

2024 WASHINGTON ROUNDTABLE



Xylem Reservoir Center for Water Solutions
Washington, DC
March 14-15, 2024



WESTERN STATES WATER COUNCIL

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

Web Page: www.westernstateswater.org

MEMORANDUM

TO: Western States Water Council Members and Others

FROM: Tony Willardson, Executive Director

DATE: March 8, 2024

RE: Briefing Materials for the 203rd Western States Water Council Meetings

This is to advise you that briefing materials for our 2024 Spring Meetings being held in Washington, DC (a hybrid in-person and virtual event) on March 14, may be downloaded on our [meetings webpage](#). The minutes from the Fall 2023 Alaska meetings are available on our website (under Past Meetings) for your review. Please bring any necessary changes to the attention of staff.

On Wednesday, March 13, the ICWP/WSWC Joint Roundtable will begin at 8:00 am EDT and conclude at 5:00 pm. This meeting will only be available to participate in person, with no virtual option. ICWP/WSWC will host a reception following the Joint Roundtable from 5:00 - 7:00 pm. Members and guests are invited. For the reception, for security purposes, please notify Julie Groat (jgroat@wswc.utah.gov) of any unregistered guests, such as a family member.

On Friday, March 15, the WestFAST Principals meeting will be held at the Ocean Aquarium Room at EPA Headquarters. Please use the entrance located on 1200 Pennsylvania Avenue, NW, Washington, DC 20460. For security purposes, we need to provide a list of attendees in advance. Please let Julie Groat know if you plan on attending.

The WSWC Committee and Council meetings will be hybrid and held on Thursday, March 14. In consideration of our Alaska members, and West Coast members in the Pacific Time Zone, that may join remotely, our meetings will begin at 10:00 am EDT with the Water Resources Committee meeting. We will break for lunch at 11:30 am (on your own), with the exception of the Executive Committee, which will meet over a working lunch. The Water Quality Committee will begin at 1:00 pm; Legal Committee at 2:15 pm; and the Full Council meeting will begin at 3:30 pm, adjourning at 4:45 pm.

The meeting schedule and agenda are posted on our [meetings webpage](#). As a reminder, in order to participate in the WSWC meetings, whether in-person or virtually, all must register. Please visit our meetings webpage and when registering for virtual attendance, please mark each session you wish to attend. A confirmation email will be sent containing directions to join the meetings via Zoom webinar. The Zoom link provided will be 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 the webpage to register.

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

WESTERN STATES WATER COUNCIL
203rd COUNCIL MEETING
Washington, DC
March 14, 2024

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WR Position #462 – supporting Water Infrastructure Funding

WR Position #463 – regarding Integrating Water and Energy Planning and Policy

WR Position #464 – supporting Federal Research on Climate Adaptation

L Position #465 – supporting universal access to reliable, clean drinking water for federally recognized Indian Tribes and Alaska Native communities

L Position #466 – State Primacy over Groundwater

L Position #467 – supporting the Dividing the Waters program for judges

List of Current WSWC Policy Statements

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D. Budget

E. WaDE/In-Kind Contribution Survey

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



SCHEDULE OF MEETINGS

WESTERN STATES WATER COUNCIL

Xylem Reservoir Center
Washington, DC

March 13-15, 2024

<u>Date/Time</u>	<u>Meeting</u>	<u>Room</u>	<u>Adjournment</u>
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(The times listed are Eastern Daylight Savings Time)

Wednesday, March 13

7:30 am	Continental Breakfast	Xylem Café	
8:00 am	Joint ICWP-WSWC Roundtable	Multipurpose Room	5:00 pm
5:00 pm	Joint ICWP-WSWC Reception	Xylem Café	7:00 pm

Thursday, March 14

8:00 am	Continental Breakfast	Xylem Café	
10:00 am	Water Resources Committee Meeting	Multipurpose Room	11:30 am
11:30 am	Executive Committee (over lunch)	Multipurpose Room	1:00 pm
1:00 pm	Water Quality Committee Meeting	Multipurpose Room	2:15 pm
2:15 pm	Legal Committee Meeting	Multipurpose Room	3:30 pm
3:30 pm	WSWC Full Council (203 rd) Meeting	Multipurpose Room	4:45 pm

