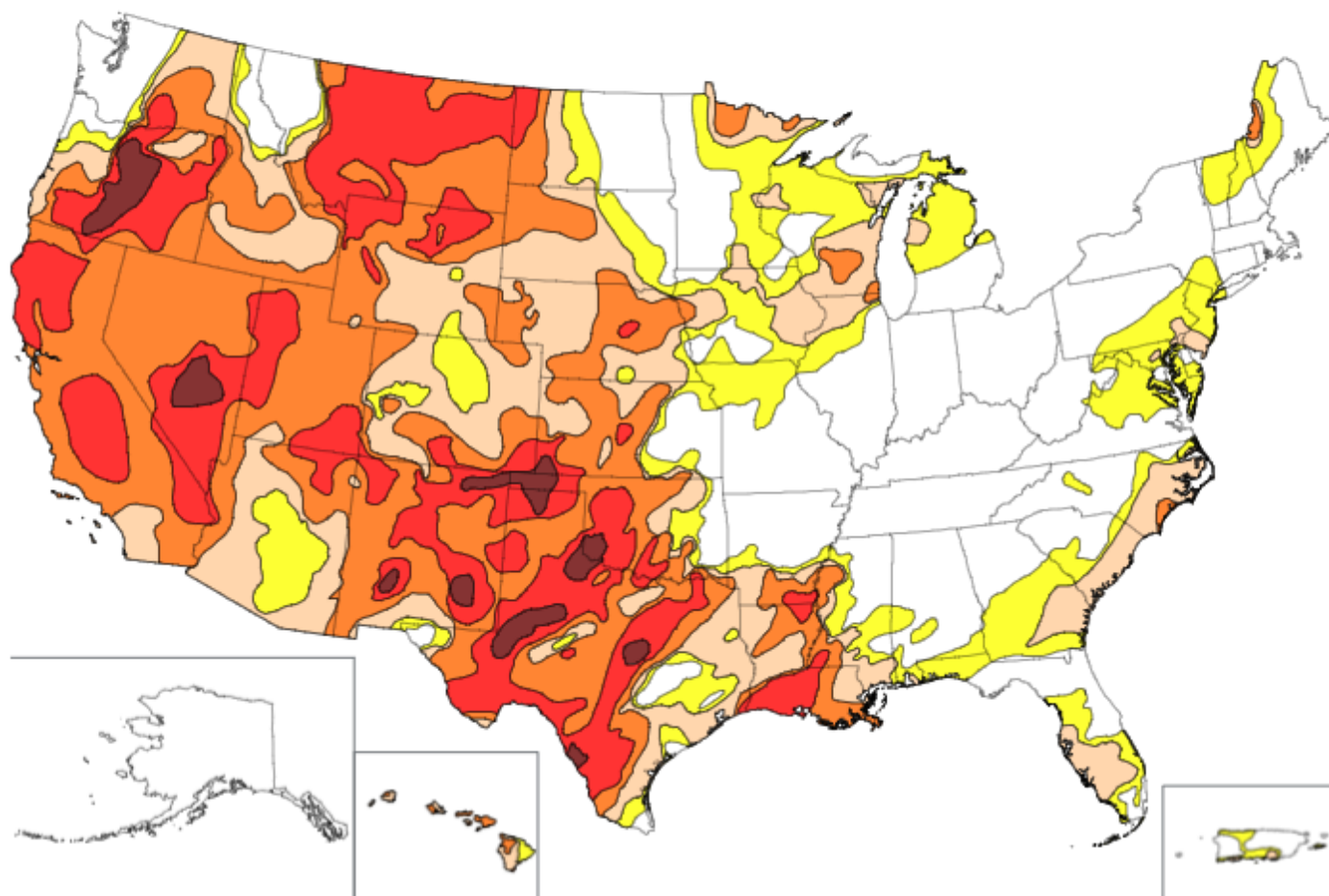
~~2020-2023~~³¹. ~~The Committee will prepare and distribute a series of questions to address member states' interests related to state procedures and methods of enforcing water rights, including administrative and court processes related to calls and curtailments during times of scarcity, then compile a report on the results. Council staff will prepare a report on the 2021 survey responses.~~ The Committee and Council will also provide a forum for a discussion of water rights enforcement.

Subcommittee:

Timeframe:

Tab L – Drought

U.S. Drought Monitor



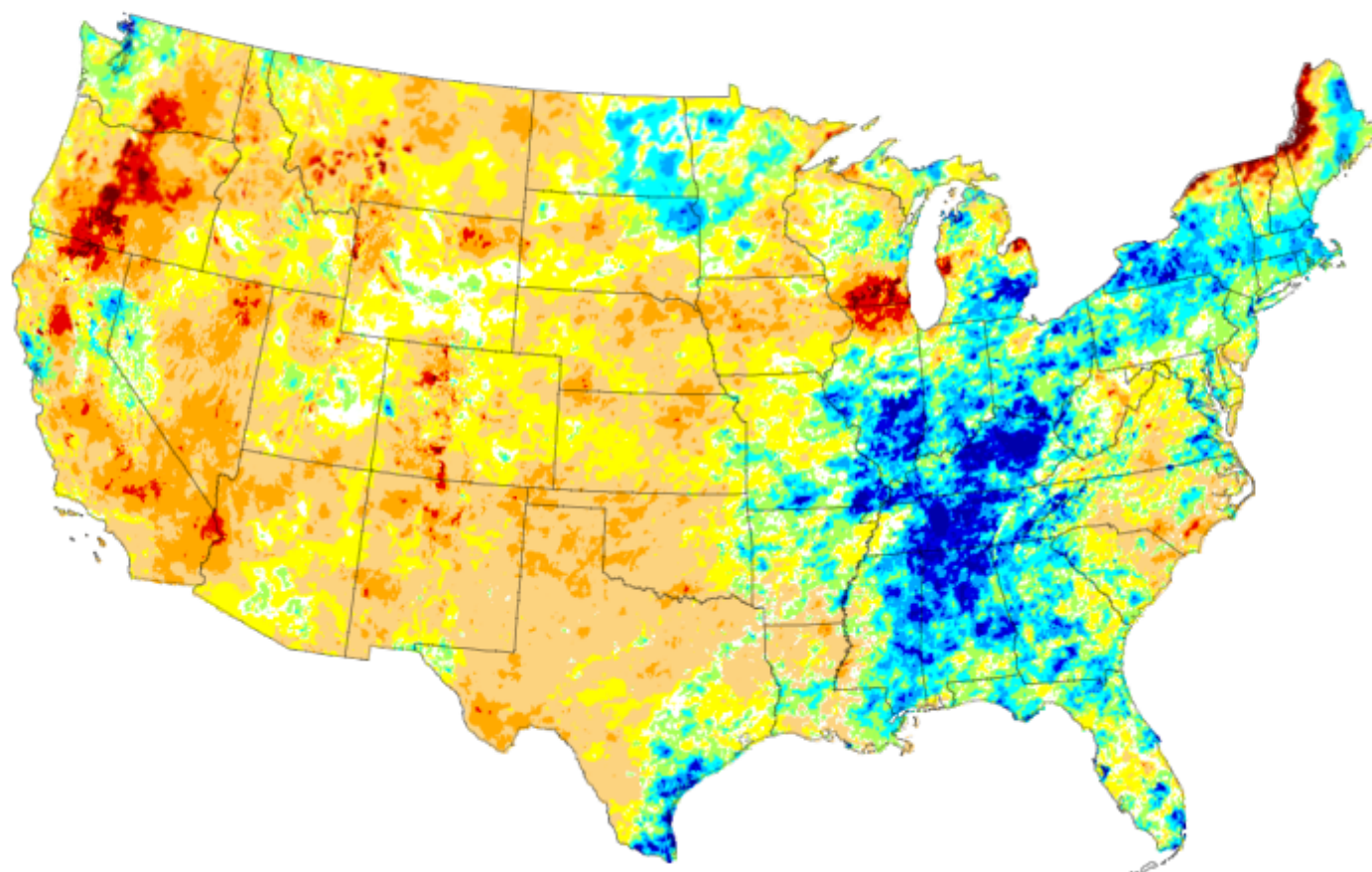
U.S. Drought Monitor Categories

-  D0 - Abnormally Dry
-  D1 - Moderate Drought
-  D2 - Severe Drought
-  D3 - Extreme Drought
-  D4 - Exceptional Drought

Source(s): NDMC, NOAA, USDA
Last Updated - 03/22/22

Drought.gov

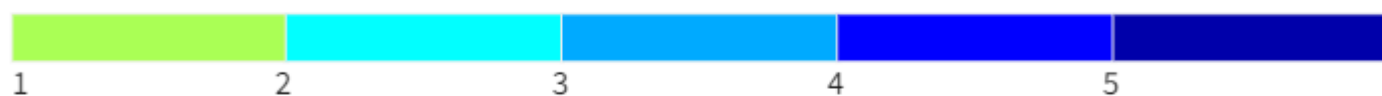
Palmer Drought Severity Index (PDSI)



Dry Conditions (Relative)



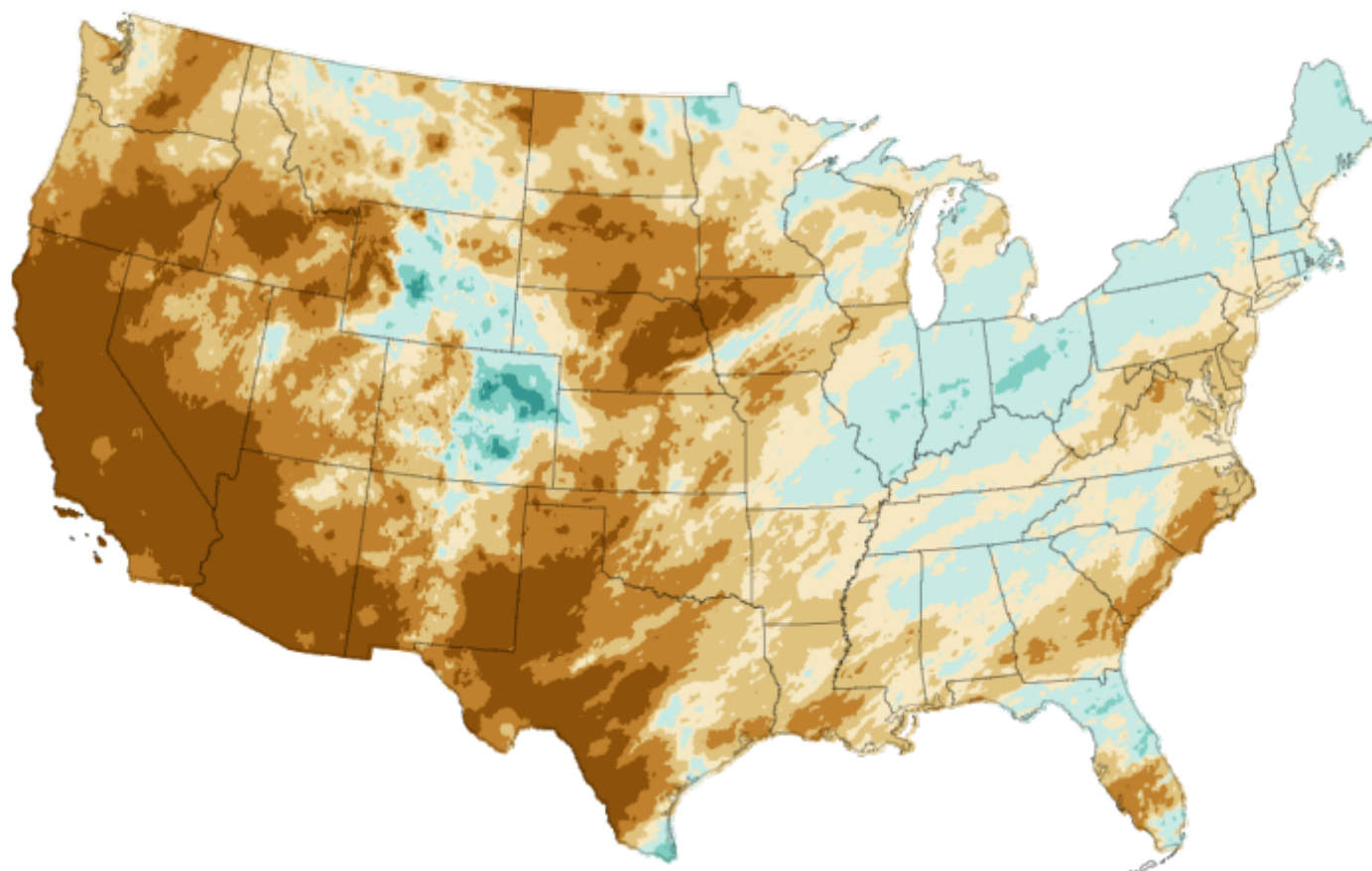
Wet Conditions (Relative)



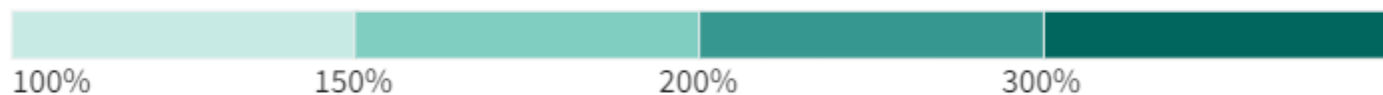
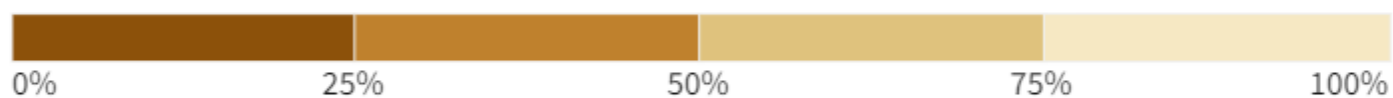
Source(s): UC Merced, Climate Engine
Data Valid - 03/16/22

Drought.gov

60-Day Percent of Normal Precipitation

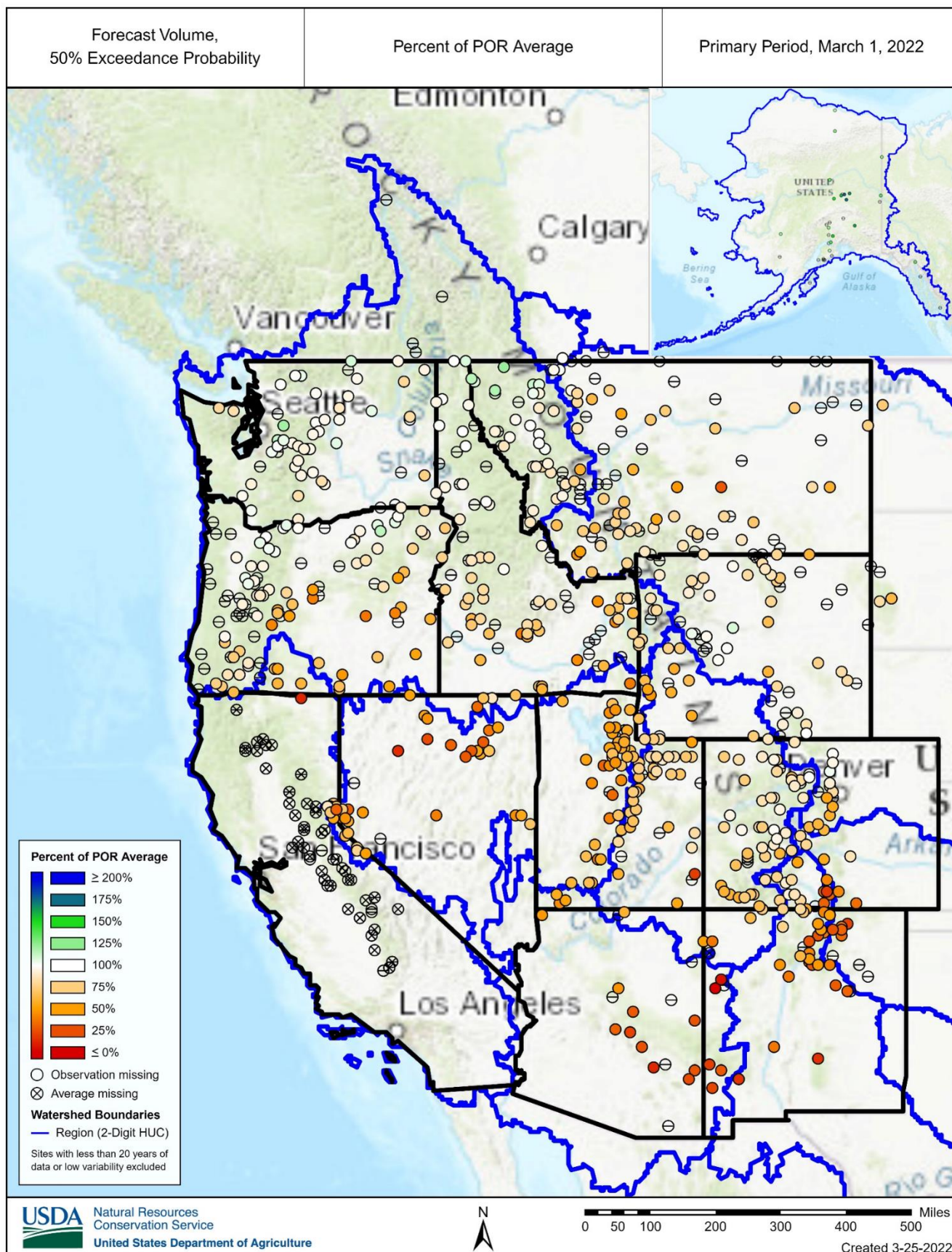


Percent of Normal Precipitation (%)



Source(s): UC Merced, Climate Engine
Data Valid - 03/22/22

Drought.gov



National Integrated Drought Information System (NIDIS)

2022-2026 Strategic Plan

Advancing Drought Science and Preparedness Across the Nation

February 2022

FOREWORD

We are pleased to share with you the 2022-2026 National Integrated Drought Information System (NIDIS) Strategic Plan. This plan outlines NIDIS's approach to building a national drought early warning system that provides timely and relevant drought information services. The plan incorporates the thoughtful feedback and participation of NIDIS's partners across sectors and levels of government. We are grateful for the individuals, including the NIDIS Executive Council, who contributed to this plan and whose dedication to collaborative partnership on drought issues has helped provide earlier warnings and strengthen resilience across the country. NIDIS draws from existing capacity in states, universities, and multiple federal agencies, as called for in NIDIS's 2006 authorizing legislation. It is a model for a whole-of-government approach and federal-state collaboration in shared climate services. It is through partnerships such as those with the Western Governors Association, U.S. Geological Survey (USGS), the U.S. Department of Agriculture (USDA)'s Natural Resources Conservation Service (NRCS), U.S. Chamber of Commerce, National Drought Mitigation Center (NDMC), state agencies, and others, that NIDIS is delivering the best available information and resources to promote drought planning and resilience.

Since the NIDIS Public Law was reauthorized in 2019, the Western United States has been hit particularly hard by persistent, severe drought, during a time in which the COVID-19 pandemic has also wreaked havoc on communities and economies. Drought, along with devastating wildfires, record-breaking heat, and other hazards have illuminated the urgency to address multiple impacts to vulnerable populations, businesses, and ecosystems. The U.S. Southwest continues to confront the challenges of drought response and management under increasing aridification in the region.

NIDIS's greatest impact is realized through support for drought monitoring, prediction, planning, communication, and research across eight regional Drought Early Warning Systems (DEWS). Over the past five years, successes across these areas have been numerous. NIDIS led the development of a strategy for building a National Coordinated Soil Moisture Monitoring Network, widely recognized as a key opportunity to improve response times to the interconnected hazards of drought, flood, and fire. It launched a redesigned U.S. Drought Portal to deliver actionable drought information by city, county, state, zip code, and at watershed to global scales, leveraging innovative technologies like cloud computing. Improved interagency

DRAFT

coordination led to timely co-produced drought status updates and webinars which resulted in consistent communication and messaging in regions entering drought. A Tribal Drought Engagement Strategy was launched after rich engagement with tribal nations in the Missouri River Basin and Midwest DEWS. These and many other milestones mark a new phase in the growth of NIDIS; what started as a small program with burgeoning regional pilots in 2006 is now maturing into a *national* drought early warning system.

This plan presents an expanded set of priorities for our next five years, identified through consultative engagement with our partners. It reflects the need to better understand drought impacts to the economy, ecosystems, public health, and the interactions of drought and wildland fire. It creates a process to expand regional DEWS coverage into areas such as Alaska, Hawaii and the U.S. Affiliated Pacific Islands, Puerto Rico and the U.S. Virgin Islands, and on Tribal lands to ensure equitable access to localized drought information services. It addresses the 2019 NIDIS reauthorization mandate to focus on advancing seasonal to subseasonal (S2S) forecasting, through continued investments in partnerships such as with the National Weather Service's Climate Prediction Center (CPC) and the USGS. Finally, it includes an emphasis on implementation of the National Coordinated Soil Moisture Monitoring Network Strategy.

From New Hampshire to New Mexico, drought's impacts can be diverse and devastating, made worse by a changing climate. Water users, agricultural producers, natural resource managers, and others must be able to assess the risks of drought before its onset to make informed decisions and implement effective mitigation measures. It is imperative that we support the research and advancements needed to build more resilient communities.

Roger Pulwarty, Senior Scientist, NOAA Physical Sciences Laboratory, NOAA Office of Oceanic and Atmospheric Research

Tony Willardson, Executive Director, Western States Water Council

Cindy Nickerson, Deputy Chief Economist, U.S. Department of Agriculture

INTRODUCTION

The National Integrated Drought Information System (NIDIS) Act of 2006 ([P.L. 109-430](#)) prescribed a comprehensive, interagency approach for drought monitoring, forecasting, and early warning planning and preparedness to help states and local communities cope with the impacts of drought. The law states the following three goals of NIDIS:

1. *Provide an effective drought early warning system that—*
 - a. *is a comprehensive system that collects and integrates information on the key indicators of drought in order to make usable, reliable, and timely drought forecasts and assessments of drought, including assessments of the severity of drought conditions and impacts;*
 - b. *communicates drought forecasts, drought conditions, and drought impacts on an ongoing basis to decision makers at the federal, regional, state, tribal, and local levels of government; the private sector; and the public, in order to engender better informed and more timely decisions thereby leading to reduced impacts and costs; and*
 - c. *includes timely (where possible real-time) data, information, and products that reflect local, regional, and State differences in drought conditions;*
2. *Coordinate, and integrate as practicable, federal research in support of a drought early warning system and*
3. *Build upon existing forecasting and assessment programs and partnerships.*

The Public Law reauthorizing NIDIS in 2014 ([P.L. 113-86](#)) further identified a fourth goal of NIDIS, to “...continue ongoing research and monitoring activities related to drought, including research activities relating to the length, severity, and impacts of drought and the role of extreme weather events and climate variability in drought.”

In 2019, Congress reauthorized NIDIS ([P.L. 115-423](#)) through FY 2023, calling on NIDIS to engage with the private sector to improve drought monitoring, forecasting, and communication; to utilize monitoring by citizen scientists; to support improvements in seasonal and subseasonal forecasting; to disseminate information that show watershed differences in drought conditions; and to develop a strategy for a national coordinated soil moisture monitoring network.

To fulfill this critical mission, NIDIS focuses on three critical areas:

1. Improving drought observations, prediction, planning, and communication to strengthen early warning across the nation.
2. Delivering the best-available drought information for informed decision-making and public awareness.
3. Coordinating and leading research initiatives that address key scientific and societal needs.

Since it was established, NIDIS’s approach to building the foundation of a national DEWS has been to develop regional DEWS, where rich networks of researchers, academics, resource

managers, and decision-makers share information and actions that help communities cope with drought. Each of the regional DEWS integrates five key components of a drought early warning system: interdisciplinary research and applications; predictions and forecasting; observations and monitoring, planning and preparedness, and communication and outreach (Insert Figure - 5 Components of a DEWS). Each DEWS advances the provision of drought early warning information and science-based drought decision support tailored to the region's unique characteristics and needs. Over the past five years, each regional system has been supported by a multi-year strategic plan that identifies how the DEWS can further facilitate not only drought information delivery but also action to reduce the impacts of drought.

As these regional networks have grown and trusted partnerships have deepened, common stakeholder priorities and best practices have emerged, which have informed the launching of several national-level initiatives that cross boundaries, hazards, and disciplines. In the last five years, several programs and key activities have been designed to build out the national DEWS, including:

- The NIDIS Drought and Wildland Fire Nexus Strategy
- The National Coordinated Soil Moisture Monitoring Network Strategy
- The NIDIS Tribal Drought Engagement Strategy
- Flash Drought Initiative: 2017 Northern Plains Drought Assessment, 2020 Flash Drought Workshop
- Megadrought: 2021 Southwest Drought Forum, 2021 NOAA Modeling, Analysis, Predictions, and Projections (MAPP) Drought Task Force
- Drought and Private Sector Engagement: 2019 National Drought Forum, Climate Engine
- Drought and Human and Public Health Initiative
- The Coping with Drought Grant Applied Research Competitions
- A Redesigned U.S. Drought Portal (Drought.gov)

These programs and activities are highlighted throughout this Plan, as examples of progress made as well as areas of future growth.

MISSION (Call out box)

NIDIS's mission is to improve the nation's capacity to proactively manage drought-related risks, by providing those affected with the best available information and resources to assess the potential for drought and to better prepare for, mitigate, and respond to the effects of drought. Toward that end, NIDIS will create a drought early warning system for the nation.

VISION (Call out box)

The NIDIS vision is a dynamic integrated drought information system that provides users with the ability to determine the potential impacts of drought and its associated risks, and the decision support tools needed to better prepare for and mitigate the effects of drought.

CONSULTATION (Call out box)

The NIDIS Public Law calls for consultation with “relevant federal, regional, state, tribal, and local government agencies, research institutions, and the private sector” in the development of NIDIS. NIDIS supports a NIDIS Executive Council and several technical Working Groups around this mandate, to encourage consultation and information-sharing with a wide variety of stakeholders. Over the years, Working Groups have evolved from a stationary group model broadly aligned with the components of a drought early warning system, to a more flexible and targeted focus group model that informs NIDIS on specific drought-related topics.

Through the Executive Council, technical Working Groups, and other coordinating mechanisms, NIDIS shares information about its current priorities and gathers individual feedback on NIDIS challenges and priorities, and how they relate to the organizations and agencies represented among Council and Working Group participants. Collectively, the information and individual feedback received from and shared with the Executive Council and Working Groups supports the development of the regional DEWS.

FEDERAL INTERAGENCY COLLABORATION (Call out box)

Early warning and improved drought monitoring are critical aspects of building long-term drought resilience, and they inform policy, infrastructure, and investment decisions to mitigate drought impacts and respond to drought. New opportunities for policy-level coordination on drought have emerged since NIDIS was first authorized, offering the promise of heightened levels of risk management and resilience to long-term drought, including the National Drought Resilience Partnership (NDRP), which complements the aims of NIDIS; the Water Subcabinet; the Interagency Council for Advancing Meteorological Services (ICAMS); the Western States Federal Agency Support Team (WestFAST); the USDA’s Climate Hubs; and the Department of the Interior’s Climate Adaptation Science Centers (CASCs). NIDIS continues to support our Federal agency partners working across water management disciplines, including the U.S. Bureau of Reclamation and the U.S. Army Corps of Engineers, in connecting science with policy and decision-making and ensuring greater cross-cutting efficiencies.

Implementation of the 2022-2026 NIDIS Strategic Plan

Implementation of the NIDIS 2022-2026 Strategic Plan will happen through a combination of targeted investments at national and regional levels, leveraging of existing efforts, and strong collaboration with existing and new partners.

Regional Approach. Recognizing that drought characteristics and impacts vary across the country, the regional DEWS that NIDIS coordinates provide a foundation on which a national early warning system rests (Figure 3). As such, these regional DEWS are an important implementation mechanism for this Strategic Plan. These regional DEWS utilize existing networks to make climate and drought science readily available, easily understandable, and usable; and to improve regional capacity to respond to and cope with drought. Each regional

DEWS has its own multi-year Strategic Action Plan that includes the same strategic goals of this NIDIS Strategic Plan, and provides additional details on proposed implementation activities to meet those strategic goals.

National Approach. Initiatives that cross the regional DEWS boundaries, or are larger than any single regional DEWS, are elevated to be addressed holistically by NIDIS and partners at a national scale. These complex issues often require larger investments in research and targeted decision support tools. In this Strategic Plan cycle, the NIDIS program will actively leverage, invest and/or coordinate several topical national-level and cross-DEWS issues that include the following:

- Partner Engagement and Support
 - Tribal Engagement
 - Public-Private Partnerships
 - Citizen Science
 - Drought Planning and Response
- Monitoring and Prediction
 - National Coordinated Soil Moisture Monitoring Network ([NCSMMN](#))
 - Drought Indicators
 - Seasonal to Subseasonal Drought Forecasting
 - Flash Drought
- Sector-Based Information
 - Drought and Wildfire (NIDIS Drought and Wildland Fire Nexus - [NDAWN](#))
 - Drought and Public Health
 - Drought and Ecosystems

National efforts, products, and learning can be assessed for relevance, validated, tailored, and then incorporated into the regional DEWS. It is this cross-scale exchange of information and learning that helps to improve our capacity for early warning across diverse sectors of the economy.

NIDIS 2022-2026 Strategic Goals, Objectives, and Outcomes

The Strategic Goals are tied to the NIDIS Public Law and the national drought early warning system it calls for. In order for these early warning systems to be successful, they must support efforts to understand past, present, and future drought conditions, and to plan proactively and respond using an adaptive management process that improves future outcomes. The Strategic Goals of this 2022-2026 NIDIS Strategic Plan are organized around the five components of a drought early warning system, in addition to the unique and essential NIDIS role to integrate these components. These Goals are not independent. Activities and actions in one Goal inform those in other Goals, and in the early warning system itself. There is feedback and learning that informs and improves the system over time.

[Call Out Box]

Strategic Goals. These goals will guide NIDIS activities over the next five years, in alignment with the NIDIS Public Law.

Outcomes for each Goal. These outcomes describe the expected long-term change that the NIDIS program plans to achieve over the next 10 years as we accomplish our Strategic Goals, and are what will be used as the basis for evaluation.

Objectives for each Goal. These objectives are specific results that NIDIS intends to accomplish over the next five years to achieve each Strategic Goal. They are intended to be exemplary and not exhaustive.

Goal 1	Improve and deliver drought forecasts and predictions across all time scales to provide the best early warning information for a wide range of decision-makers and audiences.
Goal 2	Strengthen observational networks and drought indicators to improve the monitoring of drought conditions across a variety of spatial and temporal scales.
Goal 3	Strengthen the quality and utilization of information to improve drought planning and preparedness .
Goal 4	Communicate and deliver the best available science and information to increase drought awareness and catalyze action.
Goal 5	Advance and integrate interdisciplinary research to improve decision-based applications and actions.
Goal 6	Coordinate and bolster networks that foster the exchange of information, practices, and lessons to improve drought early warning.

Goal 1: Improve and deliver drought forecasts and predictions across all time scales to provide the best early warning information for a wide range of decision-makers and audiences.

Long-Term Outcomes Expected for Goal 1:

- Improved drought forecasts and prediction products provide more meaningful and reliable information to manage risk at different scales and sectors.
- Improved understanding of future drought trends and climate change helps with decision-making at longer planning scales.

Objectives to Achieve Goal 1:

- Identify and support research targeted towards improved accuracy, reliability, timeliness, and/or local relevance of prediction products to provide earlier detection of drought risk at multiple time scales.
- Advance forecasting capabilities using new technology that includes artificial intelligence, machine learning, and cloud technology.
- Improve seasonal and sub-seasonal forecasting, including migrating existing products to probabilistic forecasts and incorporating new and improved data parameterization, in partnership with the National Weather Service's Climate Prediction Center.
- Improve the reliability of national-level predictions and forecasting at regional scales through the incorporation of regional information and assessment input.
- Assess current operational drought forecast system capabilities and develop partnerships to improve NOAA's official monthly, subseasonal, and seasonal drought outlooks.
- Better incorporate low-flow information into federal operational water prediction products including the National Water Model.
- Improve our understanding of long-term drought trends, including through model advancements through the NOAA MAPP Program and the NOAA Drought Task Forces.
- Deliver actionable drought prediction and forecast maps at different geographic scales (e.g., city, county, state, watershed) through the U.S. Drought Portal.
- Deliver tailored drought prediction and forecast tools to diverse sectors and partners, including tribal nations, as well as drought-vulnerable communities.
- Improve the visualization and understanding of drought forecast products through research that incorporates social science techniques.
- Increase the understanding and communication of uncertainty in drought forecasts and products, including improved communication of forecast uncertainty on the U.S. Drought Portal (Drought.gov).