Friday, March 15

9:00 am	WestFAST Principals Meeting (all ICWP/WSWC Members welcome)	EPA Headquarters	11:00 am
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Washington DC Roundtable and Separate Meetings March 13-14th, 2024

[Reservoir Center for Water Solutions](#)

301 Water St. SE
Washington, DC 20003

Wednesday, March 13th – Joint Water Planners Conference

7:30 - 8:00am **Continental Breakfast and Registration** (Reservoir Center Cafe)

8:00 - 8:30am **Welcome and Introductions** (Multipurpose Room)

Western States Water Council (WSWC)
Jon Niermann, Chair and Tony Willardson, Executive Director

Interstate Council on Water Policy (ICWP)
Heidi Moltz, Chair and Beth Callaway, Executive Director

Welcome from Josh Mahan, Director of Internal Affairs,
Reservoir Center

8:30 - 9:30 am **Panel 1 – Infrastructure (natural and built)**

MODERATOR: Julie Cunningham, Executive Director,
Oklahoma Water Resources Board

PANELISTS:

Robyn Colosimo, Deputy Assistant Secretary of the Army,
Project Planning and Review

Zach Schafer, Director of Policy and Special Projects, U.S.
Environmental Protection Agency (EPA) Office of Water

Michael Brain, Principal Deputy Assistant Secretary for Water and Science, U.S. Department of the Interior (DOI)

John Watts, Senior Counselor to the Commissioner, U.S. Bureau of Reclamation (USBR)

9:30 - 10:00am **OPEN DISCUSSION/NETWORKING**

10:00 - 12:00pm **Panel 2 – Droughts, Floods, and Wildfires: Resilience, Mitigation, and Recovery**

MODERATOR: Matt Unruh, Assistant Director, Kansas Water Office

PANELISTS:

Jainey Bavishi, Assistant Secretary of Commerce for Oceans and Atmosphere and Deputy Administrator, National Oceanic Atmospheric Administration (NOAA)

Robert Harper, Director, Biological and Physical Resources, National Forest System, U.S. Forest Service (USFS)

Aster Boozer, Regional Conservationist, Natural Resources Conservation Service (NRCS)

Tom O'Halleran, Senior Policy Advisor, NRCS

Dr. Dorothy Koch, Associate Director for Biological and Environmental Research, DOE Office of Science

Veva DeHeza, Executive Director, National Integrated Drought Information System (NIDIS)

12:00 - 1:30pm **LUNCH** (Reservoir Center Cafe)

1:30 - 2:30pm **Panel 3 – Water Data/Modeling/Forecasting**

MODERATOR: Randy Hadland, Sr. Manager, Xylem

PANELISTS:

Emily Sylak-Glassman, Deputy Associate Director, National Aeronautics and Space Administration (NASA) Earth Action

Dr. Dorothy Koch, Associate Director for Biological and Environmental Research, DOE Office of Science

Joanne Neukirchen, Acting Director, IT and Data Management Division, Federal Emergency Management Agency (FEMA)

Mindi Dalton, Program Coordinator, Water Availability and Use Science Program and National Water Quality Program, USGS

Timothy Newman, Program Coordinator, National Land Imaging, USGS

Stephen Aichele, Geographer, USGS National Geospatial Program

2:30 - 2:45pm

OPEN DISCUSSION/NETWORKING

2:45 - 4:30 pm

Panel 4 - Congressional Topics and Panel

MODERATOR: Geoff Bowman, Vice President, Van Scoyoc Associates

PANELISTS:

Callie Eideberg, Sr. Professional Staff, Senate Agriculture, Nutrition, and Forestry

Adam Tomlinson, Staff Director, Senate Environment and Public Works

Alexis Rudd, Policy Director, Subcommittee on Science, Oceans, Fisheries, and Weather, Senate Commerce, Science, and Transportation

Melanie Thornton, Professional Staff, Senate Energy and Natural Resources

Jack Holt, Senate Energy and Natural Resources

Matthew Muirragui, Deputy Staff Director, House Natural Resources

Annick Miller, Staff Director, Subcommittee on Water, Wildlife and Fisheries, House Natural Resources

Logan Ferree, Professional Staff, Subcommittee on Water Resources and Environment, House Transportation and Infrastructure (tentative)

Ryan Hambleton, Staff Director, Subcommittee on Water Resources and Environment, House Transportation and Infrastructure

Daniel Dziadon, Staff Director, Subcommittee on Environment, House Science, Space and Technology

Ari Perlmutter, Policy Analyst, House Agriculture

4:30 - 5:00pm **Observations and Next Steps** - ICWP and WSWC Chairs

5:00pm **ADJOURN**

5:00 - 7:00pm **Joint Roundtable Reception** (Reservoir Center Cafe)

Many thanks to Xylem for sponsoring this year's Reservoir Center event space!

Thursday, March 14th – ICWP/WSWC Organizational Mtgs.

8:00am -10:00am **Continental Breakfast** (Reservoir Center Cafe)

9:00am -12:00pm **ICWP Members meeting** (Conference Room)

10:00am - 5:00pm **WSWC Organizational Meeting** (Multipurpose Room)

Friday, March 15th – WestFAST Principals Meeting

9:00am - 11:00pm **ICWP/WSWC all members welcome** (Location: EPA Building)

AGENDA

WATER RESOURCES COMMITTEE

Xylem Reservoir Center
Washington, DC

March 14, 2024

Call to Order at: 10:00 a.m. (Eastern Daylight Time)
Conducting: Andrea Travnicek, Chair

Multipurpose Room

TABS

1. **Welcome and Introductions**
2. **Approval of Minutes**
- C 3. **Sunsetting Resolutions –**
 - Position #459 – regarding Probable Maximum Precipitation Standards
 - Position #460 – supporting the use of Forecast Informed Reservoir Operations and Innovations
 - Position #461 – supporting Weather Station Networks
 - Position #462 – supporting Water Infrastructure Funding
 - Position #463 – regarding Integrating Water and Energy Planning and Policy
 - Position #464 – supporting Federal Research on Climate Adaptation
- I 4. **Agrimet**, David Raff, Chief Engineer, U.S. Bureau of Reclamation
- J 5. **Landsat Next Presentation** - Tim Newman, USGS, National Land Imaging Program Coordinator
- K 6. **Federal Legislation**
 - a. Weather Act Reauthorization (HR 6093)
 - b. Water Data Act (HR 7792 — 117th Congress)
 - c. Open Access Evapotranspiration Data Act (S 1118/HR 2429)
7. **OpenET Discussion**
w/guests Shelby Hagenauer, Farm Bureau, and Lane Dickson, The Furgeson Group
- H 8. **Draft FY2024-2025 Committee Work Plan**
- XYZ 9. **Sunsetting Positions for 2024 Summer Meetings**
Position #468 - regarding the Rural Water Supply Project/Infrastructure Needs
10. **Other Matters**
- L WGA Policy Resolution 2021-08, Water Resource Management in the West
- M Letters:
 - a. Weather Act Reauthorization Act of 2023
 - b. Coalition Support for USGS Streamgage Networks and Modernization
- 11:30 am **Adjourn**

**AGENDA
EXECUTIVE COMMITTEE**

Xylem Reservoir Center
Washington, DC

March 14, 2023

Call to Order at: 11:30 a.m. (Eastern Daylight Time)
Conducting: Jon Niermann, Chair

Multipurpose Room

TAB

1. **Welcome and Introductions**
2. **Approval of Minutes**
- D 3. **Report on Budget and Finances** – Tony Willardson
- E 4. **WaDE/In-Kind Contribution Survey** – Tony Willardson
- C 5. **Sunsetting Positions** – Jon Niermann
- F 6. **Executive Director’s Report/WSWC Activities and Events** – Tony Willardson
- G 7. **Future WSWC Meetings** – Jon Niermann
- B 8. **Council Membership Update** – Tony Willardson
- H 9. **Draft FY2024-2025 Committee Work Plan**
- XYZ 10. **Sunsetting Positions for Summer 2024 Meetings** –
Position No. 468 - regarding the Rural Water Supply Project/Infrastructure Needs
Position No. 469 - regarding Water Transfers and NPDES Discharge Permits
Position No. 470 - regarding Endangered Species and State Water Rights
11. **Other Matters**
- 12:45 p.m. **Adjourn**