Goal 2: Strengthen observational networks and drought indicators to improve the monitoring of drought conditions across a variety of spatial and temporal scales.

Long-Term Outcomes Expected for Goal 2:

- Improved relevance, timeliness, density, distribution, and interoperability of observational/monitoring data provide greater understanding of current drought conditions.
- New and improved products are deployed to meet end-user needs and improve accessibility, leading to greater incorporation of monitoring information into their decision-making process.
- The development of monitoring resources is tailored for specific drought-vulnerable populations, allowing them to be better prepared for future droughts.

Objectives to Achieve Goal 2:

- Improve the ability of drought indicators and/or indices to address specificities of regional drought conditions, including at the watershed level.
- Improve the ability of drought indicators and/or indices to address specificities of sector needs, such as wildfire management, public health, and natural resource management.
- Strengthen and implement observation and monitoring activities that build drought resilience among tribal nations, and provide drought monitoring data at tribal reservation scales on the U.S. Drought Portal.
- Ensure support for key drought monitoring tools, like the U.S. Drought Monitor, and refine to strengthen decision-making across sectors.
- Address gaps with in situ soil moisture monitoring for areas where monitoring is lacking such as tribal lands and forested areas, and deliver improved data access systems including a soil moisture product clearinghouse through the NCSMMN.
- Investigate gaps in snowpack monitoring and how expected future changes in snowpack may impact streamflow and water supply forecasting.
- Develop and deliver monitoring information for rapid-intensification events (i.e., flash droughts), and tailor this information to region, season, and sector.
- Utilize cloud technologies, such as Climate Engine, to make data (i.e., gridded, in situ, remotely sensed) more readily available for analysis and place-based decision support.
- Improve the collection and use of citizen science monitoring data and information.

Goal 3: Strengthen the quality and utilization of information to improve drought **planning and preparedness.**

Long-Term Outcomes Expected for Goal 3:

- An increased number of drought-related plans, activities, and investments are based upon actionable drought information that informs near and long-term planning and minimizes future risk.

Objectives to Achieve Goal 3:

- Develop an online interactive and engaging planning platform that optimizes data and resources from across the federal family and supports planners to develop and improve drought plans at all spatial scales.

- Account for drought events of different time scales in the planning process, from shorter-lived episodic droughts, to longer, more chronic droughts (e.g., multi-year and decadal), as well as rapid intensification events (i.e., flash drought).
- Support state-level efforts to conduct post-drought assessments, and communicate opportunities to incorporate results into future planning activities.
- Improve the dissemination of drought research, tools, and planning information in formats that are timely, accessible, and useful for drought management and planning purposes.
- Integrate risk and vulnerability assessments for diverse populations, sectors (such as small agriculture and outdoor recreation), and ecosystems into the drought planning process.
- Incorporate multi-hazard integration, cascading impacts, cost-benefit analysis, and evolving drought risks into the planning process.
- Foster federal-level interagency exchanges to expand drought planning guidance and the identification of populations most at risk to drought impacts.

Goal 4: Communicate and deliver the best available science and information to increase drought awareness and catalyze action.

Long-Term Outcomes Expected for Goal 4:

- Dialogue between partners on drought issues is improved through the convening of diverse stakeholders and partners to share information and practices.
- Accessibility and utilization of drought information by the public are increased through the direct expansion of the U.S. Drought Portal (Drought.gov), media outreach, educational initiatives, and other NIDIS and partner communication tools.

Objectives to Achieve Goal 4:

- Improve the U.S. Drought Portal (Drought.gov) by assessing visitor analytics and incorporating user feedback into site enhancements.
- Enhance efforts to leverage data, decision support products and resources from federal agency partners.
- Strengthen the relationship and trust between NIDIS and partners with external stakeholders through customized and improved email communication technologies, social media, news media, and outreach activities such as national webinars and forums.
- Continue to lead in the development and dissemination of regional Drought Status Updates in coordination with regional partners, to further foster awareness of drought conditions with consistent messaging.
- Maintain regular dialogue with the NIDIS Executive Council as well as Federal partners.
- Hold regular dialogues with tribal partners to ensure that their needs are articulated and information is communicated, including through the Regional Tribal Drought Action Plan discussions.

- Communicate research findings through multiple channels including the U.S. Drought Portal, NIDIS newsletters, and the regional DEWS networks.
- Continue to convene national, regional and state workshops to communicate new information on drought topics as appropriate and deemed important by partners.

Goal 5: Coordinate and integrate interdisciplinary research to improve decision-based applications and actions.

Long-Term Outcomes Expected for Goal 5:

- Drought plans and response actions to build resilience at different scales and sectors are improved with the integration of tailored research and information.
- Applied research projects sponsored by NIDIS are incorporated into or used to inform management and planning activities.

Objectives to Achieve Goal 5:

- Conduct research that improves understanding of which indicators are best suited to specific management decision points in the regional context, including an emphasis on indicators tailored for flash drought.
- Conduct research that improves understanding of drought characteristics and regional distinctions, including flash drought and snow drought.
- Conduct research that improves understanding of the far-reaching nature of drought into diverse sectors, such as public health interconnections and economies.
- Conduct research that improves understanding of the actions to prepare for and respond to droughts and that reduce impacts and/or increase resilience over the long term.
- Conduct research to better understand secondary and tertiary impacts or effects of drought to inform drought planning, including wildland fire management.
- Plan projects that integrate social science to understand societal factors that interact with response to drought events.

Goal 6: Coordinate and bolster networks that foster the exchange of information, practices, and lessons to improve drought preparedness and early warning.

Long-Term Outcomes Expected for Goal 6:

- Regional DEWS networks become more diverse (multi-sector, interdisciplinary) and more inclusive of vulnerable populations and ecosystems.
- Engagement in NIDIS-led network activities by partners is increased and provides useful and actionable results.
- The foundations of a national drought early warning system are strengthened.
- Drought communication and learning across scales and sectors are sustained and expanded.

Objectives to Achieve Goal 6:

- Implement updated Strategic Action Plans in all of the NIDIS regional DEWS.
 - Continue to hold partner meetings in each of the regional DEWS, and expand these DEWS networks to include new partners in sectors impacted by drought.
 - Utilize topical cross-DEWS dialogues to more efficiently develop and deliver a consistent suite of services that can contribute to a national drought early warning system and foster cross-DEWS exchanges.
 - Strengthen the exchange of knowledge both within and across DEWS through various methods including the sharing of case studies and best practices, and participation in drought-related learning networks.
 - Promote Justice, Equity, Diversity, and Inclusion through deliberate outreach and engagement via the regional DEWS networks and other networks.
 - Identify populations at risk due to drought, assess their information needs, and work to support those needs.
 - Engage in NOAA-relevant structures to strengthen cross-agency collaboration related to weather, water, and climate.
 - Share lessons in post-drought assessment to inform future planning and adaptation measures.
 - Continue to lead the coordination of national-level initiatives such as the NCSMMN and the NIDIS Drought and Wildland Fire Nexus.
 - Develop, expand and coordinate the use of flexible ad-hoc 'focus groups' to support cross-disciplinary drought challenges as identified by NIDIS partners, including on the topics of drought indicators and blends; drought and wildfire; drought and public health; seasonal to sub-seasonal forecasting; and flash drought.
-

Integration Across Strategic Goals

This five-year strategy reflects lessons learned from the past 15 years, and the continued integration of drought early warning information that will steer programmatic growth in the future. Below are key examples of integration in action across the strategic goals of NIDIS, as well as identified opportunities for expansion in the years to come.

Improving drought observations, prediction, planning, and communication to strengthen early warning across the nation

Supporting Drought Prediction Across Timescales

The NIDIS Reauthorization Act of 2019 (P.L. 115-423) called on NIDIS to “utilize... improvements in seasonal to subseasonal precipitation and temperature and low flow water prediction”; Congress also recognized the need to improve S2S in the Weather Research and Forecasting Innovation Act of 2017 (P.L. 115-25). Increased support to improve S2S forecasting is essential for the nation to be able to predict and adapt to precipitation variability within the timescales of most operational decisions. NIDIS partners continually call for prioritized investments in research required to improve prediction accuracy, and to lengthen forecasting lead time, as well as improve understandability and useability of forecast information. For example, a top finding of the [2014 NOAA California Drought Service Assessment](#) emphasized the need for seasonal prediction capability in California and the Colorado River basin: “Even a low confidence forecast for the total precipitation in those areas could go a long way in answering the most enduring question: ‘How much water will we get this year?’”

Key initiatives that NIDIS and our core partners lead that will benefit from improved S2S forecasts include: understanding and predicting flash drought; strengthening forecast-informed reservoir operations (FIRO) to more effectively operate the nation’s water infrastructure for both drought and flood extremes; determining snow hydrology required for wildfire forecasts; and water supply planning and management, especially in the western U.S. where snowpack sustains water supplies.

Predicting flash drought is another area of keen interest for stakeholders. These rapid onset drought events are currently poorly forecasted, and often catch farmers and other land and water managers off-guard and unable to effectively respond in a timely manner. Significant negative impacts of flash drought to the agricultural sector have been well documented, and it is likely there are also serious impacts to other economic sectors as well as environmental services.

NIDIS responded to the need identified by flash drought researchers that increased coordination on this phenomenon was needed in order to advance flash drought early warning. NIDIS held a comprehensive [Flash Drought Workshop](#) in December 2020, which was a multi-day virtual event that brought together researchers and practitioners from across the U.S. (and internationally) to discuss key research issues, and to identify opportunities to translate research into practical applications of value to end users. Over the coming years, NIDIS will implement a

series of priority actions as laid out in the [2020 Flash Drought Workshop Report](#). For example, NIDIS published a [literature review of flash drought research](#) in 2021, and contributed to a research prospectus in 2022 intended to focus the research community on solvable and impactful problems and inform future research investments. With this strategy in place, NIDIS is paving the way for meaningful engagement with practitioners and improved capacity in flash drought monitoring, prediction, and planning and response.

Expanding the DEWS Footprint

In recent years, numerous requests have been made to scale the successful DEWS model across the CONUS, Alaska, Hawaii and the U.S. Affiliated Pacific Islands (USAPI), Puerto Rico and the U.S. Virgin Islands, and in tribal lands.

Tribal communities face unique drought challenges and opportunities, requiring customized approaches, tools, and data that integrate Traditional Ecological Knowledge and cultural, medicinal, and spiritual values. To effectively address tribal needs as mandated by the NIDIS Public Law, NIDIS and our tribal, federal, and other partners jointly developed the NIDIS Tribal Drought Engagement Strategy: 2021-2025. Tribal nations will benefit from increased support to implement the strategy, which articulates specific activities and outcomes to improve drought observations and monitoring, prediction and forecasting, communication and outreach, planning and preparedness, and interdisciplinary research.

The 2017-2019 extreme drought in southeast Alaska prompted calls to better understand and prepare for current and future drought scenarios in the different climate zones of Alaska. Regional listening sessions and partner-led workshops with Federal, tribal, state governments, and local universities prioritized the following DEWS objectives: understanding drought impacts in Alaska's regions and to indigenous and underserved communities; extension of drought monitoring indices and forecasts developed for the contiguous U.S. to Alaska; and guidance to support planning for drought resilience.

Hawaii and the USAPI are extremely vulnerable to drought events. Many Pacific island communities rely on rainwater for drinking water supplies, and drought may reduce or degrade these supplies, affecting public health. Drought also impacts island farming, ranching, and sensitive ecosystems. The remoteness of many islands is an obstacle to timely relief during drought, emphasizing the importance of improving early warning and local drought resilience. Drought early warning activities in the region will amplify and extend climate-related research, products, and training built by regional partnerships and networks such as the Pacific Drought Knowledge Exchange, tailoring those to the unique needs of different regional climate zones, and will address major monitoring gaps, including a lack of in-situ observing sites.

Improved Drought Early Warning in the Upper Missouri River Basin

A flash drought in the Northern Plains of the U.S. and the prairies of central Canada took many by surprise in 2017. While the impacts were severe, costing over \$2.8 billion ([NOAA NCEI U.S. Billion-Dollar Weather and Climate Disasters](#)), an opportunity was created to improve how

states prepare for, monitor, and respond to drought. The State of Montana and the Montana Climate Office (MCO) use this opportunity to improve drought early warning not only for the state, but for the region.

Through the Missouri River Basin DEWS, partners came together to develop a post-drought assessment, [Flash Drought: Lessons Learned From the 2017 Drought Across the U.S. Northern Plains and Canadian Prairies](#), which identified the need for improved monitoring infrastructure, indicators, drought plans, impact reporting and increased technical capacity of state drought task forces. NIDIS funded a project with the Montana Climate Office to develop an open-source [Upper Missouri River Basin Drought Indicators Dashboard](#), and validate drought metrics using soil moisture datasets to evaluate the most appropriate usage geographically, spatially and temporally. The work leveraged funds from the state to tie these efforts directly to updates to the Montana State Drought Plan. Federal agencies such as the U.S. Army Corps of Engineers and the U.S. Forest Service also provided investments that significantly increased monitoring sites in the region for soil moisture and other key parameters such as snowpack, providing key data streams to the monitoring effort. Key to the success of these efforts has been NIDIS's investments in the region, along with the willingness of entities to work together, leverage funds and capacity, align goals, and share data and knowledge. Future work will include a NIDIS-lead research study of the value of soil moisture data from the expanded monitoring networks to support key applications such as river forecasting, drought and climate modeling, and snowpack estimation.

Delivering the best-available drought information for informed decision-making and public awareness.

Understanding the Impacts of Drought

NIDIS has helped establish the nation's foundation for drought impact data collection and analysis through support for the citizen-science initiative Community Collaborative Rain, Hail and Snow Network ([CoCoRaHS](#)) and the Condition Monitoring Observer Reports ([CMOR](#)) on Drought with NDMC. Additional support has gone to states, including the States of Montana and Kentucky, to develop drought impact reporting and visualization platforms; and support for in-depth drought impact assessments, including [Flash Drought: Lessons Learned From the 2017 Drought Across the U.S. Northern Plains and Canadian Prairies](#) and the annual [Pacific Northwest Water Year Impact Assessment](#). This foundation provides the basis for tackling crucial remaining unknowns, such as how, when, and why physical drought hazards (e.g., precipitation deficits) translate into climate vulnerabilities and impacts that damage the nation's economy, health and safety, and the resilience of natural systems.

A critical missing piece of drought early warning is the ability to quantify, monetize, and predict drought's impacts on drought-vulnerable sectors that drive the U.S. economy. For example, there is minimal data on drought's economic impacts to the key economic sectors of recreation and tourism, energy, and manufacturing. To address this gap, NIDIS and partners will leverage advances in big data, artificial intelligence, and analytics to create resources that enable

decision makers to better quantify, stratify, and insure economic risks of drought; rapidly pivot decision trade-offs as impacts evolve; and build resilience after drought events.

Tribal Engagement

In partnership with tribal natural resource managers and leaders across the Midwest and Missouri River Basin DEWS in 2018 and 2019, NIDIS developed a [Tribal Drought Engagement Strategy](#) for 2021-2025 to ensure that indigenous perspectives are integrated into NIDIS's work and that tribal nations are equal partners in preparing for and responding to drought. A foundational element of the Tribal Strategy are three principles of engagement that guide NIDIS and partners in our work tribal nations. These include: 1) respecting tribal sovereignty; 2) ensuring trust and reciprocity; and 3) ensuring DEWS are culturally appropriate and useful for tribal nations. The Strategy also outlines key priorities for tribal engagement around the five components of a DEWS. To help implement the Strategy, NIDIS hired a full-time tribal engagement coordinator in summer 2021.

Conversations with tribal natural resource managers while developing the Strategy revealed several barriers to drought resilience that NIDIS intends to address during the 2022-2026 Strategic Plan. One of the biggest barriers for tribal nations is not having the resources to implement actions in their drought plans. In response, NIDIS allocated \$3 million to a two-year competitive funding opportunity in FY22 that requested proposals for projects specifically focused on funding the implementation of drought management actions on tribal lands. Another need identified is the lack of reservation-scale data to assess local drought conditions. As a result, NIDIS is seeking to expand its tools and resources relevant to tribal nations on the U.S. Drought Portal ([Drought.gov](https://drought.gov)). In order to further gather needs and build relationships with tribal partners across the country, NIDIS plans to host tribal drought action plan dialogues. These dialogues will be conducted in partnership with others within NOAA and other federal agencies, such as the EPA and DOI. NIDIS has also committed to supporting improved drought monitoring on tribal lands, including enhancing existing networks such as the USDA/NRCS's Tribal Soil Climate Analysis Network (T-SCAN), NOAA's Climate Reference Network (CRN), and the National Mesonet Program.

Expanding Decision-Support Resources for Drought Planning

Stakeholders in regional DEWS require expanded decision-support tools that support multi-hazard risk assessment and planning in a changing climate. NIDIS's diverse partnerships with federal, tribal, state, local, and cross-sector entities engaged in planning are leading efforts to coordinate across regional DEWS in support of drought planning activities. Critical to this aim is a centralized resource that helps planners take a proactive approach to the development, evaluation, and improvement of drought plans at all scales, from city to state, tribal, economic sectors, and watershed levels. Decision-support resources will include those that help planners assess interdependent societal, climate hazard, sector and ecological risks, and vulnerabilities; and select optimal adaptation and mitigation actions.

The U.S. Drought Portal ([Drought.gov](https://drought.gov))

NIDIS has been delivering resources, maps, and tools for drought decision makers through the interagency U.S. Drought Portal ([Drought.gov](https://drought.gov)) since 2008. In January 2021, NIDIS worked with the NOAA National Centers for Environmental Information (NCEI) to launch a major redesign of the U.S. Drought Portal that would better serve decision makers across all levels of government, private industry, and the public. The new website features updated content and new interactive maps designed to provide actionable, shareable information on current drought conditions, forecasts, and planning resources from the city and county level to state, watershed, and global scales. The U.S. Drought Portal also aggregates and presents drought impact data for economic sectors such as agriculture, water utilities, public health, and wildfire management. By providing centralized access to key decision support resources, the new website helps to increase individuals' and communities' capacity for mitigating the impacts of drought. Since the launch, NIDIS has continued to improve the U.S. Drought Portal. For example, by expanding watershed-specific resources for the [Colorado River Basin](#) and the [Apalachicola-Chattahoochee-Flint River Basin](#), improving access to National Weather Service drought information statements through an [interactive map](#), and providing local [drought alert emails](#), where users can receive customized email updates when U.S. Drought Monitor conditions change for their location or when a new drought outlook is released.

Over the past five years, NIDIS has relied on user research, usability testing, and feedback from the NIDIS Executive Council, technical Working Groups, stakeholders, and the public to improve the data resources on the U.S. Drought Portal. In the next five years, NIDIS will continue to engage with these groups to increase usability and interactiveness, while consistently improving user experience. NIDIS plans to develop an interactive Drought Planning Platform that supports planners to develop and improve drought plans at all scales, from city to state to regional. In addition, NIDIS will work closely with partners to address gaps in monitoring and prediction resources on the U.S. Drought Portal (e.g., for tribal nations), improve communication of forecast uncertainty, and continue to integrate sponsored research throughout the website, which will give stakeholders and leaders the tools to make better and more timely decisions and, ultimately, improve the nation's capacity to proactively manage drought-related risks.

Coordinating and leading research initiatives that address key scientific and societal needs.

Implementing the National Coordinated Soil Moisture Monitoring Network (NCSMMN)

Soil moisture has been widely recognized as a critical land surface variable, impacting a wide variety of climatological, agricultural, and hydrological processes. It has also been identified as a key drought early warning indicator. However, developing accurate depictions of soil moisture conditions continues to be a serious challenge. In response to this need, NIDIS is leading the [National Coordinated Soil Moisture Monitoring Network](#) (NCSMMN), a collaborative effort among federal agencies, soil moisture scientists, state mesonet operators, and others to plan

for and support nationally-coordinated soil moisture monitoring, data assimilation, and product development for drought and flood early warning and other applications.

The NIDIS-led [Strategy for a NCSMMN](#) is a detailed plan to build a multi-agency, cross-cutting initiative to integrate soil moisture data from around the country and to capitalize on its transformative potential for a wide range of applications across sectors of the economy, including not only drought, but also flooding, wildfire risk assessment, agricultural monitoring, and other natural resource needs. Key goals of the initiative include:

- Establishing a national “network of networks” that effectively demonstrates data and operational coordination of in situ networks and addresses gaps in coverage
- Supporting R&D on innovative techniques to merge in situ soil moisture data with remotely-sensed and modeled hydrologic data to create near-real-time, gridded, user-friendly soil moisture maps and associated tools
- Building a community of practice and expertise around soil moisture measurement and interpretation—a “network of people” that links data providers, researchers, and the user community

In addition, NIDIS has sponsored research on [proof-of-concept gridded national soil moisture maps](#) that blend multiple data sources (in situ, satellite, modeled), led efforts to build partnerships with state mesonets, supported NOAA-wide efforts to increase soil moisture monitoring with a [buildout in the Southeastern U.S.](#), and engaged in a range of targeted outreach activities with mesonet data providers, researchers and end users.

Resources to fully implement the strategy will enable rapid development of near real-time products that reduce drought risks and improve response times. The NCSMMN will strengthen hazard early warning systems, improve characterization of national water budgets that are key for flood and drought forecasts, and strengthen climate models.

Drought and Wildfire Management

The [NIDIS Drought and Wildland Fire Nexus \(NDAWN\)](#) is rooted in developing partnerships and collaboration with the wildland fire management community. It was launched to address the challenges fire managers face related to drought and to establish a robust drought and wildland fire decision-support information network. NDAWN functions as a network at multiple scales, from sub-regional to national. This engagement informs a comprehensive applied research program aimed to better understand the consequences of drought at every point of the fire management continuum from prediction and pre-ignition, to active fire management including prescribed fire, and post-fire recovery. The network also creates a mechanism for sustained engagement with wildland fire managers and practitioners and enables co-production throughout the process to meet those needs together.

Challenges identified to date include drought amplifying safety concerns for firefighters and communities, drought increasing the potential for large wildfires, resource demands and cost, management uncertainty, and the likelihood for post-fire vegetation shifts. A lack of flexibility in

planning processes to manage the impacts of drought to fire management was also identified. Efforts to address these challenges are underway and will continue over the next five years to answer applied research questions and incorporate better information into operational decision support systems. Example areas of work, which touch on all five components of drought early warning, include:

- The development of an automated system for sub-seasonal forecasts for fire danger indices and relative fire risk metrics and improving soil moisture modeling to inform the development of an updated Keetch-Byram Drought Index (KDBI).
- Work to better understand regional differences in how compounding antecedent conditions (e.g., long-term climate patterns, recent seasonal conditions, and acute critical fire weather events) impact the fire season and fire behavior will inform what should be monitored and incorporated into wildfire management decisions.
- A focus on relating atmospheric and plant health indicators to plant water potential to improve current operational models and that do not adequately capture plant flammability potential. This effort is nested in a larger effort to understand atmospheric-terrestrial interactions that cause sudden increases in highly flammable fuel conditions.
- Once wildland fires are extinguished, drought conditions can inhibit recovery of soils and vegetation contributing to post-fire debris flows and landslides and impacting the success of restoration projects. Research on the long-term vulnerability of communities near burn scars and how to adjust techniques and approaches to improve restoration success in drought prone areas is key to public safety post-fire.

The ultimate goal of NDAWN is to benefit both wildland firefighters and public health and safety across the United States.

Conclusion

The completion of a fully operational national drought early warning system is fundamental to creating a more drought resilient nation. As the foremost Federal agency drought program, NIDIS is well positioned to deliver that system to the Nation, by directing efforts toward reducing risk in drought sensitive sectors and regions and engendering awareness of the drought hazard, its links to vulnerability, and opportunities for action. Through a robust consultative process over the course of 15 years, NIDIS has matured and expanded its reach and services. The future growth identified through consultation and captured in this plan is vital to meet the nation's goals for drought and climate action. Resources to support this growth will result in transformational improvements that reduce drought's catastrophic economic, wildfire, health, and environmental impacts across the country. By building upon existing programs and partnerships to create an effective national drought early warning system, NIDIS will continue to advance proactive responses to drought-related risk, and strengthen preparedness strategies and plans that increase our country's resilience in the face of drought.

APPENDICES

Appendix A. Key Drivers for the 2022-2026 NIDIS Strategic Plan

- NIDIS Public Law and Reauthorizations
 - [NIDIS Act of 2006, Public Law 109–430](#)
 - [NIDIS Reauthorization Act of 2014, Public Law 113–86](#)
 - [NIDIS Reauthorization Act of 2018, Public Law 115–423](#)
 - Department of Commerce 2018 - 2022 [Strategic Plan](#) [Reduce Extreme Weather Impacts]
 - NOAA's [Mission and Vision](#)
 - NOAA Oceanic & Atmospheric Research (OAR) 2020-2026 [Strategy](#)
 - The [Weather Research and Forecasting Innovation Act of 2017](#)
 - National Weather Service Weather Ready Nation [Strategic Plan](#) 2019-2022
 - NOAA [Service Delivery Framework](#)
 - USDA 2021 [Action Plan for Climate Adaptation and Resilience](#)
 - NOAA 2014 [California Drought Service Assessment](#)
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This report was authored by the NIDIS Program Office and supported by the individual feedback of many key partners across sectors and levels of government. Special thanks to Meredith Muth and Elizabeth Ossowski in the NIDIS Program Office, and to our colleague Elizabeth Weight, who passed away in October 2021 but whose contributions to this plan were pivotal to its success.

Tab M – WSWC/CDWR Sub-seasonal to
Seasonal (S2S) Precipitation
Forecasting Workshop and
Research to Operations



Workshop on Improving Sub-seasonal to Seasonal Precipitation Forecasting to Support Water Management



The **Western States Water Council** and the **California Department of Water Resources** are cosponsoring a recurring workshop to continue a dialogue among western states, the National Oceanic and Atmospheric Administration (NOAA), and the research community on improving sub-seasonal to seasonal (S2S) precipitation forecasting to support water management decision-making.

Improving precipitation forecasts at lead times longer than a two-week weather forecast would support many water management activities, including preparedness and response to drought conditions that are again gripping much of the western U.S. Workshop presentations will include recently developed experimental research forecast products for California and the Colorado River Basin, predictability analyses, the status of efforts to begin a western pilot project to improve forecasting, model development activities, and examples of needs and potential applications for improved forecasts. Join us as we discuss how to move forward on this important subject.

SCHEDULE: The workshop is being held in San Diego, California on **May 17-19, 2022**. It will begin Tuesday, May 17 at 1:00 pm and conclude Thursday, May 19 around 12:00 noon.

MEETING FACILITY: **Doubletree by Hilton San Diego Downtown**, located at 1646 Front Street, San Diego, California 92101.

AGENDA: available soon

MEETING REGISTRATION: There is no fee required to attend.

Complete this [online registration form](#).

GUEST ROOM ACCOMMODATIONS/RESERVATION METHOD: A block of rooms has been reserved and will be held through **April 17, 2022**. Please contact the hotel's reservations department directly at **(619) 239-6800**, or central

reservations at (800) 222-TREE, and mention the Western States Water Council to receive the established group rate of \$125 per night. The group rate will be extended three (3) days before and after the room block dates, subject to availability. Reservations received after the cutoff date of April 17, 2022 will be confirmed on a room availability basis at the rate in effect at the time of the request.

Please note: The Hotel maintains a forty-eight (48) hour cancellation policy for individual guest room reservations.

PARKING: The Hotel offers self-covered parking at the hotel at a charge of \$15.00 per car per night. Parking fee is subject to change without notice.

GROUND TRANSPORTATION (San Diego): The Doubletree San Diego Downtown offers a complimentary airport shuttle to hotel guests. In order to get picked up at the airport, the day of arrival, each guest should call the hotel directly at 1-619-239-6800 from the airport after luggage pick up. To be taken back to the airport, guests must make a reservation with the Concierge or Front Desk. The airport shuttle arrives at the front entrance of the hotel and departs every thirty (30) minutes.

Tab N – Legislation and Litigation Update

**Legislation Update
198th WSWC Meeting
Arlington, Virginia**

Complied By:
Michelle Bushman
WSWC Assistant Director and General Counsel
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This summary describes developments regarding notable legislation that pertains to WGA/WSWC policies or are otherwise of interest. It focuses primarily on developments that have taken place since the beginning of the 117th Congress, and is organized in reverse chronological order according to bill number. For some bills, this document uses modified versions of summaries prepared by the Congressional Research Service.