WATER QUALITY COMMITTEE MEETING

Xylem Reservoir Center
Washington, DC

March 14, 2024

Call to Order at: 1:00 p.m. (Eastern Daylight Time)
Conducting: Jennifer Zygmunt, Chair

Multipurpose Room

TAB

1. **Welcome and Introductions**
2. **Approval of Minutes**
- C 3. **Sunsetting Positions**
None
4. **Wild and Scenic Rivers** – Mike Erbele, Water Rights and Uses Program, USDA Forest Service
5. **ACWA Nutrients Policy and Other Focus Areas** – Julia Anastasio, Executive Director and General Counsel, Association of Clean Water Administrators
- N 6. **Discussion: Nutrients** – Tom Stiles, Chief, Office of Watershed Planning
Kansas Department of Health and Environment
- O 7. **Discussion: Maui Guidance** – Elysse Ostlund Campbell, WSWC Policy Analyst
- H 8. **Draft FY2024-2025 Committee Work Plan**
- P a. Water Quality Committee Survey
- XYZ 9. **Sunsetting Positions for Summer 2024 Meetings**

#469 Water Transfers and National Pollutant Discharge Elimination System (NPDES) Discharge Permits
10. **Other Matters**
- L WGA Policy Resolution 2021-10, Water Quality in the West
- M Letters:
 - a. CIFA
 - b. Good Samaritan Remediation of Abandoned Hardrock Mines Act (S. 2781)
- 2:15 pm **Adjourn**

LEGAL COMMITTEE MEETING

Xylem Reservoir Center
Washington, DC

March 14, 2024

Call to Order at: 2:15 pm (Eastern Daylight Time)
Conducting: Chris Brown, Chair

Multipurpose Room

TAB

1. **Welcome and Introductions**
2. **Approval of Minutes**
- C 3. **Sunsetting Positions –**

Position #465 – supporting universal access to reliable, clean drinking water for
federally recognized Indian Tribes and Alaska Native communities
Position #466 – State Primacy over Groundwater
Position #467 – supporting the Dividing the Waters program for judges
4. **Universal Access to Clean Drinking Water** – Anne Castle, Senior Fellow
Getches-Wilkinson Center, University of Colorado Law School
5. **Dividing the Waters Program** – Steve Snyder, Executive Director, National
Judicial College
- Q 6. **Stream Restoration Webinar Series** – Madeline Franklin, Supervisor |
Environmental Compliance Division, Mission Assurance and Protection
Organization, Bureau of Reclamation (WestFAST Liaison)
- H 7. **Draft FY2024-2025 Committee Work Plan**
- R 8. **Staff Updates** – Michelle Bushman
 - a. Legislation and Litigation Update
- XYZ 9. **Sunsetting Positions for Summer 2024 Meetings**

Position #470 - regarding Endangered Species and State Water Rights
10. **Other Matters**
- 3:15 pm Adjourn

AGENDA

203rd COUNCIL MEETING

Xylem Reservoir Center
Washington, DC

March 14, 2023

Call to Order at: 3:30 pm (Eastern Daylight Time)

Conducting: Jon Niermann, WSWC Chair

Multipurpose Room

TAB

1. **Welcome and Introductions**
2. **Approval of Minutes**
3. **Committee Reports – Action Items**
 - a. Water Resources Committee – Andrea Travnicek
 - b. Water Quality Committee – Jennifer Zygmunt
 - c. Legal Committee – Chris Brown
 - d. Executive Committee – Jon Niermann
4. **WestFAST Report – Roger Gorke, Chair (EPA) and Madeline Franklin (Liaison)**
- F 5. **Future Council Meetings – Jon Niermann**
- S 6. **State Reports**
- XYZ 7. **Sunsetting Positions for Summer 2024 Meetings**

Position No. 468 - regarding the Rural Water Supply Project/Infrastructure Needs
Position No. 469 - regarding Water Transfers and NPDES Discharge Permits
Position No. 470 - regarding Endangered Species and State Water Rights
8. **Other Matters**
- 4:45 pm **Adjourn**

**Western States Federal Agency Support Team (WestFAST)/
Western States Water Council (WSWC) Principals Meeting
EPA Oceans Auditorium
March 15, 2024
9-11am ET**

Agenda

- Brief Introductions (*15 minutes*)
- WSWC/State and WestFAST/federal Relationships (*30 minutes*)
 - Perspectives from the States
- Discussion and Outcomes from Wednesday Panels (*75 minutes*)
 - Follow Ups on Topics from Wednesday
 - Infrastructure (natural and built)
 - Droughts, Floods, and Wildfires: Resilience, Mitigation, and Recovery
 - Water Data/Modeling/Forecasting
 - Next Steps



WESTERN STATES WATER COUNCIL

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Web Page: www.westernstateswater.org

MEMORANDUM

TO: Council Members

FROM: Tony Willardson, Executive Director

DATE: February 9, 2024

RE: **30-Day Notice of the WSWC Spring 2024 (203rd) Meetings**

This memorandum is notice that the Western States Water Council (WSWC) will hold its regular meetings on March 14, in Washington, DC preceded by a joint WSWC/Interstate Council on Water Policy (ICWP) Washington Roundtable on March 13, at the Xylem Reservoir Center. A WSWC/WestFAST Principals meeting will be held on the morning of March 15, at a location to be determined.

A block of rooms has been reserved at the Cambria Hotel Washington D.C. Navy Yard Riverfront. **Our room block deadline is February 17.** Guests may make their reservations using the following link: <https://www.choicehotels.com/reservations/groups/GM08T3>.

Consistent with our rules of organization, any external policy positions to be proposed for Council consideration must be included with the 30-day notice. No new positions have been proposed. Nine positions are scheduled to sunset at this meeting if no action is taken to update them.

- Position #459 - regarding Probable Maximum Precipitation Standards Position
- Position #460 - supporting Forecast Informed Reservoir Operations and Innovations
- Position #461 - supporting Weather Station Networks
- Position #462 - supporting Water Infrastructure Funding
- Position #463 - regarding Integrating Water and Energy Planning and Policy
- Position #464 - supporting Federal Research on Climate Adaptation
- Position #465 - supporting Universal Access to Reliable, Clean Drinking Water for Federally Recognized Indian Tribes and Alaska Native communities
- Position #466 - regarding State Primacy over Groundwater
- Position #467 - supporting the Dividing the Waters Program for Judges

The sunseting positions are available for review on our [website](http://www.westernstateswater.org). In keeping with our usual practice, we encourage you to consult with your respective Governor's office and Western Governor's Association Staff Advisory Council (SAC) member regarding the sunseting positions. Any recommended changes will be considered during the Full Council meeting on March 14.

On Wednesday, March 13, the ICWP/WSWC Joint Roundtable will begin at 8:00 am EDT and conclude at 5:00 pm. This meeting will only be available to participate in person, with no virtual

option. ICWP/WSWC will host a reception following the Joint Roundtable from 5:00 - 7:00 pm. Members and guests are invited.

All Roundtable participants must register in advance and pay the registration fee of \$350. Registration is available on our [meetings webpage](#).

The WSWC Committee and Council meetings will be hybrid and held on Thursday, March 14. In consideration of our Alaska members, and West Coast members in the Pacific Time Zone, that may join remotely, our meetings will begin at 10:00 am EDT with the Water Resources Committee meeting. We will break for lunch at 11:30am (on your own), with the exception of the Executive Committee, which will meet over a working lunch. The Water Quality Committee will begin at 1:00 pm; Legal Committee at 2:15 pm; and the Full Council meeting will begin at 3:30 pm, adjourning at 4:45 pm.

Please note that an Executive Committee pre-meeting Zoom call will be held to review the sunsetting positions. Details will be sent separately. As is our usual practice, any changes discussed by the Executive Committee will be brought up for action by the Full Council.