NOTABLE LEGISLATION

Bill Number H.R. 6492 Bill Title Climate Resilience Workforce Act Passed (S/H) Bill Sponsor Rep. Jayapal, Pramila [D-WA-7]	Date Introduced 01/25/22 Assigned Committee(s) Agriculture, Natural Resources, others Hearing(s) Co-sponsors 30 Democratic co-sponsors, including AZ, CA, OR, TX, WA	WSWC Keywords Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/6492	Summary of Bill Would establish an Office of Climate Resilience in the White House, with the authority to convene federal and non-federal stakeholders and a federal interagency National Climate Resilience Action workgroup to inform and develop a climate resilience action plan. The bill would also establish the Center for the Climate Resilience Workforce to serve as a public resource to support job quality and training, research on the relevant workforce to identify needs/challenges. Title II establishes a grant program for states and tribes to support climate change risk assessments and action plans, prioritized for "frontline communities."
Bill Number H.R. 6461 Bill Title National Climate Adaptation and Resilience Strategy Act Passed (S/H) Bill Sponsor Rep. Peters, Scott H. [D-CA-52]	Date Introduced 01/20/22 Assigned Committee(s) Energy and Commerce Hearing(s) Co-sponsors 3 bipartisan co-sponsors, including Rep. John Curtis (R-UT)	WSWC Keywords Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/6461	Summary of Bill To require the Federal Government to produce a national climate adaptation and resilience strategy. Would establish a Chief Resiliency Officer and National Climate Adaptation and Resilience Working Groups to coordinate a whole-of-government plan. Would also establish a non-federal Partners Council on Climate Adaptation and Resilience, with representatives from states, tribes, academic, private, industry, and non-government organizations.
Bill Number H.R. 6336 Bill Title Western Wildfire Support Act Passed (S/H) Bill Sponsor Rep. Neguse, Joe [D-CO-2]	Date Introduced 12/20/21 Assigned Committee(s) Natural Resources, Agriculture, Transportation and Infrastructure, and others Hearing(s) Co-sponsors	WSWC Keywords Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/6336	Summary of Bill Requires USDA and DOI to establish spatial fire management plans, establishes wildfire accounts in Treasury, and creates a board and a prize for addressing wildfire-related invasive species. It requires federal and state disaster preparedness programs to include postdisaster assistance. Authorizes FEMA to provide funding to states to operate postfire recovery websites.
Bill Number H.R. 6238	Date Introduced 12/09/21	WSWC Keywords	Summary of Bill The bill would amend the Omnibus Public Land Management Act of 2009 to increase Tribal access to water

Bill Title WaterSMART Access for Tribes Act	Assigned Committee(s) Natural Resources	Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/6238	conservation and efficiency grants, authorizing DOI to "reduce or waive the non-Federal share (and increase the Federal share accordingly) of the cost of any infrastructure improvement or activity that is the subject of that grant or other agreement if the Secretary determines that the Indian tribe does not have sufficient funds to pay such cost share."
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Stansbury, Melanie Ann [D-NM-1]	Co-sponsors 13 bipartisan co-sponsors, including AK, AR, CA, CO, KS, NV, OK		
Bill Number H.R. 6229 / S. 3371	Date Introduced 12/09/21	WSWC Keywords	Summary of Bill Would authorize the Secretary of the Interior to make financial assistance to States under the Land and Water Conservation Fund available for water quality projects
Bill Title Land and Water Conservation Fund Water Amendments Act	Assigned Committee(s) Natural Resources; Energy and Natural Resources	Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/3371	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Mast, Brian J. [R-FL-18]; Sen. Rubio, Marco [R-FL]	Co-sponsors		
Bill Number S. 3355	Date Introduced 12/09/21	WSWC Keywords	Summary of Bill Would require the Corps to propose a new nationwide permit under the CWA for dredging projects
Bill Title Dredging to Ensure the Empowerment of Ports (DEEP) Act	Assigned Committee(s) Environment and Public Works	Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/3355	
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Lee, Mike [R-UT]	Co-sponsors		
Bill Number H.R. 6147	Date Introduced 12/07/21	WSWC Keywords	Summary of Bill Directs the Secretary of Agriculture to establish a Driftless Area Landscape Conservation Initiative to reduce erosion and restore cold water stream corridors in the Driftless Area of the Midwestern United States, with a focus on climate-smart agriculture, carbon sequestration, soil health, and ecological restoration. \$5M for each of FY22-26.
Bill Title Driftless Area Landscape Conservation Initiative Act	Assigned Committee(s) Agriculture	Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/6147	
Passed (S/H)	Hearing(s) Agriculture		
Bill Sponsor Rep. Bustos, Cheri [D-IL-17]	Co-sponsors		
Bill Number S. 3308	Date Introduced 12/02/21	WSWC Keywords	Summary of Bill The bill would authorize the Colorado River Indian Tribes (CRIT) to enter into lease or exchange agreements and storage agreements relating to water of the Colorado River allocated to the Colorado River Indian Tribes, in accordance with applicable state and federal laws.
Bill Title	Assigned Committee(s)	Congress.gov Link	

Colorado River Indian Tribes Water Resiliency Act Passed (S/H) Bill Sponsor Sen. Kelly, Mark [D-AZ]	Indian Affairs Hearing(s) Indian Affairs Co-sponsors Sen. Sinema, Kyrsten [D-AZ]	https://www.congress.gov/bill/117th-congress/senate-bill/3308	with applicable state and federal laws.
Bill Number H.R. 6088 / S. 3282 Bill Title Water Infrastructure Modernization Act Passed (S/H) Bill Sponsor Rep. Gallego, Ruben [D-AZ-7]; Sen. Kelly, Mark [D-AZ]	Date Introduced 11/30/21 Assigned Committee(s) Energy and Commerce; Environment and Public Works Hearing(s) Energy and Commerce; Environment and Public Works Co-sponsors	WSWC Keywords Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/6088	Summary of Bill The bill would amend the Safe Drinking Water Act to authorize grants for smart water infrastructure technology to address emerging contaminants, leaks, the need for infrastructure resiliency, and water efficiency, with \$25M for FY23-27, and set asides for rural and tribal communities.
Bill Number S. 3277 Bill Title Section 401 Certification Act Passed (S/H) Bill Sponsor Sen. Capito, Shelley Moore [R-WV]	Date Introduced 11/30/21 Assigned Committee(s) Environment and Public Works Hearing(s) Environment and Public Works Co-sponsors 9 Republican co-sponsors including AK, ND, OK, WY	WSWC Keywords Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/3277	Summary of Bill Would enact the 2020 CWA Section 401 Certification Rule into statute, with a finding that "States have denied water quality certifications under section 401 of the Federal Water Pollution Control Act (33 U.S.C. 1341) for infrastructure projects for reasons other than protecting water quality..."
Bill Number H.R. 5907 Bill Title Water Infrastructure for Rural and Impoverished Communities Act Passed (S/H) Bill Sponsor Rep. Vela, Filemon [D-TX-34]	Date Introduced 11/05/21 Assigned Committee(s) Agriculture Hearing(s) Agriculture Co-sponsors	WSWC Keywords Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/5907	Summary of Bill To authorize the provision of water and waste facility direct loans and grants to communities with greater populations under certain circumstances.
Bill Number H.R. 5880 / S. 3168 Bill Title	Date Introduced 11/04/21 Assigned Committee(s)	WSWC Keywords Congress.gov Link	Summary of Bill To amend the White Mountain Apache Tribe Water Rights Quantification Act of 2010 to modify the enforceability date for certain provisions

No Title	Natural Resources; Indian Affairs	https://www.congress.gov/bill/117th-congress/house-bill/5880	
Passed (S/H)	Hearing(s) Natural Resources; Indian Affairs		
Bill Sponsor Rep. O'Halleran, Tom [D-AZ-1]; Sen. Kelly, Mark [D-AZ]	Co-sponsors 3 bipartisan co-sponsors, including Rep. John Curtis (R-UT)		
Bill Number H.R. 5802 / S. 3128	Date Introduced 11/01/21	WSWC Keywords	Summary of Bill To reauthorize the National Flood Insurance Program through FY26, with amendments for mitigation grants and a pilot program for loans, and changes regarding USGS-FWS-NOAA mapping, and standards for private or community maps.
Bill Title National Flood Insurance Program Reauthorization Act	Assigned Committee(s) Transportation and Infrastructure, and others; Banking, Housing, and Urban Affairs	Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/5802	
Passed (S/H)	Hearing(s) Transportation and Infrastructure, and others; Banking, Housing, and Urban Affairs		
Bill Sponsor Rep. Pallone, Frank, Jr. [D-NJ-6]; Sen. Menendez, Robert [D-NJ]	Co-sponsors		
Bill Number H.R. 5653 / S. 3031	Date Introduced 10/21/21	WSWC Keywords	Summary of Bill Amends CWA Section 205 regarding financial allotments to states in FY22-26, maintaining the amount allotted in 2021 and adding a proportional allotment based on the most recent Census. It also include funds for Buy American oversight. It amends the requirements of the clean watershed needs survey in CWA Section 516(b).
Bill Title Clean Water Allotment Modernization Act	Assigned Committee(s) Transportation and Infrastructure; Environment and Public Works	Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/5653	
Passed (S/H)	Hearing(s) Transportation and Infrastructure; Environment and Public Works		
Bill Sponsor Rep. Waltz, Michael [R-FL-6]; Sen. Rubio, Marco [R-FL]	Co-sponsors		
Bill Number S. 2807	Date Introduced 09/22/21	WSWC Keywords	Summary of Bill Authorizes DOI, EPA, and USDA to develop 2-5 watershed pilot projects, for five years, to achieve a quantifiable reduction in nutrients, sediment runoff, or thermal load, or a quantifiable increase in dissolved oxygen, or surface/groundwater that benefits fish and wildlife. Authorizes \$15M/year for FY22-27.
Bill Title Watersheds Results Act	Assigned Committee(s) Environment and Public Works	Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/2807	
Passed (S/H)	Hearing(s) Environment and Public Works		
Bill Sponsor Sen. Wyden, Ron [D-OR]	Co-sponsors		
Bill Number S. 2806	Date Introduced 09/22/21	WSWC Keywords	Summary of Bill To direct the Secretary of Agriculture to select and implement landscape-scale forest restoration projects, to assist communities in increasing their resilience to wildfire
Bill Title	Assigned Committee(s)	Congress.gov Link	

Wildfire Emergency Act	Energy and Natural Resources	https://www.congress.gov/bill/117th-congress/senate-bill/2806	
Passed (S/H)	Hearing(s)		
Bill Sponsor	Energy and Natural Resources		
Sen. Feinstein, Dianne [D-CA]	Co-sponsors		
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
H.R. 5166	09/03/21		To direct the Secretary of Energy to establish a demonstration program for on-site treatment of produced water
Bill Title	Assigned Committee(s)	Congress.gov Link	
Transitioning Research to Ensure Appropriate Treatment of Water Act	Science, Space, and Technology	https://www.congress.gov/bill/117th-congress/house-bill/5166	
Passed (S/H)	Hearing(s)		
	Science, Space, and Technology		
Bill Sponsor	Co-sponsors		
Rep. Lamb, Conor [D-PA-17]			
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
H.R. 5001	08/10/21		To authorize the Secretary of the Interior to continue to implement endangered fish recovery programs for the Upper Colorado and San Juan River Basins
Bill Title	Assigned Committee(s)	Congress.gov Link	
Upper Colorado and San Juan River Basins Recovery Act	Natural Resources	https://www.congress.gov/bill/117th-congress/house-bill/5001	
Passed (S/H)	Hearing(s)		
	Natural Resources		
Bill Sponsor	Co-sponsors		
Rep. Neguse, Joe [D-CO-2]			
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
S.2698/ H.R. 4573	08/10/21	water resources and wildfires	To establish a categorical exclusion to improve or restore National Forest System land or public land or reduce the risk of wildfire
Bill Title	Assigned Committee(s)	Congress.gov Link	
Stop Causing Alarming Tree, Air, and Soil Trauma Resulting from Obstructive Progressives' and Hypocritical Environmentalists' Schemes (Stop CATASTROPHES) Act	Environment and Public Works; House Natural Resources; Agriculture	https://www.congress.gov/bill/117th-congress/senate-bill/2698	
Passed (S/H)	Hearing(s)		
Bill Sponsor	Co-sponsors		
Sen. Lummis, Cynthia [R-WY]; Rep. Newhouse, Dan [R-WA-4]			
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
S.2693	08/10/21		Provides additional authority for Reclamation to provide grants and enter into contracts and cooperative agreements to carry out projects located in the area of the Salton Sea in southern California to improve air quality, fish and wildlife habitat recreational opportunities, and water quality in partnership with state tribal local governments water districts
Bill Title	Assigned Committee(s)	Congress.gov Link	

Salton Sea Projects Improvements Act Passed (S/H) Bill Sponsor Sen. Padilla, Alex [D-CA]	Energy and Natural Resources Hearing(s) Co-sponsors	https://www.congress.gov/bill/117th-congress/senate-bill/2693	habitat, recreational opportunities, and water quality, in partnership with state, tribal, local governments, water districts, and others.
Bill Number H.R. 4979 Bill Title Maintaining Access to Essential Services Act Passed (S/H) Bill Sponsor Rep. Tlaib, Rashida [D-MI-13]	Date Introduced 08/06/21 Assigned Committee(s) Financial Services; Ways and Means Hearing(s) Co-sponsors	WSWC Keywords Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4979	Summary of Bill To provide emergency loans to publicly owned and nonprofit water and wastewater utilities to maintain access to essential services during COVID.
Bill Number H.R. 4976 Bill Title Ensuring PFAS Cleanup Meets or Exceeds Stringent Standards Act Passed (S/H) Bill Sponsor Rep. Slotkin, Elissa [D-MI-8]	Date Introduced 08/06/21 Assigned Committee(s) Armed Services; Transportation and Infrastructure; Energy and Commerce Hearing(s) Co-sponsors	WSWC Keywords Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4976	Summary of Bill Directs DOD to ensure that removal and remedial actions relating to PFAS contamination result in levels meeting or exceeding certain standards
Bill Number H.R. 4915 Bill Title Water Supply Permitting Coordination Act Passed (S/H) Bill Sponsor Rep. McClintock, Tom [R-CA-4]	Date Introduced 08/03/21 Assigned Committee(s) Natural Resources Hearing(s) Co-sponsors	WSWC Keywords Infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4915	Summary of Bill Authorizes the Secretary of the Interior to coordinate Federal and State permitting processes related to the construction of new surface water storage projects on lands under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture and to designate the Bureau of Reclamation as the lead agency for permit processing.
Bill Number H.R. 4832/ S.2568 Bill Title Open Access Evapotranspiration Data Act Passed (S/H)	Date Introduced 07/29/21 Assigned Committee(s) Natural Resources; Energy and Natural Resources Hearing(s)	WSWC Keywords Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4832	Summary of Bill Directs the USGS to establish an Open Access Evapotranspiration (OpenET) Data Program to support the operational distribution of satellite-based evapotranspiration data to sustain and enhance water resources in the United States; to advance the quantification of evaporation and consumptive water use; and to provide data users with field-scale estimates of evapotranspiration data across large landscapes over certain periods of time.

Bill Sponsor Rep. Lee, Susie [D-NV-3] Sen. Cortez Masto, Catherine [D-NV]	11/5/21: HNR subcommittee hearing Co-sponsors		
Bill Number S. 2567 Bill Title Navigable Waters Protection Act Passed (S/H) Bill Sponsor Sen. Capito, Shelley [R-WV]	Date Introduced 07/29/21 Assigned Committee(s) Environment and Public Works Hearing(s) Co-sponsors	WSWC Keywords WOTUS Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/2567	Summary of Bill Would enact the definitions of "waters of the United States" and other terms in 33 CFR 328.3 as defined by the 2020 Navigable Waters Protection Rule.
Bill Number S. 2552 Bill Title Local Infrastructure Funding & Technical Assistance (LIFT) Act Passed (S/H) Bill Sponsor Sen. Markey, Edward [D-MA]	Date Introduced 07/29/21 Assigned Committee(s) Environment and Public Works Hearing(s) Co-sponsors	WSWC Keywords Infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/2552	Summary of Bill Authorizes \$15B to the Department of Commerce for climate resilient infrastructure project predevelopment grants (funds for feasibility studies, permitting, capacity building, community outreach, acquisition/lease of site)
Bill Number H.R. 4780 Bill Title Refuge System Protection Act Passed (S/H) Bill Sponsor Rep. Thompson, Mike [D-CA-5]	Date Introduced 07/28/21 Assigned Committee(s) Natural Resources, Appropriations Hearing(s) Co-sponsors	WSWC Keywords Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4780	Summary of Bill Authorizes DOJ, at the request of DOI, to bring civil action for injuries to FWS resources.
Bill Number S. 2517 Bill Title Defense of Environment and Property Act Passed (S/H) Bill Sponsor Sen. Paul, Rand [R-KY]	Date Introduced 07/28/21 Assigned Committee(s) Environment and Public Works Hearing(s) Co-sponsors	WSWC Keywords WOTUS Congress.gov Link	Summary of Bill Amends the CWA to define navigable waters, excluding groundwater, wetlands, ephemeral streams or intermittent flow.

Bill Number H.R. 4712 Bill Title Desalination Development Act Passed (S/H) Bill Sponsor Rep. Levin, Mike [D-CA-49]	Date Introduced 07/27/21 Assigned Committee(s) Natural Resources; Science, Space, and Technology Hearing(s) Co-sponsors	WSWC Keywords Desalination Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4712	Summary of Bill To promote desalination project development and drought resilience
Bill Number H.R. 4614 Bill Title Resilient Federal Forests Act Passed (S/H) Bill Sponsor Rep. Westerman, Bruce [R-AR-4]	Date Introduced 07/22/21 Assigned Committee(s) Agriculture; Natural Resources Hearing(s) Co-sponsors	WSWC Keywords Water resources and wildfires Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4614	Summary of Bill To expedite under NEPA and improve forest management activities on National Forest System lands, on public lands under the jurisdiction of the Bureau of Land Management, and on Tribal lands to return resilience to overgrown, fire-prone forested lands
Bill Number S. 2454 Bill Title Water Reuse and Resilience Act Passed (S/H) Bill Sponsor Sen. Padilla, Alex [D-CA]	Date Introduced 07/22/21 Assigned Committee(s) Environment and Public Works Hearing(s) Co-sponsors	WSWC Keywords water reuse Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/2454	Summary of Bill Reauthorizes the CWA pilot program (33 USC 1300) for alternative water source projects.
Bill Number S. 2436/ H.R. 4664 Bill Title Forest Improvements through Research and Emergency Stewardship for Healthy Ecosystem Development and Sustainability (FIRESHEDS) Act Passed (S/H) Bill Sponsor Sen. Risch, James [R-ID]; Rep. Moore, Blake D. [R-UT-1]	Date Introduced 07/22/21 Assigned Committee(s) Energy and Natural Resources; House Natural Resources; Agriculture Hearing(s) 10/21/21: SENR hearing Co-sponsors	WSWC Keywords Water resources and wildfires Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/2436	Summary of Bill To amend the Healthy Forests Restoration Act of 2003 to establish emergency fire-shed management areas
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill

S. 2430/ H.R. 4647	07/22/21	water conservation and stormwater management	Expands the exclusion for certain conservation subsidies to include subsidies for water conservation or efficiency measures and storm water management measures
Bill Title Water Conservation Rebate Tax Parity Act	Assigned Committee(s) Senate Finance; House Ways and Means	Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/2430	
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Feinstein, Dianne [D-CA]; Rep. Huffman, Jared [D-CA-2]	Co-sponsors		
Bill Number H.R. 4597	Date Introduced 07/21/21	WSWC Keywords SRFs	Summary of Bill Amends the CWA to make certain projects and activities eligible for SRF financial assistance, including some POTW activities.
Bill Title Clean Water SRF Parity Act	Assigned Committee(s) Transportation and Infrastructure	Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4597	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Garamendi, John [D-CA-3]	Co-sponsors		
Bill Number S. 2406	Date Introduced 07/21/21	WSWC Keywords PFAS	Summary of Bill Amends the SDWA to require EPA to set maximum contaminant levels for PFAS
Bill Title Protect Drinking Water from PFAS Act	Assigned Committee(s) Environment and Public Works	Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/2406	
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Gillibrand, Kirsten [D-NY]	Co-sponsors		
Bill Number H.R. 4570	Date Introduced 07/20/21	WSWC Keywords WOTUS	Summary of Bill The bill defines navigable waters, excluding intermittent and ephemeral waters, groundwater, intrastate waters, and so on; and establishes a 60-day process for the Corps to determine, on request, whether certain waters are navigable.
Bill Title Define WOTUS Act	Assigned Committee(s) Transportation and Infrastructure	Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4570	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Miller, Mary E. [R-IL-15]	Co-sponsors		
Bill Number H.R. 4569	Date Introduced 07/20/21	WSWC Keywords Water resources and wildfires	Summary of Bill To require that only two alternatives be considered with respect to certain proposed collaborative forest management activities
Bill Title	Assigned Committee(s)	Congress.gov Link	

Action Versus No Action Act	Natural Resources; Agriculture	https://www.congress.gov/bill/117th-congress/house-bill/4569	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. McClintock, Tom [R-CA-4]	Co-sponsors		
Bill Number H.R. 4567	Date Introduced 07/20/21	WSWC Keywords water quality	Summary of Bill Requires EPA to establish a website that contains specified information relating to the testing of household well water, including a list of certified laboratories that analyze samples.
Bill Title Test Your Well Water Act	Assigned Committee(s) Energy and Commerce	Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4567	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Kildee, Daniel T. [D-MI-5]	Co-sponsors		
Bill Number S. 2404	Date Introduced 07/20/21	WSWC Keywords Water resources and wildfires	Summary of Bill To improve Federal activities relating to wildfires, including detection and suppression support and post-fire recovery.
Bill Title Western Wildfire Support Act	Assigned Committee(s) Energy and Natural Resources	Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/2404	
Passed (S/H)	Hearing(s) 10/21/21: SENR hearing 12/15/21: Banking, Housing, and Urban Affairs hearing		
Bill Sponsor Sen. Cortez Masto, Catherine [D-NV]	Co-sponsors		
Bill Number S. 2393	Date Introduced 07/20/21	WSWC Keywords Fracking	Summary of Bill To clarify that a State has the sole authority to regulate hydraulic fracturing on Federal land within the boundaries of the State.
Bill Title Fracturing Regulations are Effective in State Hands Act	Assigned Committee(s) Energy and Natural Resources	Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/2393	
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Inhofe, Jim [R-OK]	Co-sponsors		
Bill Number H.R. 4518	Date Introduced 07/19/21	WSWC Keywords Water resources and wildfires	Summary of Bill To establish a categorical exclusion for certain forest management activities related to wildfire prevention and drought mitigation
Bill Title	Assigned Committee(s)	Congress.gov Link	

Wildfire Prevention and Drought Mitigation Act Passed (S/H) Bill Sponsor Rep. Herrell, Yvette [R-NM-2]	Natural Resources Hearing(s) Co-sponsors	https://www.congress.gov/bill/117th-congress/house-bill/4518	
Bill Number H.R. 4516 Bill Title Protecting and Restoring Our Trees by Enhancing Conservation and Treatments (PROTECT) Act Passed (S/H) Bill Sponsor Rep. Garcia, Mike [R-CA-25]	Date Introduced 07/19/21 Assigned Committee(s) Natural Resources; Agriculture Hearing(s) Co-sponsors	WSWC Keywords Water resources and wildfires Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4516	Summary of Bill Establishes categorical exclusions under NEPA for certain forest management activities, including reduction of hazardous fuel loads and protecting municipal water sources, among other things.
Bill Number S. 2369 Bill Title Tribal Access to Clean Water Act Passed (S/H) Bill Sponsor Sen. Bennet, Michael [D-CO]	Date Introduced 07/15/21 Assigned Committee(s) Indian Affairs Hearing(s) Co-sponsors	WSWC Keywords Tribal water infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/2369	Summary of Bill To provide access to reliable, clean, and drinkable water on Tribal lands
Bill Number H.R. 4413 Bill Title National Infrastructure Development Bank Act Passed (S/H) Bill Sponsor Rep. DeLauro, Rosa L. [D-CT-3]	Date Introduced 07/13/21 Assigned Committee(s) Energy and Commerce; Transportation and Infrastructure; Financial Services Hearing(s) Co-sponsors	WSWC Keywords Infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4413	Summary of Bill Establishes a bank to facilitate efficient investments and financing of infrastructure projects, including environmental projects that establish, maintain, or enhance any drinking water and wastewater treatment facility, storm water management system, flood gate, dam, levee, dredging, open space management system, wetland restoration, infill development, solid waste disposal facility, hazardous waste facility, or industrial site cleanup.
Bill Number S. 2334 Bill Title Large Scale Water Recycling Project and Drought Resiliency Investment Act Passed (S/H)	Date Introduced 07/13/21 Assigned Committee(s) Energy and Natural Resources Hearing(s)	WSWC Keywords Reuse and drought Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/2334	Summary of Bill Directs DOI to establish a grant program to provide grants on a competitive basis to eligible entities for large-scale water recycling and reuse projects, to amend the Omnibus Public Land Management Act of 2009 to make certain modifications to the Cooperative Watershed Management Program, and to provide emergency drought funding.

Bill Sponsor Sen. Cortez Masto, Catherine [D-NV]	Co-sponsors		
Bill Number H.R. 4375/ S. 2356 Bill Title Twenty-First Century Dams Act Passed (S/H) Bill Sponsor Rep. Kuster, Ann M. [D-NH-2]; Sen. Feinstein, Dianne [D-CA]	Date Introduced 07/09/21 Assigned Committee(s) Transportation and Infrastructure; Ways and Means; Energy and Commerce; Natural Resources; Science, Space, and Technology; Agriculture; Senate Environment and Public Works Hearing(s) Co-sponsors	WSWC Keywords Infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4375	Summary of Bill To provide funding to rehabilitate, retrofit, and remove the Nation's dams to improve the health of the Nation's rivers, improve public safety, and increase clean energy production
Bill Number H.R. 4339/ S. 2518 Bill Title Military PFAS Testing Disclosure Act Passed (S/H) Bill Sponsor Rep. Slotkin, Elissa [D-MI-8]; Sen. Rosen, Jacklyn [D-NV]	Date Introduced 07/01/21 Assigned Committee(s) Armed Services Hearing(s) Co-sponsors	WSWC Keywords PFAS Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4339/	Summary of Bill Directs DOD to publicly disclose the results of testing for perfluoroalkyl or polyfluoroalkyl substances
Bill Number H.R. 4336 Bill Title NEPA State Assignment Expansion Act Passed (S/H) Bill Sponsor Rep. Schweikert, David [R-AZ-6]	Date Introduced 07/01/21 Assigned Committee(s) Natural Resources; Transportation and Infrastructure Hearing(s) Co-sponsors 2 Republican co-sponsors from AZ and WA	WSWC Keywords NEPA Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4336	Summary of Bill To amend NEPA to provide for project delivery programs
Bill Number H.R. 4284 Bill Title Clean Drinking Water Equity Act Passed (S/H)	Date Introduced 06/30/21 Assigned Committee(s) Energy and Commerce Hearing(s)	WSWC Keywords drinking water Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4284	Summary of Bill Amends the SDWA re: assistance for disadvantaged communities. Related provisions in IIJA.

Bill Sponsor Rep. Ruiz, Raul [D-CA-36]	H.Rept. 117-76 Co-sponsors		
Bill Number H.R. 4253 Bill Title no title Passed (S/H) Bill Sponsor Rep. Green, Al [D-TX-9]	Date Introduced 06/30/21 Assigned Committee(s) Energy and Commerce Hearing(s) Co-sponsors	WSWC Keywords drinking water Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4253	Summary of Bill Directs EPA to promulgate a national primary drinking water regulation for chromium-6
Bill Number H.R. 4224 Bill Title PFAS Transparency Act Passed (S/H) Bill Sponsor Rep. Delgado, Antonio [D-NY-19]	Date Introduced 06/29/21 Assigned Committee(s) Transportation and Infrastructure Hearing(s) Co-sponsors	WSWC Keywords PFAS Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4224	Summary of Bill Would require CWA disclosure of the introduction of perfluoroalkyl or polyfluoroalkyl substances into treatment works.
Bill Number S. 2286 Bill Title Western Water, Jobs, and Infrastructure Act Passed (S/H) Bill Sponsor Sen. Tester, Jon [D-MT]	Date Introduced 06/24/21 Assigned Committee(s) Energy and Natural Resources Hearing(s) Co-sponsors	WSWC Keywords infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/2286	Summary of Bill Would authorize DOI to use designated funding to pay for construction of authorized rural water projects.
Bill Number S. 2285 Bill Title Urban Waters Federal Partnership Act Passed (S/H) Bill Sponsor Sen. Sinema, Kyrsten [D-AZ]	Date Introduced 06/24/21 Assigned Committee(s) Environment and Public Works Hearing(s) Co-sponsors	WSWC Keywords Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/2285	Summary of Bill Would require EPA, DOI, and the Department of Agriculture to maintain the Urban Water Federal Partnership Program
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill

S. 2272 Bill Title Lead-Free Drinking Water for All Act Passed (S/H) Bill Sponsor Sen. Padilla, Alex [D-CA]	06/24/21 Assigned Committee(s) Environment and Public Works Hearing(s) Co-sponsors	drinking water Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/2272	Amends the SDWA to increase funding for lead reduction projects
Bill Number H.R. 4099 Bill Title Large-Scale Water Recycling Project Investment Act Passed (S/H) Bill Sponsor Rep. Napolitano, Grace F. [D-CA-32]	Date Introduced 06/23/21 Assigned Committee(s) Natural Resources Hearing(s) 6/29/21: Subcommittee hearing Co-sponsors	WSWC Keywords infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4099	Summary of Bill Directs DOI to establish a competitive grant program for eligible entities with large-scale recycling and reuse projects.
Bill Number H.R. 4069 Bill Title Septic Upgrade Grant Act Passed (S/H) Bill Sponsor Rep. Suozzi, Thomas R. [D-NY-3]	Date Introduced 06/22/21 Assigned Committee(s) Transportation and Infrastructure Hearing(s) Co-sponsors	WSWC Keywords infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/4069	Summary of Bill Amends the CWA to provide additional subsidization assistance to a municipality to carry out on-site wastewater treatment system projects.
Bill Number S. 2177 Bill Title Oil and Gas Bonding Reform and Orphaned Well Remediation Act Passed (S/H) Bill Sponsor Sen. Bennet, Michael F. [D-CO]	Date Introduced 06/22/21 Assigned Committee(s) Energy and Natural Resources Hearing(s) Co-sponsors	WSWC Keywords abandoned mines Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/2177	Summary of Bill Amends the Mineral Leasing Act to ensure sufficient bonding and complete and timely reclamation of land and water disturbed by Federal and Indian oil and gas production.
Bill Number S. 2168 Bill Title	Date Introduced 06/22/21 Assigned Committee(s)	WSWC Keywords WOTUS Congress.gov Link	Summary of Bill Amends the CWA to modify the definition of navigable waters, to include wetlands adjacent to permanent or continuously flowing bodies of water, and to exclude intermittent or ephemeral waters, groundwater, man-made channels or ditches, prior converted cropland, certain unlands, and other features. It also establishes a process for the

Define WOTUS Act	Environment and Public Works	https://www.congress.gov/bill/117th-congress/senate-bill/2168	channels or ditches, prior converted cropland, certain uplands, and other features. It also establishes a process for the U.S. Army Corps of Engineers to determine, upon request, whether certain waters are navigable waters.
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Braun, Mike [R-IN]	Co-sponsors		
Bill Number H.R. 3877	Date Introduced 06/14/21	WSWC Keywords	Summary of Bill
Bill Title Salton Sea Projects Improvements Act	Assigned Committee(s) Natural Resources	Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3877	Amends the Reclamation Projects Authorization and Adjustment Act to authorize additional projects related to the Salton Sea.
Passed (S/H)	Hearing(s) 6/29/21: Subcommittee hearing		
Bill Sponsor Rep. Ruiz, Raul [D-CA-36]	Co-sponsors CA Rep. Vargas and Napolitano		
Bill Number H.R. 3814	Date Introduced 06/11/21	WSWC Keywords NEPA	Summary of Bill
Bill Title Undoing NEPA's Substantial Harm by Advancing Concepts that Kickstart the Liberation of the Economy (UNSHACKLE) Act	Assigned Committee(s) Natural Resources; Judiciary; Transportation and Infrastructure; Energy and Commerce	Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3814	This bill revises the environmental review process required under NEPA, including by (1) establishing deadlines for federal agencies to complete reviews of the environmental effects of proposed major federal actions; (2) establishing penalties for agencies that do not comply with these deadlines; (3) limiting the number of assessment documents required for proposed major federal actions, requiring agencies to reuse certain research or documents, and allowing agencies to adopt environmental documents prepared by states or third parties; (4) requiring agencies to only consider alternatives to proposed actions that are technically and economically feasible; (5) prohibiting agencies from considering whether proposed actions or alternatives to those actions will have an effect on climate change; and (6) establishing requirements concerning the judicial review of NEPA cases.
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Cheney, Liz [R-WY-At Large]	Co-sponsors		
Bill Number H.R. 3751	Date Introduced 06/08/21	WSWC Keywords infrastructure	Summary of Bill
Bill Title Clean Water Infrastructure Resilience and Sustainability Act	Assigned Committee(s) Transportation and Infrastructure	Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3751	Amends the CWA to establish a grant program for eligible entities to increase the resilience of POTWs in natural disasters.
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Carbajal, Salud O. [D-CA-24]	Co-sponsors		
Bill Number H.R. 3745	Date Introduced 06/08/21	WSWC Keywords infrastructure	Summary of Bill
Bill Title Decentralized Wastewater Grant Act	Assigned Committee(s) Transportation and Infrastructure	Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3745	Amends the CWA to establish a decentralized wastewater grant program.
Passed (S/H)	Hearing(s)		

Bill Sponsor Rep. Sewell, Terri A. [D-AL-7]	Co-sponsors		
Bill Number H.R. 3722 Bill Title 21st Century Infrastructure Bank Act Passed (S/H) Bill Sponsor Rep. Maloney, Sean Patrick [D-NY-18]	Date Introduced 06/04/21 Assigned Committee(s) Transportation and Infrastructure; Financial Services Hearing(s) Co-sponsors	WSWC Keywords infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3722	Summary of Bill Establishes a wholly owned Government corporation to provide financial assistance for qualified infrastructure projects, sponsored by states, tribes or other specified organizations, and involving the construction, maintenance, improvement, or repair of water, energy, or other specified facilities.
Bill Number H.R. 3701 Bill Title Protecting Infrastructure and Promoting the Economy (PIPE) Act Passed (S/H) Bill Sponsor Rep. Delgado, Antonio [D-NY-19]	Date Introduced 06/04/21 Assigned Committee(s) Transportation and Infrastructure; Energy and Commerce Hearing(s) Co-sponsors	WSWC Keywords infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3701	Summary of Bill Establishes water infrastructure grant programs
Bill Number H.R. 3700 Bill Title Clean Water for Rural America Act Passed (S/H) Bill Sponsor Rep. Delgado, Antonio [D-NY-19]	Date Introduced 06/04/21 Assigned Committee(s) Transportation and Infrastructure Hearing(s) Co-sponsors	WSWC Keywords infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3700	Summary of Bill Amends the CWA to reauthorize grants for technical assistance to rural, smal, and tribal municipalities.
Bill Number H.R. 3691 Bill Title Wastewater Infrastructure Modernization Act Passed (S/H) Bill Sponsor Rep. Bourdeaux, Carolyn [D-GA-7]	Date Introduced 06/04/21 Assigned Committee(s) Transportation and Infrastructure Hearing(s) Co-sponsors	WSWC Keywords infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3691	Summary of Bill Amends the CWA to establish a grant program for smart wastewater infrastructure technology.
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill

H.R. 3684	06/04/21	infrastructure	The bill as introduced would authorize \$53B for the Drinking Water State Revolving Fund (SRF), and \$40B for the Clean Water SRF. It directs EPA to set PFAS national standards within two years. It would authorize \$45B to replace lead service lines, \$2B for stormwater and sewer overflow projects, \$2.5B for state water pollution control programs, and \$1B for alternative water source and water recycling projects to augment existing water supplies. It provides funding for technical assistance for small, rural, and tribal communities. It would also establish a new grant program for failing septic systems and communities that lack access to adequate sewage treatment systems. The \$1.2T amended version passed by the Senate includes both authorizations and appropriations for infrastructure relating to a variety of water supply, water quality, and watershed protections programs. See WSW #2465 Special Report.
Bill Title INVEST in America Act > Infrastructure Investment and Jobs Act (IIJA) Passed (S/H) 7/2/21: House passed 221-201 8/10/21: Senate passed 69-30 (amended) 11/15/21: Became Law (P.L. 117-58) Bill Sponsor Rep. DeFazio, Peter A. [D-OR-4]	Assigned Committee(s) Transportation and Infrastructure Hearing(s) Co-sponsors	Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3684	
H.R. 3668	06/01/21	infrastructure	Summary of Bill Would require recipients of assistance for certain water infrastructure projects to provide job training, apprenticeships, and other employment opportunities for low-income persons
Bill Title Ensuring Water Investments Benefit Communities Act Passed (S/H) Bill Sponsor Rep. Moore, Gwen [D-WI-4]	Assigned Committee(s) Transportation and Infrastructure; Energy and Commerce Hearing(s) Co-sponsors	WSWC Keywords infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3668	
H.R. 3622	05/28/21	PFAS	Summary of Bill Directs EPA to develop PFAS effluent limitation guidelines and standards under the CWA, and to provide grants to POTWs to implement them.
Bill Title Clean Water Standards for PFAS Act Passed (S/H) Bill Sponsor Rep. Pappas, Chris [D-NH-1]	Assigned Committee(s) Transportation and Infrastructure Hearing(s) Co-sponsors	WSWC Keywords PFAS Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3622	
S. 1911	05/27/21	Indian water rights	Summary of Bill Authorizes the water rights compact between the tribes, Montana, and the U.S., to make available the priority funding from the Reclamation Water Settlements Fund, authorizes various land transfers (30,844 acres), allocates 20,000 acre-feet per year stored in Lake Elwell, authorizes modifications to the Milk River Project, and various other provisions.
Bill Title Gros Ventre and Assiniboine Tribes of Fort Belknap Indian Community Water Rights Settlement Act Passed (S/H) Bill Sponsor Sen. Tester, Jon [D-MT]	Assigned Committee(s) Indian Affairs Hearing(s) 10/6/21: SIA hearing Co-sponsors	Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/1911	
H.R. 3293	05/18/21	drinking water; wastewater	Summary of Bill Amends the SDWA and CWA to establish programs to assist low-income households in maintaining access to drinking water and wastewater services.
Bill Title	Assigned Committee(s)	Congress.gov Link	

Low-Income Water Customer Assistance Programs Act Passed (S/H) Bill Sponsor Rep. Blunt Rochester, Lisa [D-DE-At Large]	Transportation and Infrastructure; Energy and Commerce; Ways and Means Hearing(s) 6/21/21: Committee ordered reported (amended) by a vote of 32-24; H.Rpt. 117-77 Co-sponsors 6 Democrat and 1 Republican co-sponsor, including from CA and NV	https://www.congress.gov/bill/117th-congress/house-bill/3293	
Bill Number H.R. 3291 Bill Title Assistance, Quality, and Affordability Act Passed (S/H) Bill Sponsor Rep. Tonko, Paul [D-NY-20]	Date Introduced 5/18//21 Assigned Committee(s) Energy and Commerce Hearing(s) 6/23/21: Committee ordered reported with amendment, 32-24; H. Rept. 117-76 Co-sponsors 2 Democratic co-sponsors	WSWC Keywords PFAS; resilience Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3291	Summary of Bill Amends the SDWA to provide assistance for states, territories, areas affected by natural disasters, and water systems and schools affected by PFAS or lead, and directs EPA to promulgate national primary drinking water regulations for PFAS, microcystin toxin, and 1,4-dioxane
Bill Number H.R. 3267 Bill Title Protect Drinking Water from PFAS Act Passed (S/H) Bill Sponsor Rep. Boyle, Brendan F. [D-PA-2]	Date Introduced 05/17/21 Assigned Committee(s) Energy and Commerce Hearing(s) Co-sponsors 11 Democrats co-sponsors, including from CA and AZ	WSWC Keywords water quality; PFAS Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3267	Summary of Bill To amend the Safe Drinking Water Act to require the Administrator of the Environmental Protection Agency to publish a maximum contaminant level goal and promulgate a national primary drinking water regulation for total per- and polyfluoroalkyl substances, and for other purposes.
Bill Number H.R. 3238 Bill Title Colonia Infrastructure Improvement Act Passed (S/H) Bill Sponsor Rep. Escobar, Veronica [D-TX-16]	Date Introduced 05/14/21 Assigned Committee(s) Energy and Commerce; Transportation and Infrastructure Hearing(s) Co-sponsors	WSWC Keywords water quality Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3238	Summary of Bill Amends the SDWA to reauthorize existing and establish new grant programs providing drinking water and wastewater assistance to colonias.
Bill Number H.R. 3228	Date Introduced 05/13/21	WSWC Keywords data	Summary of Bill Directs NOAA to improve science, data, and services that enable sound decision-making in response to coastal flood

Bill Title National Coastal Resilience Data and Services Act Passed (S/H) Bill Sponsor Rep. Velazquez, Nydia M. [D-NY-7]	Assigned Committee(s) Natural Resources; Science, Space and Technology Hearing(s) 6/22/21: NR hearing 1/19/22: NR ordered reported and amended by voice vote Co-sponsors 3 Democrat co-sponsors, including CA	Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3228	risk, including impacts of sea level rise, storm events, changing Great Lakes water levels, and land subsidence
Bill Number H.R. 3218 Bill Title Wastewater Infrastructure Improvement Act Passed (S/H) Bill Sponsor Rep. Rouzer, David [R-NC-7]	Date Introduced 05/13/21 Assigned Committee(s) Transportation and Infrastructure Hearing(s) 7/13/21: House subcommittee hearing 10/19/21: Senate subcommittee hearing 11/18/21: SENR ordered reported, S. Rpt. 117-85 2/28/22: Placed on Senate Calendar Co-sponsors Sam Graves (MO) and Don Young (AK)	WSWC Keywords SRF Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3218	Summary of Bill Amends the CWA to reauthorize the Clean Water State Revolving Fund for the first time since 1994 and authorizes \$14B in spending for this fund over the next 5 years.
Bill Number H.R. 3132/S. 1583 Bill Title Lake Tahoe Restoration Reauthorization Act Passed (S/H) Bill Sponsor Rep. Amodei, Mark E. [R-NV-2]	Date Introduced 05/13/21 Assigned Committee(s) Natural Resources; Transportation and Infrastructure; Agriculture; Energy and Natural Resources Hearing(s) 7/13/21: House subcommittee hearing 10/19/21: Senate subcommittee hearing 11/18/21: SENR ordered reported, S. Rpt. 117-85 2/28/22: Placed on Senate Calendar Co-sponsors 4 Democrat co-sponsors in NV and CA	WSWC Keywords water quality Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3132	Summary of Bill Reauthorizes the Lake Tahoe Restoration Act
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill

S. 904/H.R. 3113 Bill Title MAPLand Act Passed (S/H) Bill Sponsor Sen. Risch, James E. [R-ID], Rep. Moore, Blake [R-UT-1]	05/11/21 Assigned Committee(s) Natural Resources; Agriculture; Transportation and Infrastructure; Energy and Natural Resources Hearing(s) 6/16/21: SENR subcommittee hearing 7/14/21: HNR hearing; ordered reported by unanimous consent 11/18/21: SENR ordered reported with a substitute Co-sponsors Rep. Fulcher, Russ [R-ID-1], Rep. Neguse, Joe [D-CO-2], Rep. Schrier, Kim [D-WA-8]	WOTUS(?), mapping, water resources, water ... Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3113; https://www.congress.gov/bill/117th-congress/senate-bill/904	This bill directs the Department of the Interior, the Forest Service, and the U.S. Army Corps of Engineers to jointly develop and adopt interagency standards to ensure compatibility and interoperability among federal databases for the collection and dissemination of outdoor recreation data related to federal lands. Interior, the Forest Service, and the Corps of Engineers must digitize and publish geographic information system mapping data that includes federal interests, including easements and rights-of-way, in private land; status information as to whether roads and trails are open or closed; the dates on which roads and trails are seasonally opened and closed; the types of vehicles that are allowed on each segment of roads and trails; the boundaries of areas where hunting or recreational shooting is regulated or closed; and the boundaries of any portion of a body of water that is closed to entry, is closed to watercraft, or has horsepower limitations for watercraft.
Bill Number H.R. 3112 Bill Title Western Water Recycling and Drought Relief Act Passed (S/H) Bill Sponsor Rep. McNerney, Jerry [D-CA-9]	Date Introduced 05/11/21 Assigned Committee(s) Natural Resources Hearing(s) Co-sponsors Rep. Swalwell, Eric [D-CA-15], Rep. Panetta, Jimmy [D-CA-20], Rep. Eshoo, Anna G. [D-CA-18]	WSWC Keywords water reuse Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3112	Summary of Bill To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize certain recycled water projects, and for other purposes.
Bill Number H.R. 3023 Bill Title Restoring WIFIA Eligibility Act Passed (S/H) Bill Sponsor Rep. Costa, Jim [D-CA-16]	Date Introduced 05/07/21 Assigned Committee(s) Transportation and Infrastructure; Energy and Commerce Hearing(s) Co-sponsors Rep. Curtis, John R. [R-UT-3] and Rep. Garamendi, John [D-CA-3]	WSWC Keywords WIFIA Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/3023	Summary of Bill To amend WIFIA 2014 with respect to budgetary treatment of certain amounts of financial assistance as a non-federal loan or loan guarantee if the eligible entity is not a federal entity, agency, or instrumentality, and the dedicated sources of repayment of that financial assistance are non-federal revenue sources.
Bill Number H.R. 2979 Bill Title	Date Introduced 05/04/21 Assigned Committee(s)	WSWC Keywords water supply, water resources, WIFIA Congress.gov Link	Summary of Bill To amend the Water Infrastructure Finance and Innovation Act of 2014 with respect to the final maturity date of certain loans, and for other purposes. Would extend length of loan repayment to 55 years (from 35 years) and open the program to water supply projects such as reservoirs and aquifer storage

No title	Transportation and Infrastructure; Energy and Commerce	https://www.congress.gov/bill/117th-congress/house-bill/2979	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Garamendi, John [D-CA-3]	Co-sponsors Rep. Newhouse, Dan [R-WA-4]*		
Bill Number H.R. 2952 Bill Title Water Infrastructure Sustainability and Efficiency (WISE) Act Passed (S/H) Bill Sponsor Rep. Williams, Nikema [D-GA-5]	Date Introduced 05/03/21 Assigned Committee(s) Transportation and Infrastructure Hearing(s) Co-sponsors	WSWC Keywords infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/2952	Summary of Bill To amend the CWA to require at least 20% of funds appropriated for revolving fund capitalization grants be used for green projects
Bill Number S. 1455 Bill Title Revitalizing the Economy of Coal Communities by Leveraging Local Activities and Investing More (RECLAIM) Act Passed (S/H) Bill Sponsor Sen. Manchin, Joe, III [D-WV]	Date Introduced 04/29/21 Assigned Committee(s) Energy and Natural Resources Hearing(s) Co-sponsors	WSWC Keywords abandoned mines Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/1455	Summary of Bill To amend the Surface Mining Control and Reclamation Act of 1977 (30 USC 1231) to provide funds to States and Indian tribes for the purpose of promoting economic revitalization, diversification, and development in economically distressed communities through the reclamation and restoration of land and water resources adversely affected by coal mining carried out before August 3, 1977. Authorizes \$200M annually for FY22-26.
Bill Number H.R. 2895 Bill Title Reinventing Economic Partnerships And Infrastructure Redevelopment (REPAIR) Act Passed (S/H) Bill Sponsor Rep. Peters, Scott H. [D-CA-52]	Date Introduced 04/28/21 Assigned Committee(s) Transportation and Infrastructure; Ways and Means; Budget Hearing(s) Co-sponsors	WSWC Keywords infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/2895	Summary of Bill To facilitate efficient investments and financing of infrastructure projects and new, long-term job creation through the establishment of an Infrastructure Financing Authority
Bill Number H.R. 2810 Bill Title Build America, Buy America Act Passed (S/H)	Date Introduced 04/22/21 Assigned Committee(s) Transportation and Infrastructure; Energy and Commerce Hearing(s)	WSWC Keywords infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/2810	Summary of Bill To ensure that certain Federal infrastructure programs require the use of materials produced in the United States

Bill Sponsor Rep. Ryan, Tim [D-OH-13]	Co-sponsors		
Bill Number H.R. 2781 Bill Title Water Resources Research Amendments Act Passed (S/H) Bill Sponsor Rep. Harder, Josh [D-CA-10]	Date Introduced 04/22/21 Assigned Committee(s) Natural Resources Hearing(s) Co-sponsors	WSWC Keywords water resources Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/2781	Summary of Bill To amend the Water Resources Research Act of 1984 to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under that Act
Bill Number S. 1341 Bill Title Water Resources Research Amendments Act Passed (S/H) Bill Sponsor Sen. Cardin, Benjamin L. [D-MD]	Date Introduced 04/22/21 Assigned Committee(s) Environment and Public Works Hearing(s) Co-sponsors	WSWC Keywords water resources Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/1341	Summary of Bill To amend the Water Resources Research Act of 1984 to reauthorize grants for and require applied water supply research regarding the water resources research and technology institutes established under that Act
Bill Number H.R. 2660 Bill Title Withstanding Attempts to Encroach on our Resources (WATER) Act Passed (S/H) Bill Sponsor Rep. Latta, Robert E. [R-OH-5]	Date Introduced 04/19/21 Assigned Committee(s) Transportation and Infrastructure Hearing(s) Co-sponsors 19 Republican co-sponsors	WSWC Keywords WOTUS Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/2660	Summary of Bill To amend the CWA to codify the definition of "waters of the United States" Includes language on congressional findings regarding the infringements of the 2015 Clean Water Rule, and Section 502(7) of the Federal Water Pollution Control Act (33 U.S.C. 1362(7)) is amended by striking ", including the territorial seas." and inserting "(as such term is defined in section 120.2 of title 40, Code of Federal Regulations, as in effect on June 22, 2020)."
Bill Number S. 1214 Bill Title State Grazing Management Authority Act Passed (S/H) Bill Sponsor Sen. Lee, Mike [R-UT]	Date Introduced 04/19/21 Assigned Committee(s) Energy and Natural Resources Hearing(s) 10/19/21: SENR Subcommittee hearing Co-sponsors	WSWC Keywords grazing Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/1214	Summary of Bill Amends FLPMA section 402 (43 USC 1752) to authorize the Departments of Interior and Agriculture to enter into cooperative agreements with states to provide for state administration of allotment management plans.

Bill Number S. 1179 Bill Title Canal Conveyance Capacity Restoration Act Passed (S/H) Bill Sponsor Sen. Feinstein, Dianne [D-CA]	Date Introduced 04/15/21 Assigned Committee(s) Energy and Natural Resources Hearing(s) Co-sponsors	WSWC Keywords groundwater Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/1179	Summary of Bill To provide financial assistance for projects to address certain subsidence impacts in the State of California
Bill Number H.Res. 320 Bill Title No title Passed (S/H) Bill Sponsor Rep. Neguse, Joe [D-CO-2]	Date Introduced 04/15/21 Assigned Committee(s) Natural Resources; Energy and Commerce Hearing(s) Co-sponsors	WSWC Keywords tribal drinking water Congress.gov Link https://www.congress.gov/bill/117th-congress/house-resolution/320	Summary of Bill Recognizing the critical importance of access to reliable, clean drinking water for Native Americans and Alaska Natives and confirming the responsibility of the Federal Government to ensure such water access.
Bill Number H.Res. 318 Bill Title No title Passed (S/H) Bill Sponsor Rep. Miller-Meeks, Mariannette [R-IA-2]	Date Introduced 04/14/21 Assigned Committee(s) Transportation and Infrastructure Hearing(s) Co-sponsors	WSWC Keywords WOTUS Congress.gov Link https://www.congress.gov/bill/117th-congress/house-resolution/318	Summary of Bill Expressing the sense of the House of Representatives that clean water is a national priority and that the April 21, 2020, Navigable Waters Protection Rule should not be withdrawn or vacated.
Bill Number H.R. 2513 Bill Title Lead Abatement for Families Act Passed (S/H) Bill Sponsor Rep. Garcia, Jesus G. "Chuy" [D-IL-4]	Date Introduced 04/14/21 Assigned Committee(s) Financial Services Hearing(s) Co-sponsors	WSWC Keywords water quality Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/2513	Summary of Bill Authorizes HUD grants to replace lead-based water service pipes for federal assisted housing.
Bill Number H.R. 2468	Date Introduced 04/13/21	WSWC Keywords infrastructure	Summary of Bill To ensure that certain materials used in carrying out Federal infrastructure aid programs are made in the United States

Bill Title Made in America Act Passed (S/H) Bill Sponsor Rep. Garamendi, John [D-CA-3]	Assigned Committee(s) Transportation and Infrastructure; Agriculture; Energy and Commerce; Financial Services; Homeland Security; Natural Resources Hearing(s) Co-sponsors	Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/2468	
Bill Number H.R. 2467 Bill Title PFAS Action Act Passed (S/H) 7/21/21: Passed House 241-183 Bill Sponsor Rep. Dingell, Debbie [D-MI-12]	Date Introduced 04/13/21 Assigned Committee(s) Energy and Commerce; Transportation and Infrastructure; Environment and Public Works Hearing(s) 6/23/21: Ordered reported 33-20 Co-sponsors	WSWC Keywords water quality Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/2467	Summary of Bill To require EPA to designate PFAS as hazardous substances under CERCLA
Bill Number H.R. 2202 Bill Title Fracturing Responsibility and Awareness of Chemicals Act Passed (S/H) Bill Sponsor Rep. DeGette, Diana [D-CO-1]	Date Introduced 03/26/21 Assigned Committee(s) Energy and Commerce Hearing(s) Co-sponsors	WSWC Keywords fracking Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/2202	Summary of Bill To repeal the exemption for hydraulic fracturing in the Safe Drinking Water Act
Bill Number H.R. 2197 Bill Title Innovative Materials for America's Growth and Infrastructure Newly Expanded (IMAGINE) Act Passed (S/H) Bill Sponsor Rep. Cicilline, David N. [D-RI-1]	Date Introduced 03/26/21 Assigned Committee(s) Transportation and Infrastructure; Science, Space, and Technology; Energy and Commerce Hearing(s) Co-sponsors	WSWC Keywords infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/2197	Summary of Bill To encourage the research and use of innovative materials and associated techniques in the construction and preservation of the domestic transportation and water infrastructure system. Establishes an Interagency Innovative Materials Standards Task Force, provides grants for the design and installation of water infrastructure projects.
Bill Number S. Res. 141 Bill Title	Date Introduced 03/25/21 Assigned Committee(s)	WSWC Keywords tribal drinking water Congress.gov Link	Summary of Bill A resolution recognizing the critical importance of access to reliable, clean drinking water for Native Americans and Alaska Natives and confirming the responsibility of the Federal Government to ensure such water access.

No title	Indian Affairs	https://www.congress.gov/bill/117th-congress/senate-resolution/141	
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Bennet, Michael F. [D-CO]	Co-sponsors		
Bill Number S. 953 Bill Title Water for Conservation and Farming Act	Date Introduced 03/24/21 Assigned Committee(s) Energy and Natural Resources	WSWC Keywords infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/953	Summary of Bill Establishes a Bureau of Reclamation Infrastructure Fund and transfers \$300M annually from the Reclamation Fund from FY2031-FY2061. A third of that amount would be spent annually on each of (1) water reclamation and reuse projects, (2) water management (WaterSMART) grants under 42 USC 10364, and (3) dam safety. It expands and extends the WaterSMART program and authorizes \$700M to be available until expended. It establishes a program to compensate the eligible agricultural producers for the creation and maintenance of waterbird and shorebird habitats. It reauthorizes the Cooperative Watershed Management Program (16 USC 1015a). It establishes a competitive grant program for the design, implementation, and monitoring of conservation outcomes of habitat restoration projects that improve watershed health. It directs FWS to develop a drought plan for critically important fisheries. And it reauthorizes the Fisheries Restoration and Irrigation Mitigation Act.
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Wyden, Ron [D-OR]	Co-sponsors		
Bill Number S. 939 Bill Title Innovative Materials for America's Growth and Infrastructure Newly Expanded (IMAGINE) Act	Date Introduced 03/24/21 Assigned Committee(s) Environment and Public Works	WSWC Keywords infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/939	Summary of Bill (1) to encourage the research and use of innovative materials, in concert with traditional materials, and associated techniques in the construction and preservation of the domestic infrastructure network; (2) to accelerate the deployment and extend the service life, improve the performance, and reduce the cost of infrastructure projects; and (3) to improve the economy, resilience, maintainability, sustainability, and safety of the domestic infrastructure network. Directs EPA to establish a "Water Infrastructure Innovation Program", to provide grants for the design and installation of water infrastructure projects, including wastewater transport and treatment systems and drinking water treatment and distribution systems, that use innovative materials to reduce total costs, including operation and preservation expenses, and extend the service life of installed structures.
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Whitehouse, Sheldon [D-RI]	Co-sponsors		
Bill Number S. 914 Bill Title Drinking Water and Wastewater Infrastructure Act	Date Introduced 03/23/21 Assigned Committee(s) Environment and Public Works	WSWC Keywords infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/914	Summary of Bill This bill reauthorizes through FY2026 or establishes a variety of programs for water infrastructure. Specifically, it supports programs to provide safe drinking water or treat wastewater, such as sewer overflows or stormwater. For example, the bill reauthorizes and revises the clean water state revolving fund (SRF) and the drinking water SRF.
Passed (S/H) 4/29/21: Senate passed 89-2	Hearing(s) 4/14/21: EPW reported with amendment; S. Rept. 117-20		
Bill Sponsor Sen. Duckworth, Tammy [D-IL]	Co-sponsors 6 Democrat and 7 Republican co-sponsors, including AK, AZ, CA, ND, OK, WY		
Bill Number H.R. 2173 Bill Title	Date Introduced 03/23/21 Assigned Committee(s)	WSWC Keywords infrastructure Congress.gov Link	Summary of Bill To amend the CWA with respect to wastewater infrastructure workforce development; allows states to reserve CW SRFs funds to address POTW workforce development needs.

Wastewater Workforce Investment Act	Transportation and Infrastructure	https://www.congress.gov/bill/117th-congress/house-bill/2173	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Stanton, Greg [D-AZ-9]	Co-sponsors		
Bill Number H.R. 2164 Bill Title Safe Hydration is an American Right in Energy Development Act Passed (S/H) Bill Sponsor Rep. Schakowsky, Janice D. [D-IL-9]	Date Introduced 03/23/21 Assigned Committee(s) Energy and Commerce Hearing(s) Co-sponsors 37 Democrats including CA, CO, OR, AZ, WA	WSWC Keywords fracking Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/2164	Summary of Bill To amend the Safe Drinking Water Act to require testing of underground sources of drinking water in connection with hydraulic fracturing operations.
Bill Number H.R. 2155 Bill Title Toxic Health Threat Warning Act Passed (S/H) Bill Sponsor Rep. Mast, Brian J. [R-FL-18]	Date Introduced 03/23/21 Assigned Committee(s) Transportation and Infrastructure Hearing(s) Co-sponsors	WSWC Keywords HABs Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/2155	Summary of Bill To require the Corps of Engineers to notify affected communities before releasing water contaminated with cyanobacteria from flood risk management projects.
Bill Number H.R. 2133 Bill Title Focused Reduction of Effluence and Stormwater runoff through Hydrofracking Environmental Regulation (FRESHER) Act Passed (S/H) Bill Sponsor Rep. Cartwright, Matt [D-PA-8]	Date Introduced 03/23/21 Assigned Committee(s) Transportation and Infrastructure Hearing(s) Co-sponsors 35 Democrats from CA, NY, VA, CO, CT, OR, AZ, DC, FL, IL, MD, MA, MN, NJ, TN, VT, WA	WSWC Keywords water quality Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/2133	Summary of Bill To amend the CWA and direct the Secretary of the Interior to conduct a study with respect to stormwater runoff from oil and gas operations. It would allow EPA to issue NPDES permits for stormwater discharges for certain collected runoff from mining, oil, and gas operations. The DOI study would analyze (1) measurable contamination, (2) groundwater resources, and (3) the susceptibility of aquifers to contamination from stormwater runoff associated with operations.
Bill Number S. 855 Bill Title	Date Introduced 03/18/21 Assigned Committee(s)	WSWC Keywords water rights Congress.gov Link	Summary of Bill Prohibits Departments of the Interior and Agriculture from conditioning permits, leases, etc., on the transfer of any water right to the United States or on any impairment of title granted or otherwise recognized under state law by federal or state action. Any related rules or actions: (1) shall recognize the longstanding water use authority of the states and

Water Rights Protection Act	Energy and Natural Resources	https://www.congress.gov/bill/117th-congress/senate-bill/855	state action. Any related rules or actions. (1) shall recognize the longstanding water use authority of the states and coordinate with the states to ensure that any federal action is consistent with applicable state water law, and (2) shall not adversely affect the authority of a state in permitting the beneficial use of water or adjudicating water rights.
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Barrasso, John [R-WY]	Co-sponsors		
Bill Number H.R. 1954 Bill Title Harmful Algal Bloom Essential Forecasting Act Passed (S/H) Bill Sponsor Rep. Donalds, Byron [R-FL-19]	Date Introduced 03/17/21 Assigned Committee(s) Science, Space, and Technology; Committee on Natural Resources Hearing(s) Co-sponsors 2 Democrats and 5 Republicans from MI, FL, OH	WSWC Keywords HABs Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/1954	Summary of Bill To amend the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998 to clarify that during a lapse in appropriations certain services relating to the Harmful Algal Bloom Operational Forecasting System are excepted services under the Anti-Deficiency Act.
Bill Number H.R. 2008 Bill Title Local Water Protection Act Passed (S/H) 6/15/21: House passed under suspension of the rules Bill Sponsor Rep. Craig, Angie [D-MN-2]	Date Introduced 03/18/21 Assigned Committee(s) Transportation and Infrastructure; Environment and Public Works Hearing(s) 3/24/21: Ordered reported by voice vote; H. Rpt. 117-45 Co-sponsors Rep. Mast, Brian J. [R-FL-18]	WSWC Keywords water quality Congress.gov Link	Summary of Bill This bill reauthorizes through FY2026 grants to states for (1) programs that manage and control nonpoint source pollution (e.g., runoff from a variety of sources) added to navigable waters, and (2) groundwater quality protection activities to advance state implementation of such programs. Directs \$200M for programs in FY22-26.
Bill Number S. 755 Bill Title Emergency Water Infrastructure Improvements Act Passed (S/H) Bill Sponsor Sen. Hyde-Smith, Cindy [R-MS]	Date Introduced 03/16/21 Assigned Committee(s) Environment and Public Works Hearing(s) Co-sponsors	WSWC Keywords infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/755	Summary of Bill Authorizes funds for public water systems damaged by Winter Storms Uri and Viola, or not fewer than five Presidentially declared disasters. Eligible states would be authorized to use SRF funds to address contaminants in drinking water, including repair and replacement of water distribution systems. Authorizes \$150M for additional DWSRF capitalization grants.Requires states file an intended use plan with EPA and not duplicate work already undertaken by another federal agency.
Bill Number H.R. 1915 Bill Title Water Quality Protection and Job Creation Act Passed (S/H)	Date Introduced 03/16/21 Assigned Committee(s) Transportation and Infrastructure Hearing(s)	WSWC Keywords water quality Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/1915	Summary of Bill Amends the CWA to authorize various programs and funding: CWA 106(a) state management assistance grants are authorized at \$500M annually FY22-26; CWA 122 watershed pilot projects are authorized at \$200M for FY22-26; it deletes the western regional consideration for the CWA 220(d) alternative water source pilot projects and authorizes \$200M annually FY22-26. It authorizes CWA 221 sewer overflow and stormwater reuse municipal grants at \$400M annually for FY22-26. It adds a section on grants for POTWs implementing pretreatment standards for PFAS or any contaminant of emerging concern, and authorizes \$200M annually for FY22-26. For SRFs, CWA 607 would be amended to authorize \$8B annually for FY22-26. It also authorizes \$500M annually (FY22-26) for CWA 518(c)(3) grants to tribes for projects, training, technical assistance, and O&M educational programs.

	6/9/21: T&I markup session, ordered reported, vote 42-25; H. Rpt. 117-69		to tribes for projects, training, technical assistance and O&M educational programs.
Bill Sponsor Rep. DeFazio, Peter A. [D-OR-4]	Co-sponsors		
Bill Number H.R. 1869 Bill Title Technical Correction to the Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement Act Passed (S/H) Bill Sponsor Rep. Amodei, Mark E. [R-NV-2]	Date Introduced 03/12/21 Assigned Committee(s) Natural Resources Hearing(s) 6/29/21: Subcommittee hearing Co-sponsors	WSWC Keywords Indian water rights Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/1869	Summary of Bill This bill directs the Department of the Interior to deposit specified interest payments into the Shoshone-Paiute Tribes Water Rights Development Fund and the Shoshone-Paiute Tribes Operation and Maintenance Fund. These funds were established under the water rights settlement agreement for the Shoshone-Paiute Tribes of the Duck Valley Reservation.
Bill Number H.R. 1881 Bill Title No title Passed (S/H) Bill Sponsor Rep. Garamendi, John [D-CA-3]	Date Introduced 03/12/21 Assigned Committee(s) Transportation and Infrastructure Hearing(s) Co-sponsors Rep. Calvert, Ken [R-CA-42], Rep. LaMalfa, Doug [R-CA-1], Rep. Schiff, Adam B. [D-CA-28]	WSWC Keywords water quality Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/1881	Summary of Bill To amend the CWA with respect to permitting terms.
Bill Number H.R. 1851 Bill Title St. Mary's Reinvestment Act Passed (S/H) Bill Sponsor Rep. Rosendale Sr., Matthew M. [R-MT-At Large]	Date Introduced 03/12/21 Assigned Committee(s) Natural Resources Hearing(s) 6/29/21: Subcommittee hearing Co-Sponsors	WSWC Keywords Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/1851	Summary of Bill Authorizes Reclamation to use funds through FY2032 to rehabilitate the St. Mary Diversion Dam and Canal Headworks, which are part of the Milk River Project in Montana; also to (1) coordinate with the Blackfeet Tribe with respect to the replacement activities that are carried out for the rehabilitation, (2) study the ability of project beneficiaries (i.e., water users) to pay for the costs of the rehabilitation, and (3) establish repayment terms based on the study; 26% federal cost share.
Bill Number H.R. 1820 Bill Title Revoking EPA's Tyrannical Ruling Over Approved Commercial Tasks Involving no Violations of Environmental (RETROACTIVE) Policy Act	Date Introduced 03/12/21 Assigned Committee(s) Transportation and Infrastructure	WSWC Keywords wetlands Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/1820	Summary of Bill To amend the CWA to clarify when the Administrator of the Environmental Protection Agency has the authority to prohibit the specification of a defined area, or deny or restrict the use of a defined area for specification, as a disposal site under section 404 of such Act.

Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Gibbs, Bob [R-OH-7]	Co-sponsors		
Bill Number S. 722 Bill Title Wastewater Efficiency and Treatment Act	Date Introduced 03/11/21 Assigned Committee(s) Energy and Natural Resources	WSWC Keywords energy-water nexus Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/722	Summary of Bill To amend the Energy Policy Act of 2005 to establish a program to provide grants and loan guarantees to improve the energy efficiency of publicly owned wastewater treatment facilities. It authorizes \$5M each fiscal year for grants up to \$25,000 to carry out energy audits and projects to replace equipment or update components based on the results of the audit. Intended for facilities that serve populations under 10,000 or disadvantaged communities.
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Merkley, Jeff [D-OR]	Co-sponsors		
Bill Number H.R. 1821 Bill Title Reducing Unnecessary Regulations on Agricultural Lands (RURAL) Act	Date Introduced 03/11/21 Assigned Committee(s) Transportation and Infrastructure; Agriculture	WSWC Keywords FifRA Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/1821	Summary of Bill To amend FIFRA and CWA to clarify Congressional intent regarding the regulation of the use of pesticides in or near navigable waters (so that pesticides covered by FIFRA are not also regulated by CWA).
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Gibbs, Bob [R-OH-7]	Co-sponsors		
Bill Number H.R. 1734 Bill Title Surface Mining Control and Reclamation Act Amendments	Date Introduced 03/10/21 Assigned Committee(s) Natural Resources; Budget	WSWC Keywords abandoned mines Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/1734	Summary of Bill Authorizes Interior to delegate certain emergency reclamation activities relating to abandoned mines to states and tribes
Passed (S/H)	Hearing(s) 3/18/21: Subcommittee hearings 5/26/21: NR Ordered reported		
Bill Sponsor Rep. Cartwright, Matt [D-PA-8]	Co-sponsors		
Bill Number S. 668 Bill Title Endangered Species Management Self-Determination Act	Date Introduced 03/10/21 Assigned Committee(s) Environment and Public Works	WSWC Keywords ESA Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/668	Summary of Bill To amend the Endangered Species Act of 1973 to permit Governors of States to regulate intrastate endangered species and intrastate threatened species, to amend the Migratory Bird Treaty Act to permit the taking of certain black vultures and ravens.
Passed (S/H)	Hearing(s)		
Bill Sponsor	Co-sponsors		

Sen. Paul, Rand [R-KY]			
Bill Number H.R. 1679 Bill Title Western Water Security Act Passed (S/H) Bill Sponsor Rep. Boebert, Lauren [R-CO-3]	Date Introduced 03/09/21 Assigned Committee(s) Natural Resources; Agriculture Hearing(s) Co-sponsors 15 Republican co-sponsors from AZ, CA, CO, UT, KS, NV, NM, WA, WY	WSWC Keywords water rights Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/1679	Summary of Bill To prohibit the Secretary of the Interior and the Secretary of Agriculture from conditioning any permit, lease, or other use agreement on the transfer of any water right to the United States
Bill Number S.648 Bill Title Technical Correction to the Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement Act Passed (S/H) Bill Sponsor Sen. Cortez Masto, Catherine [D-NV]	Date Introduced 03/09/21 Assigned Committee(s) Indian Affairs Hearing(s) 10/6/21: IA hearing 11/17/21: IA ordered reported Co-sponsors	WSWC Keywords Indian water rights Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/648	Summary of Bill This bill directs the Department of the Interior to deposit specified interest payments into the Shoshone-Paiute Tribes Water Rights Development Fund and the Shoshone-Paiute Tribes Operation and Maintenance Fund. These funds were established under the water rights settlement agreement for the Shoshone-Paiute Tribes of the Duck Valley Reservation.
Bill Number H.R. 1663 Bill Title Border Water Quality Restoration and Protection Act Passed (S/H) Bill Sponsor Rep. Vargas, Juan [D-CA-51]	Date Introduced 03/08/21 Assigned Committee(s) Transportation and Infrastructure; Energy and Commerce; Natural Resources; Foreign Affairs; Budget Hearing(s) Co-sponsors	WSWC Keywords water quality Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/1663	Summary of Bill Directs EPA to establish the Tijuana River Public Health and Water Quality Restoration Program. Under the program, the EPA must plan, implement, coordinate, and provide grants for public health and water quality restoration and protection activities in the Mexican Tijuana River watershed and the American Tijuana River watershed in California. In addition, the EPA must establish the California New River Public Health and Water Quality Restoration Program to plan, implement, coordinate, and provide grants for water quality restoration and protection activities in the New River watershed. Finally, the bill provides statutory authority for the U.S.-Mexico Border Water Infrastructure Program to provide assistance for activities related to the construction of infrastructure for drinking water treatment or distribution, wastewater management, or stormwater management.
Bill Number H.R. 1660 Bill Title Stop Sewage Overflow Act Passed (S/H) Bill Sponsor	Date Introduced 03/08/21 Assigned Committee(s) Transportation and Infrastructure Hearing(s) Co-sponsors	WSWC Keywords water quality Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/1660	Summary of Bill Amends CWA 221 (33 USC 1301) for sewer overflow and stormwater reuse municipal grants up to 75% of the cost for eligible municipalities

Rep. Trahan, Lori [D-MA-3]			
Bill Number S. 572 Bill Title Border Water Quality Restoration and Protection Act Passed (S/H) Bill Sponsor Sen. Feinstein, Dianne [D-CA]	Date Introduced 03/03/21 Assigned Committee(s) Environment and Public Works Hearing(s) Co-sponsors Sen. Padilla, Alex [D-CA]	WSWC Keywords floods, data, NOAA, water resources Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/572	Summary of Bill A bill to provide for the water quality restoration of the Tijuana River and the New River.
Bill Number S. 558 Bill Title Flood Level Observation, Operations, and Decision Support (FLOODS) Act Passed (S/H) 9/30/21: Passed Senate by unanimous consent Bill Sponsor Sen. Wicker, Roger [R-MS]	Date Introduced 03/03/21 Assigned Committee(s) Commerce, Science and Transportation Hearing(s) 4/28/21: CST ordered reported with an amendment Co-sponsors Sen. Peters, Gary [D-MI]	WSWC Keywords floods, data, NOAA, water resources Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/558	Summary of Bill A bill to establish a national integrated flood information system within NOAA.
Bill Number H.R. 1588 Bill Title Hydropower Clean Energy Future Act Passed (S/H) Bill Sponsor Rep. McMorris Rodgers, Cathy [R-WA-5]	Date Introduced 03/03/21 Assigned Committee(s) Energy and Commerce, Oversight and Reform Hearing(s) Co-sponsors Rep. Newhouse, Dan [R-WA-4], Rep. Curtis, John [R-UT-3], Rep. Duncan, Jeff [R-SC-3], Rep. Bucshon, Larry [R-IN-8]	WSWC Keywords energy, hydropower Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/1588	Summary of Bill To modernize the hydropower licensing process and to promote next generation hydropower projects.
Bill Number H.R. 1563 Bill Title No title Passed (S/H) Bill Sponsor	Date Introduced 03/03/21 Assigned Committee(s) Natural Resources, Science, Space and Technology Hearing(s) Co-sponsors	WSWC Keywords drought, water financing Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/1563	Summary of Bill To extend the authorities under the Water Infrastructure Improvements for the Nation Act of 2016 providing operational flexibility, drought relief, and other benefits to the State of California.

Rep. Garcia, Mike [R-CA-25]	10 Republicans, all from CA		
Bill Number H.R. 1352 Bill Title Water Affordability, Transparency, Equity and Reliability Act (WATER Act) of 2021 Passed (S/H) Bill Sponsor Rep. Lawrence, Brenda [D-MI-14]	Date Introduced 2/25/2021 Assigned Committee(s) Transportation and Infrastructure, Energy and Commerce, Ways and Means, Agriculture Hearing(s) Co-sponsors 80 Democrats, including Representatives from AZ, CA, NM, OR, TX	WSWC Keywords infrastructure Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/1352	Summary of Bill Establishes the WATER Trust Fund with \$35B/year to go towards the CWSRF, DWSRF and other water grant programs, funded by a 3.5% increase on the corporate tax rate. Expands use of SRF funds to acquire private water treatment works, or change/cancel contract terms with operators of publicly owned treatment works. Proposes several changes to the DWSRF program, including requiring 50% of capitalization grants to go towards disadvantaged communities (depending on applications), and allowing funds to be used for lead service line replacement and PFAS treatment. Increases funding for technical assistance to rural and tribal communities to \$175M/year. Commissions a study on equity in water and sewer services industry.
Bill Number S. 421 Bill Title Western Tribal Water Infrastructure Act Passed (S/H) Bill Sponsor Sen. Ron Wyden	Date Introduced 2/24/2021 Assigned Committee(s) Indian Affairs Hearing(s) 3/24/21: SIA ordered reported, S. Rept. 117-17 Co-sponsors Sen. Jeff Merkley	WSWC Keywords drinking water, tribes, AWIA Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/421	Summary of Bill A bill to amend the America's Water Infrastructure Act of 2018 to reauthorize and expand the Indian reservation drinking water program. It directs EPA to connect, expand, or repair existing public water systems that are on Indian reservations or off-reservation sites that serve tribes in the Columbia River Basin or its adjacent coastal river basins. Currently, only projects that are on Indian reservations in the Upper Missouri River Basin or the Upper Rio Grande Basin are eligible for the program.
Bill Number H.R. 1146 Bill Title Community Reclamation Partnerships Act Passed (S/H) Bill Sponsor Rep. LaHood, Darin [R-IL-18]	Date Introduced 2/18/2021 Assigned Committee(s) Natural Resources Hearing(s) 3/18/21: Subcommittee hearing 5/26/21: NR hearing; ordered reported Co-sponsors	WSWC Keywords water quality, mining Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/1146	Summary of Bill To amend the Surface Mining Control and Reclamation Act of 1977 to authorize partnerships between States and nongovernmental entities for the purpose of reclaiming and restoring land and water resources adversely affected by coal mining activities before August 3, 1977
Bill Number H.R. 1144 Bill Title Promoting United Government Efforts to Save Our Sound (PUGET SOS) Act Passed (S/H) 6/15/21: passed House	Date Introduced 2/18/2021 Assigned Committee(s) Transportation and Infrastructure; Environment and Public Works Hearing(s) 3/24/21: T&I ordered reported, passed 54-3	WSWC Keywords water quality Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/1144	Summary of Bill To amend the CWA to provide assistance for programs and activities to protect the water quality of Puget Sound, including a replacement federal task force.

Bill Sponsor Rep. Kilmer, Derek [D-WA-6]	Co-sponsors		
Bill Number H.R. 1015	Date Introduced 2/11/2021	WSWC Keywords water reuse, water financing	Summary of Bill The bill revises and makes permanent the Bureau of Reclamations grant program (43 USC 390h) for funding water recycling and reuse projects. It removes drought and disaster declarations as priorities, and replaces them with projects that (A) provide more reliable water supply for states and local governments; (B) increase water management flexibility and reduce environmental impacts; (C) are regional in nature; (D) have multiple stakeholders; and (E) provide multiple benefits. It increases funding from \$50M to \$500M, available until FY2025.
Bill Title Water Recycling Investment and Improvement Act	Assigned Committee(s) Natural Resources	Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/1015	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Napolitano, Grace F. [D-CA-32]	Co-sponsors 13 Democrats, all from CA		
Bill Number H.R. 988	Date Introduced 2/11/2021	WSWC Keywords water resources, Corps,	Summary of Bill To protect the right of individuals to bear arms at water resources development projects administered by the Corps.
Bill Title Recreational Lands Self-Defense Act	Assigned Committee(s) Transportation and Infrastructure	Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/988	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Gibbs, Bob [R-OH-7]	Co-sponsors 22 Republicans, including Representatives from TX, AZ, CA, WA, AK, KS, NM		
Bill Number H.R. 931	Date Introduced 2/8/2021	WSWC Keywords water transfers	Summary of Bill To exempt from the Lacey Act and the Lacey Act Amendments of 1981 certain water transfers between any of the States of Texas, Arkansas, and Louisiana.
Bill Title Public Water Supply Invasive Species Compliance Act	Assigned Committee(s) Natural Resources, Judiciary	Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/931	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Gohmert, Louie [R-TX-1]	Co-sponsors		
Bill Number S. 277	Date Introduced 2/8/2021	WSWC Keywords water transfers	Summary of Bill To exempt from the Lacey Act and the Lacey Act Amendments of 1981 certain water transfers between any of the States of Texas, Arkansas, and Louisiana.
Bill Title Public Water Supply Invasive Species Compliance Act	Assigned Committee(s) Environment and Public Works	Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/277	
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Cruz, Ted [R-TX]	Co-sponsors		

Bill Number H.R. 895 Bill Title Emergency Assistance for Rural Water Systems Act Passed (S/H) Bill Sponsor Rep. Rouzer, David [R-NC-7]	Date Introduced 2/5/2021 Assigned Committee(s) Agriculture Hearing(s) Co-sponsors	WSWC Keywords water resources Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/895	Summary of Bill To provide for assistance to rural water, wastewater, and waste disposal systems affected by the COVID-19 pandemic.
Bill Number H.R. 866 Bill Title Federally Integrated Species Health (FISH) Act Passed (S/H) Bill Sponsor Rep. Calvert, Ken [R-CA-42]	Date Introduced 2/5/2021 Assigned Committee(s) Natural Resources Hearing(s) Co-sponsors Rep. Costa, Jim [D-CA-16], Rep. McClintock, Tom [R-CA-4], Rep. Simpson, Michael K. [R-ID-2], Rep. Steel, Michelle [R-CA-48], Rep. Valadao, David G. [R-CA-21]	WSWC Keywords environment, fish Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/866	Summary of Bill To amend the Endangered Species Act of 1973 to vest in the Secretary of the Interior functions under that Act with respect to species of fish that spawn in fresh or estuarine waters and migrate to ocean waters, and species of fish that spawn in ocean waters and migrate to fresh waters.
Bill Number H.R. 803 Bill Title Protecting America's Wilderness and Public Lands Act Passed (S/H) 2/26/21: House passed with amendments, 227-200 Bill Sponsor Rep. DeGette, Diana [D-CO-1]	Date Introduced 2/4/2021 Assigned Committee(s) Natural Resources, Armed Services, Energy and Natural Resources Hearing(s) Co-sponsors	WSWC Keywords reserved water rights Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/803	Summary of Bill Designates certain lands (managed by BLM, USFS, Reclamation) in the State of Colorado as components of the National Wilderness Preservation System. The bill explicitly states that it does not create or impose any new federal reserved water rights, nor a relinquishment of existing federal reserved water rights. Any water rights needed to fulfill the purposes of the designated wilderness areas are to be acquired and administered under state law. DOI "may appropriate and seek adjudication of water rights to maintain surface water levels and stream flows on and across the wilderness" areas, and directs DOI to engage in "cooperative enforcement" of federal instream flow water rights. As amended, the bill provides for the preservation, conservation, and recreational use of public lands, including in Arizona, California, Maine, North Carolina, Oregon, Virginia, Washington, and the U.S. Virgin Islands. It also withdraws specific federal lands in AZ and OR, and designates wild and scenic rivers, wilderness, and recreational rivers in WA. Similar provisions on respecting state processes and not creating new water rights are included in the new sections of the amended bill.
Bill Number H.R. 751 Bill Title Protecting American Energy Production Act Passed (S/H) Bill Sponsor	Date Introduced 2/3/2021 Assigned Committee(s) Natural Resources, Energy and Commerce Hearing(s) Co-sponsors	WSWC Keywords Hydraulic Fracturing Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/751	Summary of Bill To prohibit a moratorium on the use of hydraulic fracturing.

Rep. Duncan, Jeff [R-SC-3]	39 Republicans, including Representatives from AZ, CA, CO, KS, NM, OK, TX, WA, WY		
Bill Number S. 192 Bill Title River Democracy Act Passed (S/H) Bill Sponsor Sen. Shaheen, Jeanne [D-NH]	Date Introduced 2/3/2021 Assigned Committee(s) Energy and Natural Resources Hearing(s) 6/23/21: Subcommittee hearing Co-sponsors Sen. Merkley, Jeff [D-OR]	WSWC Keywords water resources, environment Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/192	Summary of Bill A bill to amend the Wild and Scenic Rivers Act to designate certain river segments (numerous creeks and tributaries) in Oregon as components of the National Wild and Scenic Rivers System. It authorizes \$30M for FY22 to restore components of the system that provide drinking water for downstream communities or have been degraded by catastrophic wildfire. The bill explicitly states that nothing in the Act affects any existing valid or vested water right, or preempts Oregon's ability to administer water rights pursuant to state law.
Bill Number S. 209 Bill Title Emergency Assistance for Rural Water Systems Act Passed (S/H) Bill Sponsor Sen. Shaheen, Jeanne [D-NH]	Date Introduced 2/3/2021 Assigned Committee(s) Agriculture, Nutrition and Forestry Hearing(s) Co-sponsors Sen. Tillis, Thom [R-NC]	WSWC Keywords water resources, water quality Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/209	Summary of Bill A bill to provide for assistance (grants and no interest loans, forgiveness, or term modifications) to rural water, wastewater, and waste disposal systems affected by the COVID-19 pandemic. The bill authorizes \$1B through FY22, with 3% for administrative expenses.
Bill Number H.R. 737 Bill Title Responsible, No-Cost Extension of Western Water Infrastructure Improvements (RENEW WIIN) Act Passed (S/H) Bill Sponsor Rep. Valadao, David G. [R-CA-21]	Date Introduced 2/2/2021 Assigned Committee(s) Natural Resources Hearing(s) Co-sponsors	WSWC Keywords water resources Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/737	Summary of Bill This bill extends the January 2021 deadline (WIIN Act section 4007, PL 114-322) for DOI to determine which federally-owned or state-led water storage projects are feasible for construction or expansion with a 50% federal cost share, to 2031.
Bill Number H.R. 660 Bill Title Shovel-Ready Restoration Grants for Coastlines and Fisheries Act Passed (S/H) Bill Sponsor Rep. Plaskett, Stacey E. [D-VI-At Large]	Date Introduced 2/1/2021 Assigned Committee(s) Natural Resources; Transportation and Infrastructure Hearing(s) 6/22/21: NR held hearings Co-sponsors Rep. Young, Don [R-AK-At Large]	WSWC Keywords environment, fish Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/660	Summary of Bill Establishes a NOAA grant program (\$3B for FY21) to provide technical assistance and funding to benefit coastal habitats, resiliency, and the economy

Bill Number H.R. 616 Bill Title Emergency Water is a Human Right Act Passed (S/H) Bill Sponsor Rep. Tlaib, Rashida [D-MI-13]	Date Introduced 02/28/21 Assigned Committee(s) Energy and Commerce, Education and Labor Hearing(s) Co-sponsors 86 Democrat co-sponsors	WSWC Keywords water resources Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/616	Summary of Bill This bill creates a grant program, administered by the Department of Health and Human Services, to provide funds to states and Indian tribes to assist low-income households that pay a high proportion of household income for drinking water and wastewater services. Further, any entity receiving financial assistance under this grant program must ensure that no home energy service or public water system service is or remains disconnected or interrupted during the COVID-19 public health emergency.
Bill Number H.R. 610 Bill Title San Francisco Bay Restoration Act Passed (S/H) 6/15/21: Passed House Bill Sponsor Rep. Speier, Jackie [D-CA-14]	Date Introduced 01/28/21 Assigned Committee(s) Transportation and Infrastructure, Budget, Environment and Public Works Hearing(s) 3/24/21: T&I ordered reported with an amendment;H. Rept. 117-51 Co-sponsors 10 Democrats, all Representatives from CA	WSWC Keywords water quality, environment Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/610	Summary of Bill Directs EPA to establish a San Francisco Bay Program Office and establishes a grant program with a list of project priorities that must be reviewed every five years. The list must include projects and studies for water quality improvement; wetland restoration and protection; endangered species recovery; and adaptation to climate change.
Bill Number H.R. 587 Bill Title Ocean Pollution Reduction Act II Passed (S/H) 6/15/21: House passed, suspension of rules Bill Sponsor Rep. Peters, Scott H. [D-CA-52]	Date Introduced 1/28/2021 Assigned Committee(s) Transportation and Infrastructure; Environment and Public Works Hearing(s) 3/24/21: T&I ordered reported H. Rpt 117-41, passed 54-2 Co-sponsors 4 bipartisan co-sponsors from CA	WSWC Keywords water quality Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/587	Summary of Bill To modify CWA 402 permitting requirements with respect to the discharge of any pollutant from the Point Loma Wastewater Treatment Plant (CA) in certain circumstances, including monitoring requirements and milestones toward full compliance by 2035.
Bill Number H.R. 519 Bill Title Safeguarding Oil and Gas Leasing and Permitting Act Passed (S/H) Bill Sponsor Rep. Cheney, Liz [R-WY-At Large]	Date Introduced 1/28/21 Assigned Committee(s) Natural Resources Hearing(s) Co-sponsors 32 Republicans, including Representatives from CO, KS, OK, TX, WA	WSWC Keywords water quality, wells Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/519	Summary of Bill Provides that any order by the President or DOI imposing a moratorium on Federal oil and gas leasing or permitting on BLM lands--in violation of its statutory requirements to process permits, approve permits within permitting deadlines, and hold quarterly lease sales, with respect to Federal oil and gas leasing and permitting--shall not take effect unless a joint resolution of approval is enacted.

Bill Number H.R. 543 Bill Title Protecting Our Wealth of Energy Resources (POWER) Act Passed (S/H) Bill Sponsor Rep. Herrell, Yvette [R-NM-2]	Date Introduced 01/28/21 Assigned Committee(s) Natural Resources, Agriculture Hearing(s) Co-sponsors 41 Republicans, including Representatives from AZ, CA, CO, ID, NE, NV, OK, OR, TX, WA, WY	WSWC Keywords water quality, wells Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/543	Summary of Bill To prohibit the President from issuing moratoria on leasing and permitting energy and minerals (oil and gas, coal, hard rock, and new critical minderals) on certain Federal lands. It would also prohibit the President from withdrawing federal lands unless approved by an act of Congress.
Bill Number S. 140 Bill Title BLUE GLOBE Act Passed (S/H) Bill Sponsor Sen. Whitehouse, Sheldon [D-RI]	Date Introduced 01/28/21 Assigned Committee(s) Commerce, Science and Transportation Hearing(s) 5/12/21: CST ordered reported with an amendment 12/17/21: Placed on Senate calendar Co-sponsors	WSWC Keywords water quality, data, monitoring Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/140	Summary of Bill A bill to improve data collection and monitoring of the Great Lakes, oceans, bays, estuaries, and coasts, and for other purposes
Bill Number H.R. 565 Bill Title South Florida Clean Coastal Waters Act Passed (S/H) Bill Sponsor Rep. Mast, Brian J. [R-FL-18]	Date Introduced 01/28/21 Assigned Committee(s) Natural Resources, Science, Space and Technology Hearing(s) Co-sponsors Rep. Soto, Darren [D-FL-9], Rep. Posey, Bill [R-FL-8]	WSWC Keywords water quality, harmful algal blooms Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/565	Summary of Bill Directs the Inter-Agency Task Force on Harmful Algal Blooms and Hypoxia (33 U.S.C. 4001) to develop a plan for reducing, mitigating, and controlling harmful algal blooms and hypoxia in South Florida.
Bill Number S. Res. 17 Bill Title No title Passed (S/H)	Date Introduced 01/27/21 Assigned Committee(s) Environment and Public Works Hearing(s)	WSWC Keywords WOTUS Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-resolution/17	Summary of Bill Expressing the sense of the Senate that clean water is a national priority and that the April 21, 2020, Navigable Waters Protection Rule (85 Fed. Reg. 22250) should not be withdrawn or vacated.

Bill Sponsor Sen. Ernst, Joni [R-IA]	Co-sponsors 27 Republican co-sponsors		
Bill Number H.R. 491 Bill Title California New River Restoration Act Passed (S/H) Bill Sponsor Rep. Vargas, Juan [D-CA-51]	Date Introduced 01/25/21 Assigned Committee(s) Natural Resources, Transportation and Infrastructure Hearing(s) Co-sponsors	WSWC Keywords water resources Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/491	Summary of Bill Requires EPA to establish a restoration program for the New River, which starts in Mexico and drains into the Salton Sea. EPA would implement projects, plans, and initiatives supported by the California-Mexico Border Relations Council and provide grants and technical assistance.
Bill Number S. 29 Bill Title Local Water Protection Act Passed (S/H) Bill Sponsor Sen. Klobuchar, Amy [D-MN]	Date Introduced 01/22/21 Assigned Committee(s) Environment and Public Works Hearing(s) Co-sponsors	WSWC Keywords water quality Congress.gov Link https://www.congress.gov/bill/117th-congress/senate-bill/29	Summary of Bill This bill reauthorizes EPA programs through FY2025 that award grants to states for managing nonpoint source water pollution or protecting groundwater quality. Water pollution from nonpoint sources is caused by precipitation picking up pollution as it moves over or through the ground.
Bill Number H.R. 74 Bill Title Protecting Local Communities from Harmful Algal Blooms Act Passed (S/H) Bill Sponsor Rep. Buchanan, Vern [R-FL-16]	Date Introduced 01/04/21 Assigned Committee(s) Transportation and Infrastructure Hearing(s) Co-sponsors Rep. Hastings, Alcee L. [D-FL-20]	WSWC Keywords HABs Congress.gov Link https://www.congress.gov/bill/117th-congress/house-bill/74	Summary of Bill Amends Section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122) to include algal blooms as a major disaster.

**Litigation Update
198th WSWC Meeting
Arlington, Virginia**

**Complied By:
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WSWC Assistant Director and General Counsel
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This summary describes developments regarding notable litigation that pertains to WGA/WSWC policies or cases that are otherwise of interest. It focuses primarily on developments that have taken place since the beginning of 2021.

Case Name Indian Wells Valley Water District v. All Persons Who Claim a Right to Extract Groundwater in the Indian Wells Valley Groundwater Basin, etc., et al. Case Number 30-2021-01187275-CU-OR-CJC Court Orange County Superior Court, California Relevant Dates 6/16/21: IWVWD Cross-complaint, opening the adjudication 9/7/21: California Department of Water Resources received notice of the adjudication 10/13/21: form of Notice of Commencement of Groundwater Basin Adjudication approved 12/16/21: Notices mailed to basin property owners 3/15/22: Case Management Conference Related Cases Mojave Pistachios, LLC v. IWVWD Comprehensive adjudication of the Cuyama Valley Groundwater Basin, another basin in an overdraft condition. (9/2/21) Notes See: https://www.iwvwd.com/basin-adjudication/	Issues Water rights adjudication (groundwater), SGMA 2014, federal water rights and groundwater The original complaint was filed by Mojave Pistachios, LLC. The cross-complaint by the Indian Wells Valley Water District (IWVWD) seeks “a judgment to comprehensively determine and adjudicate all groundwater rights in the Basin and to provide a physical solution for the perpetual and continuous management of the Basin.” IWVWD’s website noted that water use in the basin has exceeded groundwater supply for years, resulting in an “overdraft” condition. IWVWD is a member of the Indian Wells Valley Groundwater Authority, formed pursuant to the Sustainable Groundwater Management Act (SGMA). The Authority developed and adopted a groundwater sustainability plan (GSP), and several lawsuits were filed alleging that the GSP actions to regulate water use and impose fees were unlawful and excessive, leading in part to the present adjudication. IWVWD’s website said: “The Basin underlies approximately 382,000 acres or approximately 600 square miles of land. Approximately 301,000 acres of land overlying the Basin are federal property managed by Naval Air Weapons Station China Lake, the Bureau of Land Management, and the Forest Service. The non-federal lands overlying the Basin consist of the City of Ridgecrest and unincorporated land in the Counties of Kern, Inyo, and San Bernardino. Water rights of the federal government are beyond the jurisdiction of the State to regulate. Under applicable law, the federal government may only participate in a water rights lawsuit if such a case is considered to be what is called a ‘comprehensive adjudication’ involving all stakeholders/pumpers. The District is therefore taking the necessary action of filing a comprehensive adjudication. Such steps will involve all stakeholders/pumpers; protect the general welfare of the Basin; protect the District’s right to pump groundwater from the Basin; protect groundwater quality; and to manage water costs to the public. The goal of the District’s action is to bring long-term and enforceable sustainability to the Basin.”
Case Name Pape Partners, Ltd. et al. v. DRR Family Properties, LP, et al. Case Number 21-0049 Court Texas Supreme Court Relevant Dates 0 Related Cases 0 Notes 0	Issues State agency role in private water right disputes The petitioners filed suit in the state district court for a determination of private property interests in water rights acquired with the purchase of a farm. The respondent moved to dismiss for lack of subject matter jurisdiction, arguing that TCEQ had exclusive jurisdiction to adjudicate the ownership of water rights among private parties. The district court granted the motion, and the court of appeals affirmed, concluding that the Texas Water Code for regulating and permitting water usage evinced the legislature’s intent to grant TCEQ exclusive jurisdiction. The decision was appealed to the Texas Supreme Court. TCEQ filed an amicus brief arguing that the district court had proper jurisdiction of the case, and that Texas statutes do not provide TCEQ with a mechanism to determine such disputes. “Surface water in Texas is owned by the State and held in trust for Texas citizens. Through a system of water rights prioritization, the State grants the right to use water to individuals or entities such as ranchers, farmers, cities, or industries. [TCEQ] has an important role to play in issuing and recording those grants. However, [TCEQ’s] authority does not extend to adjudicating private disputes simply because they involve water rights. Once a water permit is issued and vested in the holder, it can be bought and sold like any other property. And, like any disagreement about the ownership of property, a dispute about who owns the water rights is properly adjudicated in court.” TCEQ provided an overview of a complex history, beginning with the 1917 Irrigation Act, between the Texas courts and legislature regarding water rights adjudication, jurisdiction, and the separation of powers.
Case Name Oklahoma v. Interior Case Number 5:21-cv-00719 Court U.S. District Court for Western Oklahoma Relevant Dates	Issues State-Tribal jurisdiction over natural resources Following the decision in <i>McGirt v. Oklahoma</i>, 140 S. Ct. 2452 (2020), the Department of the Interior and its Office of Surface Mining and Enforcement informed Oklahoma that it could no longer regulate surface mining on the Muscogee Creek Nation’s reservation in eastern Oklahoma. Oklahoma sued, arguing that <i>McGirt</i> was limited to federal criminal jurisdiction. On December 22, the Court denied Oklahoma’s motion for a preliminary injunction. The motion sought to enjoin enforcement of the decision to strip Oklahoma of its delegated regulatory authority under the Surface Mining Control and Reclamation Act (SMCRA), 30 USC §§1201 et seq. The Court concluded that Oklahoma was unlikely to succeed on its claims under the Administrative Procedures Act, equitable defenses based on a century of jurisdictional expectations, or the language of the SMCRA.

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The same day the preliminary injunction was denied, EPA withdrew a 10/20/21 decision to extend Oklahoma's authority to administer environmental regulatory programs onto Indian reservations. The decision would have continued OK authority on the same lands the state administered pre-McGirt, under the OK-specific authority of §10211(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 (P.L. 109-59)	
Case Name Sackett v. EPA Case Number 21-454 (19-35469) Court U.S. Supreme Court (9th Circuit) Relevant Dates 10/21/21: Amicus briefs, including states 11/24/21: EPA brief 1/24/22: S.Ct. granted cert [4/11/22: Petitioner brief on merits due] [6/10/22: Respondent brief on merits due] Related Cases 0 Notes https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/21-454.html	Issues WOTUS, wetlands On January 24, 2022, the U.S. Supreme Court granted the petition for certiorari in Sackett v. EPA (21-454). The Sacketts filed the lawsuit over the Environmental Protection Agency's (EPA) administrative compliance order "determining that their home construction violated the [CWA] because their lot contains wetlands that qualify as regulated 'navigable waters.'" The Sacketts argued that the lot has no surface water connection to any body of water. The limited issue on appeal is whether the 9th Circuit should have applied Justice Kennedy's "significant nexus" test set forth in Rapanos v. United States, 547 U.S. 715 (2006). BACKGROUND: The Plaintiff-petitioners appealed a 9th Circuit decision from August 16, 2021. The question presented is whether Rapanos v. United States (2006) should be revisited to adopt the test for CWA wetlands jurisdiction under the Justice Scalia plurality opinion. On October 25, 2021 the States of Alabama, Alaska, Arizona, Arkansas, Georgia, Indiana, Kansas, Kentucky, Louisiana, Missouri, Montana, Nebraska, New Hampshire, North Dakota, Oklahoma, South Carolina, South Dakota, Texas, Utah, West Virginia and Wyoming filed an amicus brief in support of the petition. The States emphasized their residual and inviolable sovereignty, the division of powers between state and federal governments, and the states' interest in protecting their authority over local water management matters. "The CWA has an important role to play in ensuring clean water for our country's interstate waters. But it should not be allowed to engulf every other water law." The States noted the inconsistent interpretations of Rapanos and the onerous process of identifying a water of the United States (WOTUS), particularly under the indefinite "significant nexus" standard. In the argument summary, the States said: "Given these problems, the Court should grant the petition and embrace the Rapanos plurality's test: 'the waters of the United States' include only relatively permanent, standing or flowing bodies of water.'" That construction is most consistent with the text that Congress chose. And it gives an understandable, appropriately constrained scope to the Act. The federal government retains its role as the guardian of truly national, navigable waters; the States retake their place as guardians of state waters; and citizens can move forward knowing what, when, and how the various rules apply. The CWA promises an opportunity for genuinely cooperative federalism while advancing the important objective of clean water for all."
Case Name Pasqua Yaqui Tribe, et al., v. EPA et al Case Number 20-cv-00266 Court U.S. District Court for Arizona Relevant Dates 8/30/22: NWPR vacated and remanded Related Cases 0 Notes EPA's website acknowledged the ruling and applied the decision nationwide: "In light of this order, the agencies have halted implementation of the Navigable Waters Protection Rule and are interpreting 'waters of the United States' consistent with the pre-2015 regulatory regime until further notice. The agencies continue to review the order and consider next steps. This includes working expeditiously to move forward with the rulemakings announced on June 9, 2021...."	Issues WOTUS On August 30, 2021 the Arizona U.S. District Court vacated the 2020 Navigable Waters Protection Rule and remanded the rule to the EPA and Corps. The EPA and the Corps requested voluntary remand consistent with Executive Order 13990, which directed the agencies to review recent regulations to ensure they are consistent with the new Administration's policies. "Courts generally grant a voluntarily requested remand unless 'the agency's request is frivolous or made in bad faith.' Here, there is no indication in the record that the Agency Defendants' request for voluntary remand is frivolous or made in bad faith." While the agencies did not request vacatur of the 2020 rule, the plaintiffs argued that the remand must "include the usual remedy of vacatur to prevent significant, irreversible harms." The court weighed the seriousness of the possible environmental harm and the consequences of an interim return to the pre-2015 regulatory regime, and determined that remand with vacatur was the appropriate remedy.
Case Name Center for Biological Diversity et al. v. Spellmon	Issues Nationwide Permits, ESA The complaint for declaratory and injunctive relief stems from the Corps issuance of Nationwide Permit 12, a general permit for oil and gas pipeline

Case Number 4:21-cv-00047 Court U.S. District Court for Montana Relevant Dates 5/3/21: Lawsuit filed 6/7/21: Montana intervened 8/31/21: Petroleum associations intervened 9/7/21: Answer from the Corps [6/6/22: Hearing on MSJ scheduled] Related Cases Northern Plains Resource Council et al. v. U.S. Army Corps of Engineers, No. 4:19-cv-00044 (D. Mont.), appeal pending, (9th Cir, #20-35412) Notes 0	projects pursuant to CWA 404(e). The lawsuit alleges ESA and APA violations for failure to assess environmental effects, and to fulfill consultation responsibilities under ESA section 7 with the National Marine Fisheries Service and the FWS. The NWP 12 allows oil and gas pipelines to cross water repeatedly without limits to the number of wetlands a project might impact, ignoring the cumulative effects of large interstate pipelines.
Case Name Audubon of Kansas v. DOI et al Case Number 2:21cv02025 Court U.S. District Court for Kansas Relevant Dates 1/15/21: Lawsuit filed 3/9/21: GMD5 Motion to Intervene 4/12/21: Motions to Dismiss by Kansas Dept. Agriculture/Division of Water Resources and by Department of the Interior/FWS 4/28/21: Answer by GMD5 5/17/21: Plaintiff response to MTDs due 6/18/21: Discovery stayed pending MTD outcome 10/20/22: MTDs granted Related Cases 0 Notes	Issues FWS Reserved Water Rights The case was dismissed in October 2021. The Court found that the state defendants were entitled to immunity under the Eleventh Amendment, as the plaintiff had not demonstrated a violation of federal law. KDA-DWR was not a party to the 2020 memorandum of agreement (MOA) between the FWS and the local water district, and the allegations of KDA-DWR inaction were not supported by the complaint. "As State Defendants point out, the Chief Engineer of KDA-DWR is required to initiate an investigation upon a complaint that a water right is impaired. Audubon acknowledges that this occurred, and the Impairment Report was issued. But at that point, further action under state law is only required if there is a request to secure water. The [FWS] did make some requests initially. But the most recent one was withdrawn, and the [FWS] has opted not to make further requests to secure water owing to the 2020 MOA. Without a request to secure water, State Defendants have nothing to act on. Thus, there is no current obligation of State Defendants to act under state law." The claims against the federal defendants of both action and inaction under the Administrative Procedure Act (APA) were also dismissed. The Court held that the 2020 MOA was not a final agency action, nor was it a "major federal action," under NEPA. "The Tenth Circuit has held that this type of 'general agreement for state and federal agencies to work together in the future on specific projects...is not final agency action.'" The Court added that under the plaintiff's logic, every day of an ongoing decision-making process would become a final agency action. "It's clear that Audubon passionately disagrees with the path chosen by the [FWS] in this case to address the Refuge Water Right. But the APA does not provide private parties with general oversight of federal agency decision-making." Audubon also claimed that the FWS violated the APA when it failed to protect and secure water rights for the refuge. The Court noted that none of the federal statutes cited include a specific mandate requiring the FWS to carry out specific actions to meet the refuge goals. Audubon further alleged the improper disposal of property, a portion of the Quivera Refuge's water right, without the approval of Congress. "The Court notes that the complaint is silent as to what precise cause of action is asserted on this point, what legal basis Audubon has to sue the [FWS] (or anyone) for this action, or what standing Audubon has to challenge the alleged wrongful disposition of federal property." The federal defendants argued that they continue to hold the water right. Audubon argued that the FWS surrendered its priority to use the water under its water right. The Court construed this as an APA claim as well, and dismissed it for the same reason, that it was not a final agency action. The complaint was dismissed without prejudice. BACKGROUND: The Audubon of Kansas (AOK) sued the U.S. Department of the Interior (DOI), the U.S. Fish and Wildlife Service (FWS), the Kansas Department of Agriculture (KDA), and the Chief Engineer of the KDA Department of Water Resources (DWR), over water resources for the Quivira National Wildlife Refuge (QNWR). The FWS holds a 1957 priority water right to protect the wetlands at the refuge, but groundwater pumping by neighboring junior water users has impacted the water levels at the refuge. The FWS spent decades working with Kansas trying to resolve its water right impairment concerns before filing a formal complaint with KDA-DWR in 2013. The DWR's investigation found that the QNWR's water rights were impaired by groundwater pumping. The Big Bend Groundwater Management District No. 5 (GMD5) sought to reduce water use and address declining streamflows through a Local Enhanced Management Area (LEMA) plan, but it was rejected as inadequate. In 2019 DWR prepared to reduce the water use of the junior water rights. Senator Jerry Moran (R-KS) and then-Representative Roger Marshall (R-KS) brokered an agreement between the FWS, KDA, and GMD5 to postpone administration of water rights to allow more time to seek a remedy to the impairment. AOK alleged violations of the National Wildlife Refuge System Improvement Act, the Administrative Procedures Act, the Endangered Species Act, and the National Environmental Policy Act. AOK asserted that the FWS must obtain water supplies through the federal reserved water rights doctrine with a 1955 priority date that coincides with the creation of the QNWR, plus additional state-law water rights to ensure adequate water supplies for the QNWR. AOK sought orders requiring FWS to obtain court injunctions that require the long-term curtailment of junior groundwater rights, and to request "the full administration of all water rights in the Rattlesnake Creek sub-basin that have impaired and are impairing the Refuge Water Right...." In their motion to dismiss, the federal defendants argued that the plaintiff has misinterpreted the relevant statutory mandates and that the federal agencies have discretion. Both state and federal defendants also raised sovereign immunity issues.
Case Name	Issues 401 Certification

In re: Clean Water Rulemaking Consolidated cases: American Rivers et al. v EPA (#20-cv-04636); California et al. v. EPA (#20-cv-04869); Suquamish Tribe v. EPA (#20-cv-06137) Case Number 3:20-cv-04636 Court U.S. District Court for Northern California Relevant Dates California et al. v. EPA 7/21/20: Lawsuit filed 9/30/20: Answer by intervenor states 10/6/20: Answer by EPA 10/19/20: Answer by intervenor petroleum organizations 10/23/20: Case scheduling order--consolidating cases In re Clean Water Act Rulemaking 11/24/20: Schedule for completing administrative record 6/7/21: Joint Motion to stay case until 6/18/21 granted 7/1/21: EPA Motion to Remand without vacatur 9/30/21: hearing scheduled for motion to remand 10/20/21: Court vacated and remanded the rule Related Cases Delaware Riverkeeper et al. v. EPA (#20-cv-03412) Notes 0	Twenty states, including California, Colorado, Nevada, New Mexico, Oregon and Washington, filed a complaint for declaratory and injunctive relief, challenging the CWA §401 Certification Rule. The complaint alleged APA deficiencies and argued that the new rule “upends fifty years of cooperative federalism by arbitrarily re-writing EPA’s existing water quality certification regulations to unlawfully curtail state authority under the [CWA].” Eight states intervened as defendants, including Montana, Texas, and Wyoming. The court vacated the rule and remanded it back to EPA, providing analysis of the deficiencies of the rule and weighing that against the disruption of vacatur. The court noted the concerns with cooperative federalism, the primary responsibilities of the states under CWA §101(b) and the changed scope of certification after fifty years of precedent. The court cited PUD No. 1, 511 U.S. 700 (1994) regarding state certifications and the authority to impose conditions and limitations on activities once the threshold condition of a discharge is satisfied. “The revised scope of certification that EPA promulgated takes an antithetical position to PUD No. 1 without reasonably explaining the change.” The court acknowledged the intervenor-defendants’ arguments that certifying authorities overreached under the old rule, leading to negative economic effects, particularly with regard to energy projects. But when considering whether to vacate an EPA rule, where the CWA has the express goal to restore and maintain the chemical, physical, and biological integrity of the nation’s waters, the court found that the potential environmental effects outweighed the potential economic consequences.
Case Name Wild Virginia et al. v. CEQ et al. Case Number 3:20-cv-00045 Court US District Court for the Western District of Virginia Relevant Dates 7/29/20: Complaint filed 9/11/20: Motion for Preliminary Injunction denied 9/21/20: Motions to Dismiss for lack of jurisdiction denied 10/22/20: Administrative record lodged 11/19/20: Motion for Summary Judgment filed by environmental plaintiffs 12/21/20: Cross Motions for Summary Judgment filed by CEQ and intervenor industry (farm, cattle, oil, transportation, commerce) defendants 3/17/21: CEQ Motion to Remand the rule 4/21/21: Hearing on MSJs and Motion to Remand 6/21/21: case dismissed without prejudice 7/30/21: Notice of Appeal (#21-1839) 2/18/22: Briefs, Responses, Replies filed in the Appeal Related Cases 0 Notes 0	Issues NEPA Rule Requested that the court vacate the new NEPA regulation issued by the Council on Environmental Quality on July 15, 2020 for various violations of the Administrative Procedures Act and reinstate the 1978 NEPA regulations. The court dismissed after finding that the plaintiffs claims were not justiciable, whether the claims are unripe (lack of concrete harm) or the plaintiffs lack standing to bring their claims. Environmental groups filed a notice of appeal.
Case Name Colorado v. EPA et al. Case Number 1:20-cv-01461 Appeals: Consolidated (20-01238, 20-01262, 20-01263) Court	Issues WOTUS Colorado challenged the 2020 Navigable Waters Protection Rule under APA and NEPA. Although Colorado defines its “waters of the state” more broadly than WOTUS and prohibits discharge of pollutants into state waters, Colorado does not have a state equivalent of a 404 discharge permit program. Establishing its own permitting program for fill activities to address the sudden decrease in federal jurisdiction under the 2020 Rule would require that the State of Colorado amend the Colorado Water Quality Control Act, promulgate new regulations, and appropriate millions of dollars for new permitting and mitigation programs – the outcomes of which are far from certain and would likely take years to complete. Until Colorado does this, fill activities cannot occur in waters that are not subject to federal jurisdiction. The narrowed definition of waterbodies subject to federal Clean Water Act

U.S. District Court for Colorado 10th Circuit Relevant Dates 3/22/20: Lawsuit filed 6/1/20: Motion for Preliminary Injunction 6/19/20: Preliminary Injunction granted (CO only) 6/23/20: EPA/Corps appeal to 10th Cir. re: preliminary injunction 7/15/20: Motions to intervene granted (Sacketts, Business defendants) (they also subsequently appealed the preliminary injunction order) 7/20/20: Amended complaint against all defendants 8/3/20: Answers to amended complaint filed 8/6/20: Scheduling order - pending Appeal decision 9/2/20: Administrative record filed 4/21/21: Stay granted through 6/14/21 6/9/21: Colorado request for further stay, in light of EPA/Corps announcement of filing motions for remand and engaging in a new WOTUS rulemaking 7/14/21: EPA/Corps motion to hold in abeyance granted, case administratively closed 1/18/22: Case held in abeyance and remains administratively closed until new WOTUS rule is final. Appeal 11/18/20: hearing on consolidated appeals 2/2/21: Motion to Stay (re EO 13990, 86 FR 7037) 3/2/21: 10th Cir. reversed/vacated injunction and remanded, 989 F.3d 874 Related Cases 0 Notes 0	jurisdiction creates a '404 permitting gap' where certain development and infrastructure activities will not be able to take place." This could have enormous negative consequences on Colorado's infrastructure, economy, businesses, and local governments. The court reluctantly granted a preliminary injunction, staying the effective date of the 2020 Rule in Colorado. The court noted that "Rapanos arguably forecloses every formulation" of WOTUS proposed so far. The 10th Circuit reversed and remanded. The appeals court held that the district court abused its discretion in granting Colorado a preliminary injunction enjoining the federal agencies from implementing the Navigable Waters Protection Rule (NWPR) where Colorado had not shown irreparable injury. Specifically, a state agency official's declaration did not specify when Colorado would have needed to take enforcement action in place of the federal government, but merely raised, at most, the mere possibility of the potential for a small increase in Colorado's enforcement burden at some point in the future. Moreover, the economic harm stemming from Colorado's inability to authorize the discharge of dredged or fill material into disputed waters was self-inflicted, and there was too tenuous a causal link between the allegations of environmental harm and the jurisdictional changes made by the NWPR. (Colorado v. EPA, 989 F.3d 874) On remand, the parties and district court agreed to hold the case in abeyance until the agencies issue a new final rule regarding the definition of "waters of the United States" within the meaning of the Clean Water Act, 33 U.S.C. § 1362(7), or a determination by the Agencies that they will no longer proceed with the pending rulemaking.
Case Name California et al. v. Wheeler et al. Case Number 3:20-cv-3005 Court U.S. District Court for the Northern District of California Relevant Dates	Issues WOTUS CA, NM, OR and WA, with 13 other states, challenged the 2020 Navigable Waters Protection Rule on APA grounds. "The 2020 Rule discards the 'significant nexus' standard for [WOTUS] set forth in Justice Kennedy's concurring opinion in Rapanos v. United States, 547 U.S. 715 (2006) and endorsed by a majority of the Justices on the Court.... [The Rule] improperly relies on and implements the plurality opinion in Rapanos which did not command a majority of the Court's Justices and is not consistent with the [CWA's] text, structure and purpose. Contrary to the Act's objective 'to restore and maintain the chemical, physical and biological integrity of the Nation's waters,' 33 U.S.C. § 1251(a), the [Rule] excludes many waters, including ephemeral streams and many wetlands, from the scope of [WOTUS] and thereby deprives these waters of CWA protections." The states allege: "By eliminating CWA protections for all ephemeral streams, many wetlands, and other waters...the [Rule] also contradicts...the scientific evidence and the

5/1/20: Lawsuit filed by 17 states 6/1/20: 23 states and 15 industry trade organizations move to intervene as defendants 6/19/20: Request for preliminary injunction denied 8/10/20: EPA/Corps Answer filed 8/14/20: Sackett appeal to 9th Circuit re: motion to intervene 8/31/20: Administrative record (amended) filed 11/23/20: Plaintiff states MSJ filed 1/19/21: EPA/Corps Opp./Response and cross-MSJ filed 1/22/21: Virginia Opp./Response and cross-MSJ filed 2/17/21: Congress amicus brief in support of Plaintiff states' MSJ; court granted leave to file this and other amicus briefs, and granted the stay requested by DOJ re: Biden EO 13990. 4/16/21: EPA/Corps Motion to Stay granted 7/16/21: EPA/Corps Motion to Remand 8/6/21: Amicus brief supporting remand without vacatur (by farm, cattle, oil amicus) 9/2/21: Hearing on Motion to Remand cancelled; no oral argument, decision on written briefs 9/16/21: Motion to remand granted Related Cases Conservation Law Foundation et al. v. EPA (#20-cv-10820), U.S. Dist. Mass.; South Carolina Coastal Conservation League et al. v. Wheeler et al. (#20-cv-01687), U.S. Dist. S. Carolina; Murray v. Wheeler (U.S. District Court, Northern New York, #19-cv-1498); Chesapeake Bay Foundation v. Wheeler (#20-cv-1064) U.S. Dist. Maryland; Puget Soundkeeper Alliance et al. v EPA et al., U.S. District Court for the District of Arizona at Tucson; Pasqua Yaqui Tribe et al. v EPA et al., U.S. District Court for the Western District of Washington Notes 0	Agencies' prior factual findings.... The [Rule] harms the States and Cities by limiting the waters subject to the Act's protections, thereby exposing the States' and Cities' waters to pollution entering from jurisdictions that are less protective of their waters; putting the States and Cities at a competitive disadvantage by incentivizing industry to relocate to upstream states with less stringent water quality protections; disrupting the States' and Cities' regulatory programs; and threatening injury to the States' and Cities' sovereign and proprietary interests." AK, ID, KS, MT, NE, ND, OK, SD, TX, UT, WY and 12 other states moved to intervene, assrtng that sovereign lands and waters within state borders are potentially subject to federal jurisdiction and that the ability to "regulate and protect intrastate waters is an important element of state sovereignty." They add that "the scope of the term 'waters of the United States' does not just set federal jurisdiction over waters within the State; it sets the scope of the States' responsibilities under the [Clean Water Act (CWA)]." In addition, the intervening States "...believe the 2020 Rule strikes a reasonable balance between the roles of the federal regulators and the States in protecting land and water resources...and view [it] as a substantial improvement over the prior rule." The court rejected the plaintiffs' motion for a preliminary injunction, noting that the 2020 Rule presents an entirely new question not addressed by Rapanos, whether the new rule has gone far enough. Given the ambiguity of "navigable waters" and Chevron deference, the court was unwilling to substitute its judgment for the policy choices of the agencies at this stage of the litigation.
Case Name Center for Biological Diversity et al. v. Interior et al. Case Number 4:20-cv-106 Court U.S. District Court for the District of Arizona Relevant Dates 3/13/20: Lawsuit filed 6/8/20: DOI/Army Answer 9/15/20: Administrative Record filed 11/13/20: Plaintiffs MSJ filed 3/26/21: Federal cross-MSJ filed 3/26/21: Motion to supplement Admin Record 9/21/21: Oral argument on MSJs Related Cases 0 Notes 0	Issues ESA The lawsuit challenges the assumptions of a 2014 FWS biological opinion, over groundwater pumping for use by Fort Huachuca and its contractors near the San Pedro River. Plaintiffs challenge the reliance on speculative water savings from agricultural water easements that hadn't been used for years, ignoring the effects of pumping on river base flows over an extended period of time, failure to analyze the effects of climate change, and alleges various other (ESA) violations. The lawsuit seeks to vacate the 2014 biological opinion and order the defendants to reinstate consultation on the effects of continued groundwater pumping associated with the Fort on listed species.
Case Name Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water Dist. Case Number 5:20-cv-00174 Court U.S. District Court for the Central District of California Relevant Dates	Issues Indian Reserved Water Rights At issue is whether the water district's assessment of fees (replenishment assessment charges, RAC) on the tribe's production of its federally reserved groundwater is preempted as a matter of federal law. The water district uses Colorado River water to recharge the aquifer. The RACs are imposed on water production in designated areas of benefit—including much of the Agua Caliente Reservation—to cover the costs of artificial recharge programs. The tribe argues that the RACs unlawfully interfere with its inherent and exclusive sovereign authority to regulate its water resource.

1/24/2020: case filed
 3/13/2020: Answers filed by Desert Water Agency and Coachella Valley Water District
 6/22/2020: Defendants motion to bifurcate case
 6/29/2020: Plaintiff's opposition to bifurcation
 7/20/20: Motion denied; case management order modified to extend deadlines
 10/6/20: Case stayed pending private mediation
 3/23/21: Stay extended
 10/6/21: Stay extended
 2/3/22: Stay extended (through 6/1/22)

Related Cases

Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District, et al., 13-883

Notes

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Case Name	Issues
South Carolina Coastal Conservation League (CCL) et al. v. EPA et al. Case Number 2:19-cv-03006 Court U.S. District Court for the District of South Carolina Relevant Dates 10/23/19: case filed 12/18/20: Motion to intervene by various farm, ranch, mining, and other organizations 2/18/20: Case stayed 5/29/20: Case stayed 12/23/20: Case stayed 7/12/21: Case stayed 9/23/21: Case stayed 12/20/21: Stipulation of Dismissal without prejudice Related Cases 0 Notes 0	WOTUS CCL sued to vacate the agencies' recent rule (84 Fed. Reg. 56626) repealing the 2015 WOTUS Rule. The CCL plaintiffs allege: "Like the Suspension Rule earlier invalidated by this Court...the present rulemaking violates fundamental provisions of administrative law in furtherance of an ongoing campaign to diminish and impair the protections of the Clean Water Act – a bedrock federal statute that protects America's waters from pollution." The CCL plaintiffs allege that the repeal has been carried out by executive fiat, disregarding the federal rulemaking requirements and the views of the American public, as well as failing to consider the relative merits of the 2015 Rule or the pre-2015 regime. "The Final Repeal Rule also reinstates an illegal regime – the regulations that pre-dated the Clean Water Rule as limited by guidance – that runs contrary to Supreme Court precedent, unlawfully leaving certain waters of the United States unprotected due to the guidance's unduly narrow interpretation of Justice Kennedy's significant-nexus test." The CCL plaintiffs claim nine violations of the APA: (1) a predetermination to repeal the 2015 WOTUS Rule; (2) failure to consider and address the effects of the repeal; (3) failure to provide a reasoned explanation for the repeal; (4) failure to discuss alternatives; (5) failure to provide a meaningful opportunity to comment; (6) failure to publish the text of the proposed and final rules; (7) failure to demonstrate that the repeal is consistent with the CWA; (8) arbitrary reinstatement of unlawful pre-2015 regulations; and (9) failure to provide a meaningful opportunity to comment on the economic analysis.

Case Name	Issues
New Mexico Cattle Growers' Association (CGA) v. EPA et al. Case Number 1:19-cv-00988 Court U.S. District Court for the District of New Mexico Relevant Dates 10/22/19: Case filed 4/27/20: Amended Complaint 7/16/20: Notice of briefing complete on Motion for Prelim. Injunction 2/10/21: Order denying PI motion without prejudice; granting DOJ motion for stay re: Biden EO 13990 (new WOTUS rule) 5/26/21: Stay continued 10/5/21: Stay continued through 4/1/22 Related Cases Washington Cattlemen's Association v. EPA (U.S. District Court Western Washington, #19-cv-569) (Motion to consolidate with Puget Soundkeeper Alliance filed on 8/27/20); Oregon Cattlemen's Association v. EPA (U.S. District Court Oregon, #19-cv-564) (Motion for prelim injunction denied on 8/7/20) Notes 0	WOTUS The lawsuit initially challenged the October 2019 readoption of the 1986 regulations, when the agencies repealed the 2015 Clean Water Rule defining "waters of the United States" (WOTUS) and "recodified" the guidance in place prior to the 2015 rule. The amended complaint expands that challenge to the 2020 Navigable Waters Protection Rule. NMCGA argues that the agencies' interpretation of the term "navigable waters" exceeds "...the agencies' statutory authority under the Clean Water Act and the Congressional Review Act, or Congress' authority under the Commerce Clause, the Due Process Clause, the Non-Delegation Doctrine, and the Tenth Amendment. Plaintiff asks this Court to declare that several provisions of the Clean Water Act, the 1986 Regulations, and related guidance, and/or the Navigable Waters Protection Rule, are statutorily and constitutionally invalid, and to enjoin their enforcement." The complaint alleges that, even under the Navigable Waters Protection Rule, many of the waters included within the four categories – e.g., territorial seas and waters used for commerce, tributaries, lakes and ponds, and adjacent wetlands – "do not stand or flow year-round, and many of these non-perennial waters are only present for days or weeks before they dry up. EPA and the Army regulate discharges to the locations of these waters even though the 'waters' only occupy those locations for a few days or weeks in any given year."

Case Name Save the Colorado, et al. v. DOI Case Number 3:19-cv-8285 Court U.S. District Court for the District of Arizona Relevant Dates 10/1/2019: Complaint 12/5/2019: DOI answer 4/2/2020: Joint Motion to Intervene by Colorado, California, Arizona Department of Water Resources, Nevada, Utah, and Wyoming 4/30/2020: Joint Motion to Intervene by Southern Nevada Water Authority, Central Arizona Water Conservation District, and Metropolitan Water District of Southern California 6/2/20: Administrative record filed 7/2/20: State joinder to answer 10/9/20: Addition to Admin record filed 4/2/21: Briefing on Motion to Supplement Administrative Record complete 1/22/22: Plaintiffs MSJ 3/13/22: DOI's MSJ Related Cases 0 Notes 0	Issues Colorado River Plaintiffs allege that DOI failed to take into consideration the effects of climate change and the aging infrastructure of the Glen Canyon Dam in its environmental analysis of future operations. They also assert that DOI failed to consider the alternatives of decommissioning the dam, filling Lake Mead first, and returning the river to its natural flow. The plaintiffs seek to set aside DOI's final environmental impact statement for violations of NEPA, and to require the inclusion of the impacts of climate change and a reasonable range of alternatives in the proposed action. DOI denied all the allegations, and asserted that the plaintiffs are not entitled to the relief they seek, and that the court lacks subject matter jurisdiction. The Colorado River Basin states and agencies intervened, joining in DOI's answer, and laid out the intricate complexities of the Law of the River, with its many compacts, treaties, Congressional deference to state water rights and laws, and ongoing efforts among the states and various other organizations and interested parties to manage the flow, salinity, and ecological benefits of the river.
Case Name Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District, et al. Case Number 5:13-cv-883 Court U.S. District Court for the Central District of California Relevant Dates 5/2013: Agua Caliente filed suit 3/27/2015: Summary judgment re: groundwater available as part of reserved water right 10/18/16: Oral arguments on interlocutory appeal, 9th Cir. 3/7/17: 9th Circuit panel decision on Phase I reserved groundwater appeal from CA court 6/5/17: Tribe's Motion to Lift Stay granted; CA Dist. Ct. proceeding with Phase II 7/5/17: Petition for Certiorari from DWA and CVWD 8/7/17: Amicus brief in support of Petition for Cert, filed by NV, AZ, AR, ID, NE, ND, SD, TX, WI, WY 11/27/17: S. Ct. denied Cert 4/19/19: Dist. Ct. granted Defendants' MSJ on Phase II 8/14/19: Dist. Ct. denied motion to reconsider 10/12/19: Tribe's motion for amended complaint 11/25/19: DWA's opposition to amended complaint 7/17/20: Agua Caliente filed its amended complaint 7/31/20: Answers to amended complaint 10/6/20: Case stayed pending private mediation 3/23/21: Stay extended 10/6/21: Stay extended 2/2/22: Stay extended Related Cases	Issues Indian Reserved Water Rights On April 19, 2019, the U.S. District Court for the Central District of California granted the defendants' motions for summary judgment, which argued that the tribe does not have standing to assert its claims. The court agreed, noting that although there may be injury to the groundwater in the form of overdrafts and the practice of recharge with lower-quality Colorado River water, the tribe has not demonstrated injury to its ability to use water of a sufficient quality or quantity to fulfill the purposes of the reservation. Similarly, the court held that the tribe did not demonstrate that the defendants interfered with the tribe's right to use the aquifer's pore spaces to store its reserved water rights. On August 19, 2019, the court denied DOJ's motion to reconsider. On October 12, 2019, the tribe filed a motion to amend and supplement its complaint, modifying its claims and allegations regarding ownership of pore spaces in the aquifer, providing additional information about the amounts of natural and artificial water recharge, pumping, and overdraft in the valley, the tribes efforts to resume groundwater production and intention to store its reserved water rights in the aquifer, which would be frustrated by the water districts' continuous pumping and their assertion of jurisdiction over the tribe's aquifer pore space for non-tribal aquifer recharge programs. On November 25, 2019, the DWA filed a motion opposing the amended complaint, arguing that the tribe still lacks standing because it hasn't alleged facts that show actual or imminent harm from the water districts' actions. On July 17, 2020, the tribe filed its amended complaint. BACKGROUND: The Agua Caliente Band of Cahuilla Indians filed a lawsuit in May 2013, asking the Court to declare and quantify the existence of the tribe's water rights as the senior rights in the Coachella Valley under federal law. In March 2015, the District Court ruled on summary judgment that the Agua Caliente Band of Cahuilla Indians has a reserved right to water, and groundwater is a water source available to fulfill that right. The Court denied the Tribe's claim for aboriginal title to groundwater. The case was trifurcated, with phase II addressing whether the Tribe beneficially owns the "pore space" of the groundwater basin underlying the Reservation, and whether a tribal right to groundwater includes the right to receive water of a certain quality. Phase III will focus on the quantification of the Tribe's right. (Note: The order of Phase II and Phase III appears to have been reversed. as litigation continued.) On March 7, 2017, the 9th Circuit upheld the California District Court's summary judgment, holding that the United States implicitly reserved a right to water when it created the Agua Caliente Reservation, and that the Tribe's reserved water right extends to the groundwater underlying the Reservation. The court expressed "no opinion on how much water falls within the scope of the Tribe's federal groundwater right," since that will be determined at a later phase of the case. However, even with water under state-law entitlements, "there can be no question that water [from the aquifer] in some amount was necessarily reserved to support the reservation created." On July 5, 2017, the Defendant water agencies filed petitions for cert. On August 7, 2017, NV, AZ, AR, ID, NE, ND, SD, TX, WI, and WY filed an amicus curiae brief, arguing that the 9th Circuit's expansion of the federal reserved water rights doctrine unsettles the scope of the states' authority over groundwater resources, and that the decision is inconsistent with caution courts must exercise when altering the federal-state balance by interfering with state sovereign power, particularly when applying implied Congressional intent. It calls the decision an "indiscriminate application of the

9th Circuit #15-55896

Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water Dist., 5:20-cv-00174

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For more information see: <http://www.scotusblog.com/case-files/cases/coachella-valley-water-district-v-agua-caliente-band-cahuilla-indians/> and <https://www.narf.org/cases/agua-caliente-v-coachella/>

Winters doctrine to groundwater” that ignores the nuances of past court decisions and expressed Congressional intent. The Supreme Court denied the petition for cert on November 27, 2017.

Case Name California v. Bureau of Land Mgmt. Case Number 18-521 20-16157 Court U.S. District Court for the Northern District of California 9th Circuit Relevant Dates 1/24/18: Lawsuits filed 7/17/18: U.S. Motion to transfer case to Wyoming denied 10/9/18: BLM lodged administrative record with the court 6/3/19: CA filed Motion for Summary Judgment 8/2/19: BLM filed Cross Motion for Summary Judgment 8/23/19: WY and petroleum organizations filed Cross MSJs 1/22/20: Hearing on MSJs 3/27/20: BLM and WY's Cross MSJ's granted, CA's MSJ denied 6/12/20: CA filed appeal, 9th Cir. #20-16157 10/21/20: Opening briefs 11/20/20: Answering brief 2/11/21: Reply briefs 2/19/21: Mediation conference scheduled for March 1 3/19/21: Case administratively closed until May 18 5/20/21: Closure for mediation extended to August 16 8/16/21: Closure extended 11/12/21: Closure extended 2/10/22: Closure extended to May 16, 2022 Related Cases Sierra Club et al. v. Zinke, No. 18-524 (consolidated) Notes	Issues Hydraulic fracturing On December 28, 2017, the Bureau of Land Management (BLM) published its Federal Register notice of the final decision to rescind the stayed 2015 Hydraulic Fracturing Rule. BLM's review of the Rule found that all 32 of the states with federal oil and gas leases have regulations to address hydraulic fracturing, and that companies are disclosing the chemical content of their hydraulic fracturing fluids using FracFocus or other state regulatory databases. Rescinding the 2015 Rule was also considered consistent with the Administration's Executive Order 13771 to reduce the costs of regulatory compliance. On January 24, 2018, California and several environmental groups sought to vacate the rescission and reinstate all of the Hydraulic Fracturing Rule's provisions. CA argues that hydraulic fracturing on federal and Indian lands, particularly those not subject to state jurisdiction, will impact surface water and groundwater resources, air pollution, and seismicity from the disposal of wastewater. Additionally, states do not have BLM's stewardship standards and trust responsibilities over federal lands.). California said that although new administrations are entitled to change policy positions, the APA requires a reasoned explanation for those changes, particularly addressing any inconsistencies with prior factual findings. California argues that state and tribal regulations fall short of the 2015 Rule requirements. "For example, at least six of the nine states where the majority of fracking on federal land occurs did not require the use of tanks instead of pits for containing injection waste fluids, as the Fracking Rule does. Additionally, most of the nine states' regulations on monitoring and verifying the integrity of cement casing fell short of the Fracking Rule's requirements. The Fracking Rule contemplated concurrent state regulation of wells on federal lands and in no way prevented states from enacting stricter requirements. States or tribes could also apply for a variance from the requirements of the Fracking Rule." State requirements also differ "with regard to mechanical integrity testing, pressure monitoring during hydraulic fracturing operations, and post-fracturing disclosure requirements." The district court rejected CA's arguments. "The Court's task is not to decide whether the changes [BLM] seek[s] to make will result in better or worse environmental policy...[or] to decide whether it would find the rationales advanced by the agency compelling (or even persuasive) if it were reviewing the matter from scratch. Instead, the narrow APA question before the Court is whether the admitted policy change represented by the Repeal was so inadequately explained as to be arbitrary and capricious." The court added that it may not question BLM's choice to weigh socioeconomic concerns more heavily than the value of consistent federal regulations the 2015 rule may have provided. The court also rejected Wyoming's argument that BLM lacked authority to promulgate the rule. Aside from the fact that the 2015 rule wasn't before the court (only the repeal of the rule), the court said BLM never conceded that it lacked legal authority, only eliminated the need for further litigation over BLM's statutory authority by repealing the rule. The case is now on appeal before the 9th Circuit.
Case Name Mississippi v. Tennessee Case Number No. 22O143 Court U.S. Supreme Court Relevant Dates	Issues Interstate Groundwater, Equitable Apportionment On November 22, 2022, the U.S. Supreme Court dismissed a suit Mississippi brought under an original action against Tennessee for damages and other relief related to the pumping of groundwater by the City of Memphis from the Middle Claiborne Aquifer, a valuable water resource that lies beneath eight states. Mississippi argued that Tennessee's pumping - using wells Mississippi conceded are located entirely in Tennessee - siphons water away from Mississippi and amounts to a tortious taking of groundwater owned by Mississippi. The Supreme Court disagreed, concluding that the groundwater is subject to equitable apportionment. "Equitable apportionment aims to produce a fair allocation of a shared water resource between two or more States. The doctrine's 'guiding principle' is that States 'have an equal right to make a reasonable use' of a shared water resource...."

6/6/2014: Motion for leave to file complaint
 8/12/2016: Special Master's Memorandum of Decision on various motions
 11/29/18: Special Master denied Tennessee's MSJ
 12/21/18: TN and MS filed pre-hearing briefs
 5/20/19-5/24/19: Evidentiary hearing (transcripts posted)
 9/19/19: Post hearing briefs
 2/25/20: Closing arguments
 11/5/20: Special Master's Report
 2/22/21: MS and TN filed exceptions
 4/29/21: Amicus brief filed by CO, ID, NE, NC, ND, OR, SD, & WY
 7/2/21: Exceptions to the Special Master's Report set for oral arguments "in due course"
 10/4/21: S. Ct. Oral Arguments
 11/22/21: S. Ct. Ruling: Exceptions to the Special Master Report overruled in part and sustained in part, and case dismissed

Related Cases

Hood ex rel. Mississippi v. City of Memphis, Tenn., 533 F. Supp. 2d 646 (N.D. Miss. 2008) (aff'd 570 F.3d 625 (5th Cir. 2009)); Mississippi v. City of Memphis, 559 U.S. 901

Notes

For more information, see <http://www.ca6.uscourts.gov/special-master>;
<https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/22o143.html>

Mississippi correctly observes that we have never considered whether equitable apportionment applies to interstate aquifers.... Mississippi contends that it has sovereign ownership of all groundwater beneath its surface, so equitable apportionment ought not apply. We see things differently. It is certainly true that 'each State has full jurisdiction over the lands within its borders, including the beds of streams and other waters.' *Kansas v. Colorado*, 206 U. S., at 93. But such jurisdiction does not confer unfettered 'ownership or control' of flowing interstate waters themselves. *Wyoming v. Colorado*, 259 U. S., at 464. Thus, we have 'consistently denied' the proposition that a State may exercise exclusive ownership or control of interstate 'waters flowing within her boundaries.' *Hinderlider v. La Plata River & Cherry Creek Ditch Co.*, 304 U. S. 92, 102 (1938). Although our past cases have generally concerned streams and rivers, we see no basis for a different result in the context of the Middle Claiborne Aquifer."

Case Name

IN RE: Gold King Mine Release in San Juan County, Colorado

Case Number

1:18-md-2824

Interlocutory appeals:

19-02197 (agrued Jan2021)

21-02047 (voluntary dismissal)

Court

U.S. District Court for the District of New Mexico

10th Circuit Court of Appeals

Relevant Dates

Issues

Abandoned Hard Rock Mines

Discovery and motions have continued, with several parties settling their claims in late 2020 and 2021, and motions for partial summary judgment resolving various issues. In March 2022, New Mexico and the Navajo Nation were granted a stay of the claims against the U.S. for settlement negotiations through mid-May 2022.

BACKGROUND: In May and August 2016, New Mexico and the Navajo Nation filed lawsuits in the U.S. District Court in New Mexico against the EPA and mining companies for injuries relating to releases of heavy metals and waste from the Gold King Mine and Sunnyside Mine, requesting relief under CERCLA, RCRA, CWA, and various tort claims. The two cases were consolidated in November 2016. EPA filed a Motion to Dismiss in February 2017, arguing (1) that CERCLA does not waive EPA's sovereign immunity to suit when its sole connection to the site at issue arises from exercising its authority under CERCLA to respond to other entities' legacy contamination; (2) that EPA does not fit the definitions of a liable party under CERCLA; and (3) that EPA is already engaged in remediation efforts, and that judicial review of those efforts is premature or prohibited, and that the parties have other means of participating in and commenting on the agency remediation process. On December 11, 2017, defendant Environmental Restoration filed a motion with the U.S. Judicial Panel on Multi-District Litigation, requesting a transfer of the cases for coordinated or consolidated pre-trial

5/23/16: New Mexico v. EPA filed 8/16/16: Navajo Nation v. EPA filed 11/28/16: NM and NN cases consolidated 2/13/17: EPA Motion to Dismiss consolidated NM and NN cases 4/4/18: MDL for pre-trial proceedings 7/25/18: EPA filed MTD 2/28/19: MTD denied 10/4/19: Environmental Restoration LLC filed interlocutory appeal re applicable SOL 9/1/20: Court granted Utah's motion to dismiss its claims against EPA and certain contractor parties 1/13/21: NM (\$10M) and NN (\$10M) settled claims against mining defendant Sunnyside/Kinross 1/20/21: 10th Cir. appeal argued (Allen v. Environmental Restoration, 19-02197) 2/22/21: Court granted MTD on the Navajo Nation's tort claims against the mining defendants 4/29/21: Kinross (mining) MSJ granted against NM, NN, UT, Allen P's 5/3/21: Kinross MSJ partially granted against EPA's cross-claims 5/24/21: EPA partial MSJ against Kinross personal jurisdiction defense 5/28/21: Weston partial MSJ to dismiss tort claims 6/3/21: Allen plaintiffs requested Rule 54(b) certification to appeal decision on Kinross partial MSJ (denied) 7/21/21: Utah and the mining defendants dismissed their claims against one another with prejudice 7/30/21: Consent decree entered between New Mexico, Navajo Nation, and various mining defendants 8/6/21: Federal defendants sanctioned for spoliation of evidence (P's and mining motions granted in part) Aug/Sept 21: Various partial MSJs between parties completed briefing 3/2/22: Court granted motions to stay for NM and NN claims against the US through 5/17/22 for settlement negotiations.	proceedings. This request was granted on April 4, 2018, and on June 19, 2018, a Special Master was appointed. (MDL-2824). On July 25, 2018, the federal defendants filed a Motion to Dismiss the state and tribal claims for lack of jurisdiction over the CERCLA, RCRA, CWA, and tort claims. On February 28, 2019, the Special Master denied the motion. The DOJ argued that the court lacked jurisdiction to hear the claims due to the sovereign immunity of the United States, asserting that the waiver provisions of the statutes did not apply to EPA's actions in this case. The Court disagreed, finding that EPA qualified as an operator, arranger, and transporter under CERCLA's waiver of sovereign immunity; that the state and tribal plaintiffs were entitled to discovery regarding EPA's discretionary actions for the tort claims; and that the RCRA and CWA claims dealt with facts in dispute, and the federal defendants could file a motion for summary judgment after jurisdictional discovery. Subsequent motions to dismiss from other parties were largely denied, and after the Answers were filed, on June 5, 2019, the Court issued a scheduling order and set the scope of discovery. On October 4, 2019, Environmental Restoration LLC filed interlocutory appeal on whether NM or CO statute of limitations applied (potentially impacting claims of 300 Allen v. US plaintiffs and the scope of discovery)
Related Cases New Mexico v. EPA, 1:16-cv-465; Navajo Nation v. EPA, 1:16-cv-931 (now consolidated with 1:16-cv-465); Utah v. Environmental Restoration LLC et al., 2:17-cv-866; Allen v. US, 18-cv-744; IN RE: Gold King Mine Release in San Juan County, Colorado, on August 5, 2015, 1:18-md-2824 Notes	0
Case Name Texas v. New Mexico and Colorado Case Number #220141 Court U.S. Supreme Court Relevant Dates	Issues Rio Grande Compact Over a six week period in October-November 2021, the Special Master held the first part of a split trial to address issues that couldn't be resolved on summary judgment. Following the trial, the parties entered into settlement discussions, and on March 1, 2022, the parties agreed that trial dates should be scheduled for mid- to late-Fall 2022 for the second half of the trial issues, to encourage them to conduct settlement negotiations in an efficient manner. They noted that the case still presents complex and longstanding issues. BACKGROUND: The state of Texas filed a lawsuit in the United States Supreme Court against the states of New Mexico and Colorado alleging that

1/8/13: Texas filed its complaint
 2/27/14: United States Motion to Intervene
 3/20/17: Special Master Report received by the Supreme Court
 8/4/17: Kansas amicus brief in support of Texas re: interstate compacts and impact of upstream groundwater diversions
 1/8/18: S. Ct. oral arguments
 3/5/18: S. Ct. decision to allow US to intervene
 5/23/18: NM filed Answers and Counterclaims
 7/20/18: TX Answer
 7/23/18: U.S. Answer
 12/21/18: U.S. Motion for Judgment on the Pleadings
 12/26/18: Texas and New Mexico motions for partial judgment
 4/2/19: Hearing on motions before Special Master
 3/31/20: Status conference to discuss completion of discovery, to set hearing dates, to establish a trial date, and to discuss potential for settlement
 6/25/20: Mediator appointed
 11/5/20: Texas, U.S., and New Mexico's respective partial MSJs filed
 12/22/20: responses to partial MSJs filed
 3/9/21: Partial MSJ hearing
 5/21/21: Order granting and denying various MSJ issues
 8/19/21: Texas Motion for Continuance of Trial (COVID concerns)
 October - November 2021: First half of split trial
 3/1/22: Settlement negotiations continue; request for Fall 2022 second half of trial.

Related Cases

Notes

For more information, see <https://www.ca8.uscourts.gov/texas-v-new-mexico-and-colorado-no-141-original> and <https://www.scotusblog.com/case-files/cases/texas-v-new-mexico-and-colorado/>

New Mexico is violating the 1939 Rio Grande Compact, which governs the distribution of Rio Grande water among the three states. New Mexico denies this allegation. The United States filed a motion to intervene on the grounds that the case affects the Department of Interior's management of the Reclamation's Rio Grande Project, its calculation of diversion allocations, and its responsibility to deliver water to intended Project beneficiaries and to Mexico pursuant to Treaty. New Mexico filed a motion to dismiss on the grounds that the language of the compact could not provide the relief requested by Texas, and that the United States is not a party to the Compact. The case was referred to Special Master in November 2014. Two political subdivisions (water districts supplied by and the sole direct beneficiaries of the Rio Grande Project) of New Mexico and Texas also sought to intervene on the grounds that they have compelling interest in the case not properly represented by their respective states. On February 9, 2017, the Special Master submitted the First Interim Report with recommendations on several preliminary motions, including: (1) denying New Mexico's Motion to Dismiss Texas' complaint, which alleges a claim under the text and structure of the compact; (2) rejecting the United States' federal Reclamation claims as outside the interstate compact, but recommending that the Supreme Court exercise its discretion to hear the claims together since they impact the same project; and (3) denying the motions to intervene from the Elephant Butte Irrigation District and the El Paso County Water Improvement District No. 1, as both districts failed to satisfy the burden to establish compelling interests separate from the interests of New Mexico or Texas. On March 5, 2018, the Supreme Court ruled that the United States may pursue its complaint as an intervenor, asserting its claim that New Mexico has violated the Rio Grande Compact, and remanded the case back to the Special Master. On May 21, 2021, the Special Master issued a ruling on several issues submitted for summary judgment: (1) the 1938 Compact unambiguously establishes that New Mexico receives part of its apportionment above and part below the Elephant Butte Reservoir, with the downstream portion delivered exclusively by Reclamation's Rio Grande Project; (2) the groundwater and surface water downstream of the Reservoir are hydrologically interconnected to a sufficient degree that groundwater pumping generally reduces return flows and affects Rio Grande surface water flows, resulting in indirect capture of Rio Grande Compact water; (3) New Mexico has a Compact-level duty to avoid material interference with Reclamation's delivery of Compact water to Texas, including groundwater pumping that captures Rio Grande surface water "to the extent that the overall impact of such capture is inconsistent with Compact water deliveries to Texas or interferes with long-term operation of the Project"; (4) the Compact protects the Rio Grande Project, its water supply, and the baseline operating condition--however, there are "material factual disputes concerning the baseline condition and the full scope of the effect of New Mexican pumping on Project operations"; and (5) New Mexico admits that groundwater pumping beyond disputed limits affects surface water supplies, but disputes the extent of the interference and the extent to which interference rises to the level of a Compact violation. Several other Compact interpretation details were addressed and left for trial. The Special Master denied the United States' request for injunctive relief against New Mexico, noting that the propriety of that relief "remains to be determined based on the detailed resolution of issues identified above and based on proof of damages taking into account as of yet unresolved issues including: acquiescence, equitable defenses, and any offsetting harm a state's own actions have caused. It is anticipated any such relief, if proven necessary, will be directed against a state as a whole but hopefully will include sufficiently specific requirements to ensure immediate and practical relief to the prevailing party."

Tab O – Water Data Exchange (WaDE) Update

Water Data Exchange (WaDE) Program Update for Spring 2022

Adel Abdallah: WaDE Program Manager

Ryan James: WaDE Data Analyst / Hydroinformatics Specialist

Tony Willardson: Western States Water Council Executive Director

The WaDE Program is committed to assisting WSWC member states in publicly sharing water rights, allocation, supply, and use data through a streamlined and standardized service that enables regional analyses to inform water resources planning and policies

<https://westernstateswater.org/wade>

This report provides a brief update of the WaDE Program's progress over the period from September 2021 through March 2022 in the following three areas: (1) WaDE Financial Updates; (2) Technical Activities; (3) Key Outreach and Coordination Activities.

1. Financial Updates

We are very excited to report that the WaDE Program has secured \$1.310 million to fund its development for the next two to three years from four grants. WSWC has already signed the agreements for two grants with the Internet of Water (IOW) from the BHP and Moore Foundations. WSWC is currently finalizing contracts with the Water Foundation and for a WaterSmart Applied Science grant from the Bureau of Reclamation (Figure 1).

Approximately \$300,000 of this funding will cover contracting expenses to build the Western States Water Data Access and Analysis Tool (WestDAAT) as a frontend dashboard for WaDE data. WestDAAT will provide user-friendly and standardized access to water rights and water use data for eighteen western states.

The grants will also cover, staff salary and benefits, hiring one or two interns, travel and workshops, and software and cloud hosting expenses.

WaDE Grants and their Deliverables: \$1.310 M (2022-2025)



Moore Foundation Ext.

Oct 2021-Sept 2022

\$150,000

A focus on sharing site-specific water use time series data and working with USGS

- ☐ Complete the pilot data sharing project between WaDE and the USGS Water Availability and Use Science Program for selected states' water use data
- ☐ Survey western states water program capabilities and publish an updated report
- ☐ Convene a Water Information Management Systems (WIMS) workshop in 2022
- ☐ Complete a final summary report



BHP

Oct 2021-Sept 2022, 2025

\$150,000, \$+300,000

A focus on sharing state-operated site-specific streamflow and reservoir data

- ☐ Curate, organize, and standardize streamflow and reservoir data from state agencies that will be accessible via WaDE's Application Programming Interface (API)
- ☐ Complete and implement the pre-design of the WestDAAT engagement campaign
- ☐ Hold 5-7 in-person or virtual user engagement meetings
- ☐ Prepare and share a summary report on the engagement campaign.
- ☐ Explore eastern states' interest in using WaDE to share water use data



WaterSmart

April 2022-March 2024

\$200,000

A focus on providing access to water rights data especially users of Bureau of Reclamation water

- ☐ Proof the Western Water Data Access and Analysis Tool (WestDAAT) – Water Rights tab
- ☐ Discover and visualize Bureau of Reclamation water rights by state, basin and project
- ☐ Work with Reclamation's internal water rights data base project and import data to WaDE
- ☐ Import Point of Diversion (POD) and Place of Use (POU) data for water rights
- ☐ Operationalize WestDAAT to query, analyze and visualize water rights data
- ☐ Develop WestDAAT use cases focused on improving water management
- ☐ Make WestDAAT interoperable with Reclamation, EPA and USGS federal data sets via the Internet of Water, USGS GeoConnex and Network Linked-Data Indexed (NLDI) framework



Water Foundation

April 2022-March 2025

\$510,000

A focus on outreach, building WestDAAT, and providing access to aggregate data, all in the Colorado River Basin

- ☐ Refine the WestDAAT build out
- ☐ Further develop descriptive narrative use case story maps that demonstrate applications
- ☐ Complete streamlined programmatic API endpoint calls for WaDE data
- ☐ Complete a post-development outreach campaign that engages states and federal agencies in water data and analysis discussions using WestDAAT
- ☐ Prepare a summary report on aggregate water use data in the Colorado River Basin and identify data gaps and lessons learned
- ☐ Consider potential and utility of a media event recognizing the completion of WestDAAT

Figure 1: Summary of the four grants funding WaDE for 2022-2025 and their deliverables

This funding will propel the WaDE Program well into its third phase to provide streamlined access and consistent analysis to water rights and water use for our eighteen western states (Figure 2).

During the next two years, in cooperation with the Internet of Water, we plan to formulate a sustainability plan for the WaDE Program that maintains and expands its water data access and analysis services beyond 2024.

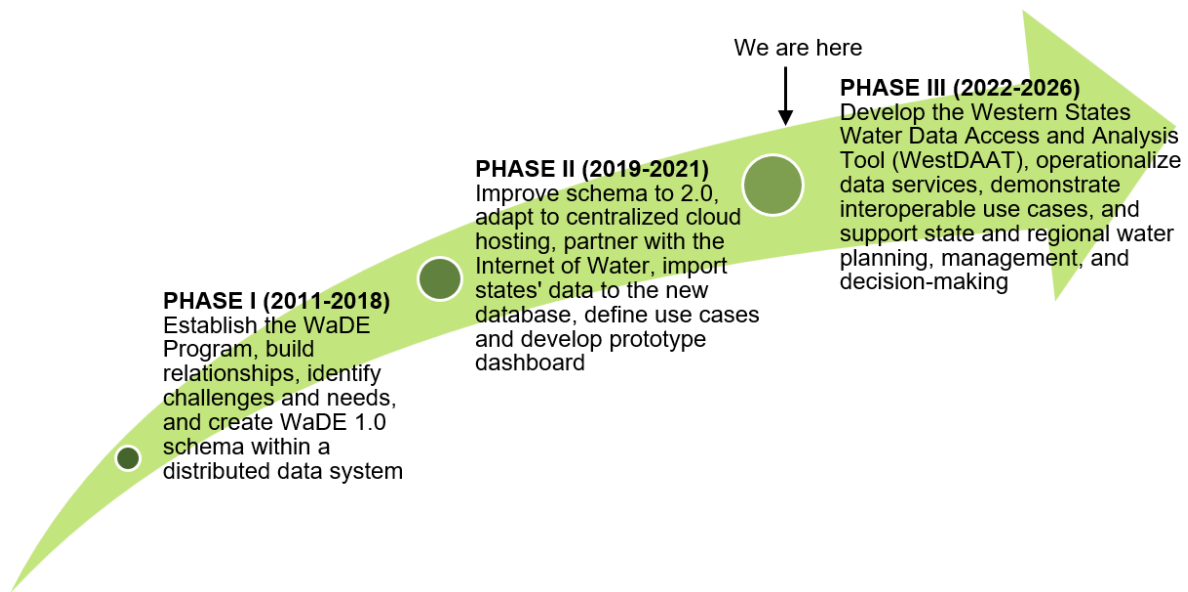


Figure 2: The Water Data Exchange (WaDE) Program’s past, current, and next phases, and their key activities.

As previously reported in the Fall 2021 WaDE Update Report, we have partnered with the OpenET team on integrating their consumptive use estimates data with WaDE water rights at the watershed level. While our first step proposal was accepted by the NASA Research Opportunities in Space and Earth Science (ROSES) – Water Resources Program, due to staff time limitations, the OpenET team in coordination with WSWC decided not to submit a second stage proposal at this time. We plan on pursuing a future funding opportunity to integration OpenET consumptive use data in the future.

2. Technical Activities

2.1 We continued to work with the USGS Water Availability and Use Science Program team on a water use data sharing pilot based on the WaDE 2.0 architecture and data dictionary. States share data through WaDE using any data service technology available to them. The WaDE team maps states’ data into the WaDE database, which becomes available to USGS in a consistent data dictionary structure across participating states. The pilot now includes Utah, Texas, and California. We have imported the three states’ reported municipal and industrial water supply data into the WaDE database. The USGS team has evaluated the initial data

sharing protocols and suggested design changes to accommodate their metadata requirements. Our IT contractor, Don't Panic Labs, has already completed those design changes. We are updating the mapping of the three states' data into our database to reflect those changes. The USGS team will review those changes in April, and we expect them to query these data into their database. Once this pilot data sharing is complete, we will continue to import water use data into the WaDE database for other states. Later this summer, we will report results on this pilot data sharing at a WSWC sponsored National Water Use Data Workshop in Salt Lake City, Utah.

2.2 In February 2022, we have contracted with Don't Panic Labs to complete building out WestDAAT for the water rights data based on their earlier prototype. This work is expected to be completed by the end of August 2022. The entire design is guided by the use cases and personas as reported on before in this document: <https://westernstateswater.org/wade-updates/2021/westdaat-use-cases-and-personas>

2.3 We continued to import water data to the WaDE database, especially for site-specific gage station flows and reservoir level data that our member state agencies operate. We have updated and imported this data for five states: Colorado, Nevada, Montana, Idaho, and California.

3. Key Outreach and Coordination Activities

3.1 2021 American Water Resources Association (AWRA) Annual Meeting

On November 10, the WSWC presented at the 2021 American Water Resources Association (AWRA) Conference (virtually). His presentation was part of the session "Utilizing and Developing Open-Access Water Data Tools and Resources," along with presenters from the Internet of Water and the U.S. Geological Survey National Geospatial Program. Adel presented an update about the WaDE data system and how its upcoming data services are interoperable with federal data providers. He provided a live demonstration viewing water rights and aggregate water use data in the WaDE prototype dashboard, and share designs for completion of the Western States Water Data Access and Analysis Tool (WestDAAT). He explained the WaDE personas that represent a multitude of user case studies and how WestDAAT will help them achieve their water data analysis goals across the West.

3.2 CRWUA 2021 WestDAAT Pre-Design Engagement Workshop

On December 15, 2021, the Western States Water Council (WSWC), in cooperation with the Internet of Water, held a workshop in parallel with the Colorado River Water Users Association's '2021 Annual Meeting in Las Vegas. The workshop was a pre-design engagement event for the Western States Water Data Access and Analysis Tool (WestDAAT) testing the prototype.

We are very thankful to the participants for their time and feedback and to the Internet of Water for facilitating the workshop. We summarized their key feedback and suggestions for changes related to functions and user friendliness in this report:

<https://westernstateswater.org/events/crwua-2021-westdaat-pre-design-engagement-workshop/>

3.3 2022 Nevada Water Resources Association (NWRA) Annual Conference

On February 3, the WaDE Program Manager, Adel Abdallah, participated in the 2022 NWRA Annual Conference, held in Las Vegas, Nevada. He presented a demonstration of the WestDAAT prototypes as part of a panel Making Water Data Useful for You: Nevada Water Web Apps. Other presentations on the panel were about: (1) the U.S. Geological Survey's Walker Basin Hydro Mapper: A Public Tool for Visualizing and Quantifying the Status of Basin-wide Water Resources in Real-time; (2) OpenET: Filling a Critical Data Gap in Water Management for the Western United States and; (3) Nevada Division of Water Resources (NDWR) Applications for Sharing Data. During this conference, Adel connected with staff at the NDWR and the U.S. Geological Survey Nevada Water Science Center to coordinate Nevada's water use data sharing.

3.4 WSWC Celebrating Ten Years of Western Water Data Sharing

Ten years ago, the Western States Water Council launched the Water Data Exchange (WaDE) Program. Since then, WaDE has made significant strides in sharing western water data and has grown to become a regional data hub as part of the Internet of Water, which published a post about WaDE's 10-year anniversary in their Water Features blog. The post summarizes WaDE's history, key players, and next directions and is available online here <https://internetofwater.org/blog/wade-celebrating-ten-years-of-western-water-data-sharing/>.

3.5 Save the Date! 2022 National Water Use Data Workshop in Salt Lake City

The 2022 National Water Use Data Workshop is scheduled on August 16-18 at the Utah Department of Environmental Quality Building in Salt Lake City. This workshop is in collaboration with the WSWC Water Information Management Systems (WIMS) workgroup, U.S. Geological Survey, Interstate Council on Water Policy, and Internet of Water. The workshop goals are to: (1) provide a platform for state agencies' staff to learn from each other about the latest efforts related to water data management and sharing; and (2) engage state IT and water resources management staff with the USGS National Water Use Data and Research (WUDR) and the WSWC Water Data Exchange (WaDE) Programs. A previous workshop was held in 2019 in Fort Collins, Colorado. More information will be available on the workshop webpage: <https://westernstateswater.org/events/2022-national-water-use-data-workshop/>

3.6 Other State and Federal Activities

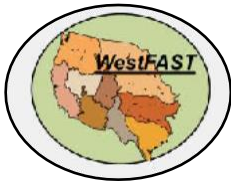
1. Ongoing – Discussions with USGS Water Availability and Use Science Program about streamlining access to states' water use data.
2. Ongoing – Coordination with the Bureau of Reclamation staff on their Water Rights Database Project.
3. October 21 – WaDE Project Manager participation in the California Water Data Consortium - Urban Water Outreach Virtual Meeting
4. January 20 – Call: Arizona participation in WaDE + USGS WUDR Grants
5. January 26 – USGS Webinar: Cloud-based Water Conservation Reporting Tool for the State of Minnesota
6. January 27 – WaDE and N.J. Water Data Sharing Discussion
7. February 6 – WaDE Program Manager Call with the Internet of Water and Stacy Timmons, New Mexico, to discuss proposed AWRA 2022 - data session
8. March 17,18 – WaDE Program Manager and WSWC Director: The Colorado River Compact Symposium, in Salt Lake City, Utah

3.7 Other Activities with Organizations, Academics, and Groups

1. October 8, 2021 – WaDE and The Environmental Council of the States (ECOS) Call
2. October 28 – Discussion with Landon Marston Research Group, Virginia Tech.
3. November 4 – Internet of Water webinar: Montana's Stream Gage Network by StoryMap
4. January 18 – Call: Tech for River Conservation with EarthViews Introduction
5. February 1 – WaDE Program Manager, ICWP Water Data and Science Committee

6. February 9 - WaDE Program Manager and WSWC Director: IoW Steering Committee Meeting
7. February 24 – WaDE Program Manager and Data Analyst: Internet of Water Webinar: Lessons from the Field: Stakeholder Engagement for Sustainable Outcomes
8. March 9 – WaDE Program Manager, and WSWC Director, and Data Analyst: Introductions & WaDE 2.0 Questions Call with the Internet of Water and Babbitt Center, Lincoln Institute
9. March 11 – WaDE Program Manager discussion with Christopher Estes: In-streamflow Council

Tab P – WestFAST



WestFAST on the Web: <https://westernstateswater.org/westfast/>

Western States Federal Agency Support Team (WestFAST)

The Western States Federal Agency Support Team (WestFAST) was formally organized in 2008 in response to the Western Governors' Association's recommendation to facilitate coordination of federal activities, and to develop and enhance collaborative partnerships among state and federal agencies working on priority water-resource issues.

Today, WestFAST is a collaboration of 13 Federal agencies with water management responsibilities in the West: Environmental Protection Agency, National Oceanic Atmospheric Administration, Bureau of Reclamation, Bureau of Land Management, U.S. Geological Survey, U.S. Fish and Wildlife Service, U.S. Forest Service, Natural Resources Conservation Service, U.S. Army Corps of Engineers, U.S. Department of Defense, U.S. Department of Justice, U.S. Department of Energy, and National Aeronautics and Space Administration.

WestFAST works closely with the Western States Water Council (WSWC), an organization consisting of representatives appointed by the governors of 18 western states striving to accomplish effective cooperation among western states, and their partners, in the conservation, development and management of water resources. The thirteen WestFAST federal agencies form a dynamic, flexible team that provides the opportunity for interaction initiated by WSWC, individual states, or the federal government.

These agencies support a federal liaison stationed in the WSWC's office responsible for coordinating efforts among the agencies with the WSWC. The WestFAST collaboration has provided excellent opportunities for cross-agency discussions and leveraging of shared knowledge.

The federal agencies that make up WestFAST all have unique roles within western water management. WestFAST provides a means for those agencies to collaborate in ways that may not otherwise take place. The WestFAST team stresses collaboration in the following areas:

1. Climate Change
2. Water Availability, Water Use, and Water Reuse
3. Water Quality

Additional areas of collaboration include:

1. The development of the Water Data Exchange (WaDE) Program
2. Supporting the National Integrated Drought Information System (NIDIS)
3. Providing communication on federal funding opportunities.
4. Promoting Federal and State collaboration in the Colorado River Basin



○ WestFAST | ○ 2022



Western States Federal Agency Support Team

WestFAST supports a continued commitment on the part of Federal, and State organizations; working with local, Tribal, and other stakeholders; to improve the effectiveness of collaboration to seek solution to water issues in the Western States.

Why WestFAST?

The Western States Federal Agency Support Team (WestFAST) was formally organized in 2008 in response to the Western Governors' Association's recommendation to facilitate coordination of federal activities, and to develop and enhance collaborative partnerships among state and federal agencies working on priority water-resource issues.

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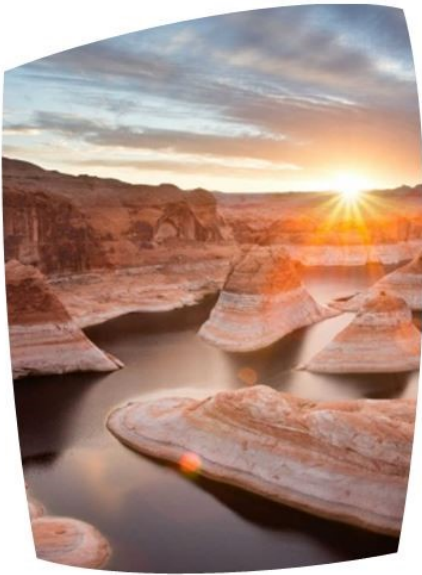
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The federal agencies that make up WestFAST all have unique roles within western water management. WestFAST provides a means for those agencies to collaborate among themselves and with partner states in ways





Our State Partners and the Western States Water Council

"WestFAST has been a great success and the concept of WestFAST has made the Western States Water Council a greater success." - Hal Simpson, past WSWC Chair and Colorado State Engineer

As states continue to carry out their traditional role with regard to water allocation and management, the challenges are increasing. With changing and increasing demands on limited water resources, combined with a new and changing overlay of federal laws and regulations, the WSWC and our western water-resource management partners view the importance of cooperative efforts and exchanges by and among states as being likewise magnified. Concerning Federal and State collaboration the Western Governors' Association has declared that "Developing optimal solutions to [water resource] challenges... will require an integrated approach and greater partnerships among state, local and federal agencies."

Priority efforts of WestFAST with the WSWC, WGA, and local partners -

- *Provide excellent opportunities for cross-agency discussions and leveraging of shared knowledge.*
- *Formulate and promote new concepts and practices to improve the planning and execution of Federal and State water policies and programs to better preserve and manage water in the West.*
- *Identify and promote efficient and productive cooperation and collaboration practices between state and federal agencies*

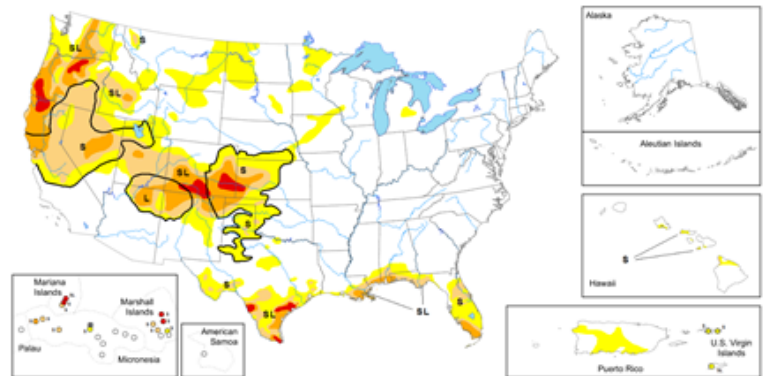
WestFAST facilitates collaboration

Drought

WestFAST member agencies strive to improve services related to drought in the areas of monitoring and information dissemination, projection tools and decision support system development, and the development of resiliency and response plans among others.

WestFAST is working closely within a National Drought Resilience Partnership to promote drought resilience in support of and to complement state, regional, tribal and local drought preparedness, planning and implementation efforts.

WestFAST is assisting to mobilize our Federal agencies in western watersheds toward providing improved information and data, emergency and planning assistance, landscape-scale land management improvements, and investments in new approaches to water resource management.



WestFAST

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(Updated 3/23/22)

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WESTERN STATES

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(Updated 3/21/2022)

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WESTERN STATES

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(Updated 3/21/2022)

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Tab Q – State Reports

Arizona State Report for February 2022 Western States Water Council Meeting

Legislative Update:

This session, more than 1800 bills and resolutions have been introduced in the Arizona Legislature. The Arizona Department of Water Resources (ADWR) is tracking 90 water-related measures, none of which have yet made it to the Governor's desk. Chief among these bills is a proposal to establish an "Arizona Water Authority" to expand the quantity and usability of existing and future water supplies through conservation and augmentation projects for the benefit of all Arizonans. Additional information, including ADWR-relevant enacted legislation can be found on our [Legislative Affairs web page](#).

Agency Activities Update:

ADWR, together with the United States, the Central Arizona Water Conservation District, Metropolitan Water District of Southern California, the Southern Nevada Water Authority, and the Colorado River Commission of Nevada signed a Memorandum of Understanding (MOU) on December 15, 2021, at the annual Colorado River Water Users Association conference in Las Vegas, NV. The MOU outlines the framework for the "500+ Plan" presented by the Colorado River Lower Basin States. The goal of the plan is to conserve an additional 500,000 acre-feet in Lake Mead in 2022 and 2023—beyond the mandatory reductions and contributions required under Tier 1 shortage under the Interim Guidelines and DCP—to help protect the critical elevation of 1,020'. The Lower Basin States began working on the plan in August 2021 following Reclamation's release of the August 24-Month Study, which triggered a consultation and adaptive management provision in the Lower Basin Drought Contingency Plan (DCP).

Since the execution of the MOU, the agencies have been working to secure the necessary additional conservation volumes. Arizona has committed to the following guiding principles in securing the volumes to contribute to the 500+ Plan: Water must be (1) committed voluntarily, (2) compensated, (3) system conservation, and (4) remain in Lake Mead.

On January 31, 2019, as a corollary to the Drought Contingency Plan legislation, Governor Ducey signed an Executive Order creating a Water Augmentation, Innovation, and Conservation Council (Council). Membership includes legislators as well as water managers and stakeholders. At the Council's November meeting, councilmembers discussed the draft legislation for an additional management period, received an update on the Colorado River 1030' Consultation, and heard updates from its committees. The Post-2025 Active Management Areas Committee presented a package of recommendations, including potential changes to statute, accelerated development of administrative rules for direct potable reuse, review of several ADWR regulatory processes, and further discussion of the state's approach to augmentation. The committee also supplied a list of issues for further exploration in the future. The Long-Term Water Augmentation Committee reported they will continue to explore the potential for weather modification and cloud control in Arizona and what is necessary to implement that. The Non-AMA Groundwater Committee reported on their discussion of the potential regulatory strategies as well as voluntary options for groundwater management outside the AMAs. Although the Council typically convenes quarterly, and the committees meet more frequently, meetings have been on hold since January, while efforts are focused on the water-intensive legislative session. All Council and Committee meetings are open to the public and additional information, including recordings of previous meetings, can be found on the [ADWR website](#).

In January 2022, ADWR met a major milestone by releasing the initial drafts of the 5th Management Plans (5MPs) for all five Active Management Areas. The 5th Management Plan is currently the final plan required by statute. Comments are currently being accepted on the plans in preparation of the legal adoption process, with a goal to promulgate all five plans by the end of 2022.

Drought Status Update:

Most of the state has received below-average precipitation in February, with statewide temperatures slightly below or at average temperatures. Abnormally Dry and Moderate Drought conditions covered over 70% of the state in February. Severe and extreme drought has extended to the western and northeastern counties of the state. Below normal precipitation is expected for the remainder of spring.

State Report – Utah

Prepared by Todd Stonely | Erica Gaddis | Norm Johnson
March 30, 2022

DIVISION OF WATER RESOURCES

Legislative Summary & Highlights

This was the “Year of Water” for Utah’s Legislature. Of the 40+ water-related bills that we tracked, 33 passed, many with significant new appropriations. Below are some of the highlights:

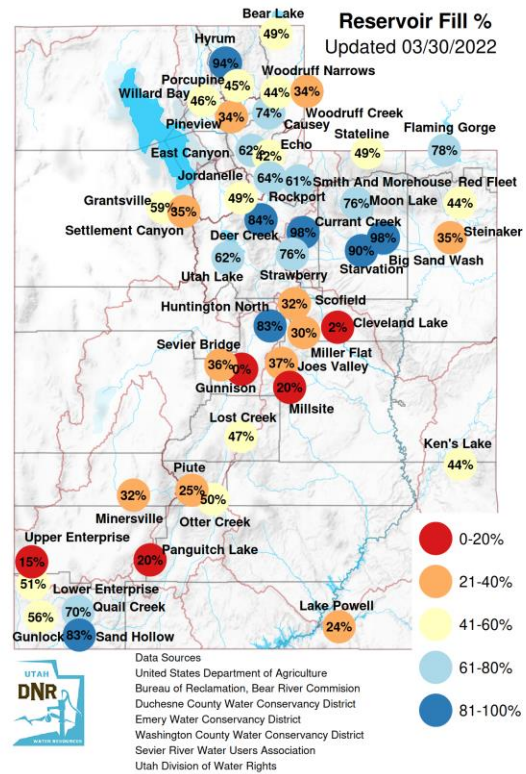
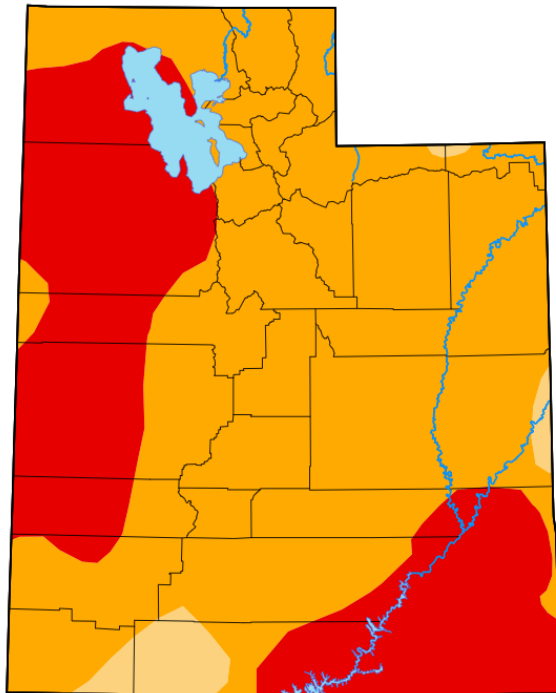
- \$250M in ARPA funds were allocated for the installation of secondary water meters.
- \$40M in one-time general funds for Great Salt Lake Watershed Enhancement Program.
- \$5.7M and \$2M in ongoing general funds allocated to manage sovereign lands and watersheds, respectively. Also, a new Great Salt Lake Account created to receive royalties from mineral mining activities at the lake.
- \$5M in ARPA funds were allocated for a statewide turf-replacement program.
- \$2M in ongoing general funds for watershed management and \$5.
- \$5M in general funds were allocated for an integrated water assessment of GSL.
- \$1.6M in ongoing general funds were allocated to a new Drinking Water Capacity Account to support activities related to the state implementation of the Safe Drinking Water.
- \$530,000 in ongoing and \$300,000 in one-time general funds were allocated for the Division of Water Rights to hire an additional deputy director, expand its staff, and purchase equipment to address critical needs.
- Reporting of capital assets was expanded from large Water Conservancy Districts to many smaller water utilities.
- Certain government and private entities prohibited from enacting landscape ordinances requiring water-loving plans and requires them to offer water-wise alternatives.
- State agencies required to reach certain water use reduction targets and state facilities provided with incentives to replace turf with drought-tolerant landscaping.
- Water resources was added as a requirement for community general plans.
- Tweaks were made to Utah’s water laws to expand instream flows, support adjudication, support estimates of water use, enhance water conservation, and protect power production during water shortages.

Water Conditions

The entire State of Utah is currently experiencing drought. Approximately 97% of the state is shown by the U.S. Drought Monitor to be experiencing severe or extreme drought. This is an improvement from last year, when 99% of the state was experiencing drought, with 57% of the state experiencing the worst possible drought category, exceptional drought.

While drought conditions are marginally better than last year, reservoir storage is down as water storage was relied upon heavily to make up for record-breaking low stream flows across the state. Current statewide reservoir capacity is only 57%, whereas it was 65% at this time last year.

Thurs. March 24, 2022



Needless to say, the ongoing impacts of drought remain a significant concern for water suppliers throughout the state. Water supply forecasts have already triggered significant water restrictions in the Weber River Basin. Including the following:

- Agricultural contracts reduced 40%.
- Secondary irrigation contracts reduced by 60%.
- Drinking water contracts reduced by 10%, with larger cuts for those systems without secondary irrigation.
- Secondary irrigation water will be delayed one month until mid-May and will be cut off a month early in mid-September.
- Installation of new landscapes will be prohibited.
- Watering of landscapes and gardens limited to one day per week.

DIVISION OF WATER QUALITY

Sewer Infrastructure Needs and Asset Management

Utah recently projected wastewater and storm water infrastructure needs to be \$15 billion by 2060 (see reclaim60.org). The American Rescue Plan Act funding has identified critical water and sewer infrastructure needs as an eligible use. The Division of Water Quality has identified \$2.7 billion of and wastewater projects by 2030 including more than \$100 million of new sewer needs primarily in rural Utah. DWQ intends to dedicate funding from the Bipartisan Infrastructure law towards these needs.

Further, the Division has initiated the Clean Water Needs Survey in partnership with EPA. All wastewater utilities in the state are required to complete the survey by Dec. 31, 2022. In addition,

HB269 includes new asset management requirements for wastewater utilities that receive state and federal funding. The Water Quality Board will pursue rulemaking to specify the necessary elements of asset management plans for wastewater utilities in Utah.

Integrated Report

Utah's 2022 Integrated Report was approved by EPA on March 8, 2022. Of the 916 water bodies that were assessed, the report identifies 367 assessment units that are impaired and 113 that are fully supporting beneficial uses. The majority of impairments are for aquatic life uses.

Legacy Mining Issues

The Utah Division of Water Quality has initiated an inventory of discharging abandoned mines in the state that contribute to water quality impairments. This work is being conducted in partnership with local, state, and federal partners. In addition, Utah issued a UPDES permit to a legacy mining discharger at the new Mayflower resort and a similar permit will be public noticed this summer with another resort in the state.

ATTORNEY GENERAL'S OFFICE

Pending Litigation

The Ute Indian Tribe of the Uintah and Ouray Indian Reservation brought suit in the District of Columbia federal District Court in March of 2018 against the United States alleging a variety of water-related claims, many of which implicated the Utah's interests. The Court granted Utah's motion to intervene in the suit. Thereafter the Tribe amended its complaint and named the State and the Central Utah Water Conservancy District defendants in addition to the United States. Each defendant subsequently filed a motion to dismiss the amended complaint. The court heard oral argument on the motions last July and in September dismissed most of the Tribe's claims as against all three defendants. The court transferred certain Administrative Procedures Act claims relating to the Green River Block exchange to the federal court in Utah. Subsequently the Tribe again moved the court to allow amendment of its complaint. Related motions are currently pending.

Utah and other five states have intervened in *Save the Colorado v. U.S.*, 3:19-cv-08285-MTL (*D. Ariz.*). The plaintiffs filed a motion for summary judgment asserting the inadequacy of the United States environmental compliance related to the Glen Canyon Dam Long-Term Experimental and Management Plan. The United States has filed a competing motion for judgment on the pleadings or, in the alternative, cross motion for summary judgment. The intervening states will join in this motion.

Utah/Navajo Water Settlement

Congress approved the Navajo/Utah Water Rights Settlement Act in the federal omnibus spending bill passed in the lame-duck session of 2020. The Utah Legislature subsequently approved legislation and appropriated \$8M as Utah's share of the settlement, while federal funding of some \$220M was provided in the more recent infrastructure stimulus bill. Representatives of Utah, the United States, and the Navajo Nation have met several times in the last few months to work through issues related to implementation of the settlement. All parties are hopeful that a conformed settlement agreement will be signed soon and are pursuing other settlement-related actions.

Tab R – Sunsetting Positions for Summer
2022 Meetings (#434 - #437)

WESTERN STATES WATER NEWSLETTER INDEX

January 7, 2022 - March 18, 2022

Issues No. 2486 - 2496

<u>HEADING</u>	<u>SUBHEADING</u>	<u>DATE</u>	<u>ISSUE</u>
ADMINISTRATION	30x30 (land conservation)	01-07	2486
	Agricultural Water	01-21	2488
	Army Corps of Engineers (Corps)	01-14 02-25	2487 2493
	Bureau of Reclamation (USBR)	01-28 02-04 02-11 03-11 03-25	2489 2490 2491 2495 2497
	Buy America	01-21	2488
	Clean Water Act Financial Capability Assessment	03-04	2494
	Collaborative Conservation	02-04	2490
	Colorado River	02-04	2490
	Dam Safety	03-25	2497
	Department of Agriculture (USDA)	02-04 02-18 02-25	2490 2492 2493
	Department of the Interior (DOI)	02-04 02-18 03-04	2490 2492 2494
	Drinking Water	02-11	2491
	Drought	02-04 02-11	2490 2491
	Environmental Protection Agency (EPA)	01-07 01-14 01-21 02-11 02-25 03-04 03-18	2486 2487 2488 2491 2493 2494 2496
	Food and Drug Administration (FDA)	01-21	2488
	Geostationary Operational Environmental Satellite (GOES-West)	03-04	2494
	Groundwater	01-14	2487

	Indian Water Right Settlements	03-04	2494
	Infrastructure	01-07	2486
		01-21	2488
		02-04	2490
		03-18	2496
	Infrastructure Investment and Jobs Act (IIJA)	01-28	2489
	Jurisdictional Determinations	01-21	2488
	Klamath Basin	02-18	2492
	Land and Water Conservation	01-07	2486
	National Oceanic and Atmospheric Administration (NOAA)	03-04	2494
	Nominee	03-11	2495
	Per- and Polyfluoroalkyl Substances (PFAS)	02-11	2491
		02-25	2493
	Title Transfer	02-11	2491
	U.S. Geological Service (USGS)	03-11	2495
	U.S. Supreme Court	01-28	2489
		02-25	2493
	Waters of the United States (WOTUS)	01-07	2486
		01-14	2487
		02-11	2491
		02-25	2493
	WaterSmart	02-11	2491
CONGRESS	Army Corps of Engineers (Corps)	01-07	2486
	Colorado River	03-18	2496
	Farm Bill	02-18	2492
	Fish Recovery	03-18	2496
	FY2022 Appropriations (special report)	03-11	2495
	Hydropower (special report)	01-21	2488
	Indian Water Rights Settlements	01-28	2489
		03-25	2497
	Klamath River	03-11	2495
	Nominations	01-21	2488
	State Allocations	03-18	2496

	State Revolving Funds (SRFs)	03-18	2496
	U.S. Fish and Wildlife Service (USFWS)	01-21	2488
	Water Resources Development Act (WRDA) 2022	01-07	2486
		01-14	2487
		02-11	2491
		03-18	2496
ENERGY	Federal Energy Regulatory Commission (FERC)	03-04	2494
	Hydropower (special report)	01-21	2488
	Lower Klamath Project	03-04	2494
ENVIRONMENT	Nominations	01-21	2488
	U.S. Fish and Wildlife Service (USFWS)	01-21	2488
LITIGATION	Clean Water Act (CWA)	01-28	2489
	<i>Sackett v. EPA</i>	01-28	2489
	Waters of the United States (WOTUS)	01-28	2489
WATER QUALITY	Abandoned Mines	01-07	2486
		03-18	2496
	Agricultural Water	01-28	2488
	Army Corps of Engineers (Corps)	01-14	2487
		02-25	2493
	Clean Water Act (CWA)	01-28	2489
	-Financial Capability Assessment	03-04	2494
	Drinking Water	02-11	2491
	Environmental Protection Agency (EPA)	01-14	2487
		02-11	2491
		02-25	2493
		02-25	2493
		03-04	2494
	Food and Drug Administration (FDA)	01-21	2488
	Groundwater	01-14	2487
	Per- and Polyfluoroalkyl Substances (PFAS)	02-11	2491
		02-25	2493
	<i>Sackett v. EPA</i>	01-28	2489

	Waters of the United States (WOTUS)	01-14	2487
		01-28	2489
		02-11	2491
		02-25	2493
WATER RESOURCES	Army Corps of Engineers (Corps)	01-07	2486
	Bureau of Reclamation (USBR)	01-28	2489
		02-04	2490
		02-11	2491
		03-11	2495
		03-25	2497
	Department of the Interior (DOI)	02-18	2492
	California	03-18	2496
		03-25	2497
	Colorado	01-07	2486
	Colorado River	02-04	2490
		03-11	2495
	Coordinated Action Plan for Water	01-21	2488
	Dam Safety	03-25	2497
	Drought	01-07	2486
		02-04	2490
		02-11	2491
		03-25	2497
	Infrastructure	02-04	2490
	Infrastructure Investment and Jobs Act (IIJA)	01-28	2489
	Kansas Legislature	02-18	2492
	Klamath Basin -Lower Project	02-18	2492
		03-04	2494
		03-11	2495
	Nebraska	01-21	2488
	New Mexico - Produced Water	02-18	2492
	Title Transfer	02-11	2491
	Trinity River Basin	03-11	2495
	Utah	01-21	2488
	Water Data	03-18	2496
	Water Resources Development Act (WRDA) 2022	01-07	2486
		01-14	2487
		02-11	2491

	Water Supply Outlook	03-25	2497
	WaterSMART	02-11	2491
	Wildfire	01-07	2486
WATER RIGHTS	Indian Water Rights Settlements	01-28 03-04 03-25	2489 2494 2497
WESTERN GOVERNORS	Collaborative Conservation	02-04	2490
	Colorado	01-07	2486
	Drought	01-07	2486
	State of the State Address (special report)	01-28	2489
	Alaska		
	Arizona		
	Colorado		
	Idaho		
	Kansas		
	Nebraska		
	South Dakota		
	Utah		
	Washington		
	State of the State Address (special report)	02-28	2493
	North Dakota		
	Oklahoma		
	Wyoming		
	Wildfire	01-07	2486

Tab S – Sunsetting Positions for Summer
2022 Meetings (#434 - #437)



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
on the
PRESERVATION OF RADIO FREQUENCIES
NECESSARY FOR WEATHER FORECASTING AND
WATER MANAGEMENT**

**Leavenworth, Washington
July 18, 2019**

WHEREAS, the Federal Communications Commission is engaged in an effort with an aggressive timetable to make as many frequencies of the radio spectrum as possible available for commercial broadband and wireless technologies, licensed and unlicensed; and

WHEREAS, legislation has been introduced that would require an estimation of the value of the electromagnetic spectrum assigned or otherwise allocated to federal entities, between 3 kHz and 95 GHz; and

WHEREAS, a proposed basis for estimation is “the value that the electromagnetic spectrum would have if the spectrum were reallocated for the use with the highest potential value of licensed or unlicensed commercial wireless services that do not have access to that spectrum as of the date of the estimate”; and

WHEREAS, much of the nation’s data for emergency and administrative information on weather, river and streamflows, groundwater and forest fires are transmitted from remote platforms to satellites (GOES and POES) and then to “direct receive or downlink” stations on the 1675-1710 MHz range of the spectrum; and

WHEREAS, Earth-observation satellites use several radio frequency bands tied to the physical properties of the scientific measurements, including water vapor (23.8 GHz), rain and snow (36-37 GHz), atmospheric temperature (50.2 – 50.4 GHz), clouds and ice (86 – 92 GHz) and others; and

WHEREAS, sharing bandwidth, or noise from adjacent bands on the spectrum with inadequate controls, has the potential to interfere with the quality, accessibility, and utility of Earth-observation satellite data and data collected and transmitted from remote platforms on earth to satellites; and

WHEREAS, significant public and private funds have been invested to establish our satellite and ground networks, many of which would be costly to replace, and some of which are irreplaceable; and

WHEREAS, the serious, unintended consequences of data interference may include degradation in short-term weather forecasts; loss of data for streamgaging and water monitoring networks; ability of state and federal agencies to prepare for and respond to floods, fires, and extreme weather events; the ability of western states to administer and manage their scarce water resources and water quality programs; and risks of loss to human life, health, welfare, property, and environmental and natural resources.

NOW, THEREFORE, BE IT RESOLVED that the Western States Water Council supports efforts to preserve frequencies needed for weather forecasting, streamgaging, and related water and emergency management information needs.

BE IT FURTHER RESOLVED that the Council supports interagency coordination between the FCC, NOAA, USGS and other state and federal agencies, to quantify and analyze the effects of commercial broadband use on satellite observation data and transmissions.

BE IT FURTHER RESOLVED that the Council supports a meaningful evaluation of the existing government and potential alternative uses of the electromagnetic spectrum without discounting the costs of natural disasters and degradations in data needed for water management decisions, and with input from the States as appropriate.



**POSITION STATEMENT
of the
WESTERN STATES WATER COUNCIL
in support of
STRENGTHENING THE RESILIENCY OF OUR NATION
TO THE IMPACTS OF EXTREME WEATHER EVENTS**

**Leavenworth, Washington
July 18, 2019**

WHEREAS, the West and the Nation continue to suffer the effects of increasingly extreme weather events, including tornadoes, hurricanes, extreme precipitation, flooding and drought, resulting in the loss of life and economic, social, and environmental damages; and

WHEREAS, Western States have recently experienced extreme seasonal and year-to-year weather volatility that has brought record or near-record events with floods, followed by drought and wildfires, as well as devastating tornadoes, all threatening public safety and property, and often taxing the capacity of our aging water infrastructure; and

WHEREAS, widespread flooding along many western rivers and streams, including the Arkansas, Niobrara, Missouri, Platte, and others, have demonstrated the continuing need for more flood control capacity and early warning systems, with timely and accurate forecasts; and

WHEREAS, prolonged drought increasingly afflicts the West and the Nation, and affects the performance of interstate compacts and international treaties; and

WHEREAS, extreme prolonged drought has led to the cooperative development of Drought Contingency Plans (DCPS) by the Seven Colorado River Basin States, the United States and Mexico; and

WHEREAS, flood control, drainage and other water resource issues also involve relations with Canada, including negotiations over renewing the Columbia River Treaty; and

WHEREAS, present water resources planning and sound decision-making depends on our ability to understand, monitor, predict, and adapt to droughts, floods, extreme storms, and other weather events; and

WHEREAS, in the West, sound decisionmaking demands accurate and timely data on precipitation, temperature, soil moisture, snow depth, snow water content, streamflow, and similar information; and

WHEREAS, investments in observations, research, forecasting, and monitoring the development of extreme weather events provide an opportunity to significantly improve real-time water rights administration, planning and project design, and operations to maximize storage, avoid or minimize the loss of life and property, as well as mitigate economic and environmental damages; and

WHEREAS, the Weather Research and Forecasting Innovation Act of 2017 was reauthorized in 2019, together with the National Integrated Drought Information System Act; and

WHEREAS, the Council continues to support NOAA's National Integrated Drought Information System implementation of the Weather Research Act, and emergency drought response authorities for the Bureau of Reclamation and other federal agencies; and

WHEREAS, a National Academy of Sciences' report suggests a pathway and 10-year research agenda for advancing our capabilities with a vision of a decade from now of using subseasonal to seasonal (S2S) forecasts as widely as we now use 5-10 day weather forecasts; and

WHEREAS, the Council is actively working with the National Oceanic and Atmospheric Administration (NOAA) on improving S2S precipitation forecasting capabilities; and

WHEREAS, NOAA's Climate Prediction Center is focusing limited resources on improving the skill of S2S forecasts (beginning with weeks 3-4); and

WHEREAS, western states' precipitation originates as storms moving over the Pacific Ocean and Gulf of Mexico, and the absence of key ocean observations constrains the ability to improve skill of precipitation forecasting at near-term weather and S2S timescales; and

WHEREAS, advances in weather forecasting and research, such as that of NOAA's Hydrometeorological Testbed program on West Coast atmospheric rivers, demonstrate the potential for improving extreme event forecasting at the operational time scale; and

WHEREAS, the Council has supported development of an improved observing system for Western extreme precipitation events, to aid in monitoring, prediction, and climate trend analysis associated with extreme storms; and

WHEREAS, there is a need for maintaining and improving existing monitoring networks that help provide early warning as well as tracking impacts of extreme events; and

WHEREAS, there is a need for developing new monitoring technologies such as remote sensing that provide more timely data availability and better spatial coverage for assessing drought impacts; and

WHEREAS, there is a continuing need for greater collaboration between and among federal agencies, state agencies, local governments, non-governmental organizations and public/private organizations and businesses; and

NOW THEREFORE BE IT RESOLVED that the Western States Water Council supports as a high priority appropriate federal appropriations and actions to plan, prepare for and avoid, minimize or mitigate the impacts of extreme weather events, including developing an expanded and enhanced research program and westwide extreme precipitation monitoring system, including expanded ocean observations.

BE IT FURTHER RESOLVED that the Western States Water Council also supports legislation advancing the goals of: (1) minimizing the loss of life and property and economic, environmental and social cost from extreme weather events; (2) improving collaboration and coordination among agencies and organizations at all levels; (3) increasing consultation with state, local and tribal governments; (4) maintaining and enhancing data gathering and monitoring, as well as communication capabilities, identifying and addressing gaps and overlap; (5) identifying and addressing federal agency responsibilities, as well as regulatory and other preparedness and response barriers, (6) recognizing and addressing regional differences; and (7) advancing research within the physical sciences, and dynamical and statistical modeling to improve our S2S forecasting capabilities.

BE IT FURTHER RESOLVED that the Western States Water Council pledges to work with the Administration and the Congress to appropriately address current and future needs to improve S2S forecasting and extreme events response and resiliency.



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding
HYDRAULIC FRACTURING
Leavenworth, Washington
July 18, 2019**

WHEREAS, hydraulic fracturing is a process that injects sand, water, and other fluids, including various chemical compounds, underground to aid in the extraction of oil and natural gas; and

WHEREAS, hydraulic fracturing has been used for over 60 years in oil and gas production, with over one million wells having been fractured in the United States alone; and

WHEREAS, states have primary and exclusive authority over the allocation and administration of rights to the use of water used in hydraulic fracturing operations; and

WHEREAS, states have decades of experience, knowledge, and information regulating hydraulic fracturing and other oil and gas activities, and making decisions regarding the protection of their water resources; and

WHEREAS, states are best positioned to regulate hydraulic fracturing because of their understanding of regional and local conditions and their ability to tailor regulations to fit the needs of the local environment.

NOW, THEREFORE, BE IT RESOLVED, that federal efforts involving hydraulic fracturing, including efforts to study potential adverse impacts on water quantity and quality, should leverage state knowledge, experience, policies, and regulations.

BE IT FURTHER RESOLVED, that federal efforts to study the potential impacts of hydraulic fracturing on water resources should be based upon sound science and driven by states' research and policy priorities.

BE IT FURTHER RESOLVED, that the Western States Water Council opposes any and all efforts that would diminish the primary and exclusive authority of states over the allocation of water resources used in hydraulic fracturing.



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
urging the
ADMINISTRATION AND CONGRESS
TO SUPPORT WATER RESEARCH AND DEVELOPMENT PROGRAMS
at the
DEPARTMENT OF ENERGY NATIONAL LABORATORIES**

**Leavenworth, Washington
July 18, 2019**

WHEREAS, the Western States Water Council (the Council) has long recognized the importance of protecting and wisely managing our national water resources for the benefit of our present and future generations, including our environment; and

WHEREAS, one purpose of the Council is to accomplish effective cooperation among western states in the conservation, development and management of water resources; and

WHEREAS, a second purpose of the Council is to maintain vital state prerogatives, while identifying ways to accommodate legitimate federal interests; and

WHEREAS many watersheds are already fully-appropriated, and new stresses are emerging from climate, population growth, land use changes and water needs for energy development and in-stream uses; and

WHEREAS, there is growing concern, particularly in the Arid West, over our ability to continue to supply water of adequate quality in quantities needed to sustain current and future uses, including energy and environmental uses; and

WHEREAS, the failure to provide for such needs would have significant regional and national consequences; and

WHEREAS, present water resources planning and sound future decision-making depends on our ability to understand, monitor, anticipate and adapt to changing conditions; and

WHEREAS, electricity generation and other energy development is a significant driver of present and future water demands and the expertise and research of the national labs can supplement and enhance the ability of state, local and tribal water managers to understand and develop adaptation strategies; and

WHEREAS, water-related research at the Department of Energy and National Laboratories should be guided by State needs as expressed in state planning documents and through planning processes; and

WHEREAS, in the West, States in compliance with State law have exclusive authority over the appropriation and adjudication of water rights for all uses, and the allocation of water for energy development, including the determination of whether or not there is any unappropriated water available for use.

NOW, THEREFORE, BE IT RESOLVED that the Western States Water Council urges the Administration and the Congress to recognize the primary role of the States in allocating water for energy.

BE IT FURTHER RESOLVED that the Western States Water Council urges the Administration and the Congress to recognize the value of Department of Energy hosted energy-water programs and research conducted at National Laboratories undertaken in collaboration with state water resources agencies, including but not limited to work at: the Idaho National Laboratory (INL); Lawrence Berkeley and Lawrence Livermore National Laboratories in California; Los Alamos and Sandia National Laboratories in New Mexico; the National Renewable Energy Laboratory (NREL) in Colorado; and Pacific Northwest National Laboratory (PNNL) in Washington, that collaboratively links federal energy research programs and water issues of concern to the western states.

BE IT FURTHER RESOLVED that the Western States Water Council urges the Administration and the Congress to encourage collaboration and cooperation between the National Laboratories and other federal agencies, including but not limited to the National Oceanic and Atmospheric Administration (NOAA), U.S. Bureau of Reclamation (USBR) and U.S. Geological Survey (USGS) to leverage federal expertise and resources (including supercomputing power; climate and precipitation site sensitivity analysis; systems analysis, integration, and security, etc.) in addressing the Nation's water related challenges.

Tab T – XYZ (Intentionally Blank)