For those attending the WSWC meetings in person, please register no later than March 1. All meeting participants, whether attending in-person or virtually, must register in advance on our [meetings webpage](#). There is no registration fee to attend our meetings. For virtual participants, please note that on the Zoom registration form you will need to mark each session that you plan to attend, and you will receive an email confirmation for the meetings that contains a link to join. Do not share the link received in the email, as it will be unique to you. If you are aware of anyone else wishing to participate remotely, please advise them to go to our meetings webpage to register for themselves.

The meeting agendas and briefing materials will be available for download electronically prior to the meetings on our website: <https://westernstateswater.org/events/2024-wswc-spring-203rd-meetings-and-washington-roundtable/>.

If you have any questions, please contact me at twillardson@wswc.utah.gov.

Tab B – Membership List

WESTERN STATES WATER COUNCIL

MEMBERSHIP LIST

March 5, 2024

OFFICERS

Chair - **Jon Niermann**
Vice-Chair - **Julie Cunningham**
Secretary-Treasurer - **Earl Lewis**

STAFF

Executive Director - **Tony Willardson**
Deputy Director/General Counsel - **Michelle Bushman**
Policy Analyst - **Elysse Campbell**
Wade Program Manager - **Adel Abdallah**
Data Analyst/Hydroinformatics Specialist - **Ryan James**
Administrative Assistant - **Julie Groat**
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ALASKA

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*Ex-Officio Member

**Executive Committee Member

†Council members denoted by this symbol are listed by virtue of their office, pending receipt of a letter of appointment by their Governor.

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IDAHO

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Lauren Ris - Colorado
Mat Weaver - Idaho
Jerry Rigby - Idaho
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Anna Pakenham Stevenson - Montana
Tom Riley - Nebraska
Adam Sullivan - Nevada
Vacant - New Mexico
Andrea Travnicek - North Dakota
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Tab C – WSWC Policy Positions



POSITION
RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding
PROBABLE MAXIMUM PRECIPITATION STANDARDS
~~**Texas Hosted Spring Virtual Meetings**~~
~~**March 25, 2021**~~ **Washington, DC**
March 14, 2024

WHEREAS, National Probable Maximum Precipitation (PMP) standards for extreme rainfall have long been used for the design and regulation of infrastructure including dams, roads and bridges, as well as thermal power facilities; and are used to promote consistency between federal and state agencies, as well as the private sector professional design community; and

WHEREAS, the National Oceanic and Atmospheric Administration (NOAA), National Weather Service (NWS) first developed methodologies for estimating PMP standards in the 1940s, using historic data available at that time, and applied them across the United States through hydrologic and hydrometeorological studies and reports between 1961 and 1999; and

WHEREAS, Federal leadership is again needed to update these standards; and

WHEREAS, state dam safety programs have developed statutes, rules and guidance documents for the design of facilities that are typically based on these federal standards and studies; and

WHEREAS, while some states have changed their statutes to allow for the use of new methodologies provided by entities outside the federal government, many state dam and safety programs continue to use these outdated reports and standards, finding the change too difficult to attempt; and

WHEREAS, decades of storm event data (the basis for calculating the standards) have been recorded since the existing standards were published, but these have never been officially updated to include new methods, technologies, and more recent storm data; and

WHEREAS, funding and explicit direction for NOAA to update PMP standards were not included in the FLOODS Act of 2022 (P.L. 117-316); and

WHEREAS, inconsistencies between minimum design criteria of adjacent states and between federal and state design/performance expectations within states are increasing; and

~~**WHEREAS**, it has recently been reported that there are nearly 1,700 high hazard potential dams currently in need of repair across the country, a percentage of which need spillway system improvements; and~~

WHEREAS, the Association of State Dam Safety Officials prepared a 2023 report¹ on the number of high hazard potential dams with a rating of less than satisfactory, and the estimated cost to repair or rehabilitate them; and

WHEREAS, consistent and standardized PMPs and modern methodologies are needed for the design and repair of spillways at high-hazard potential dams rated unsatisfactory in order to ensure the highest level of public safety; and

WHEREAS, the ~~recent~~ 2018 Colorado-New Mexico Regional Extreme Precipitation Study² (REPS) included state-of-the-practice updates to existing methodologies using NOAA research and high-resolution operational tools for prediction of extreme rainfall; and

WHEREAS, the REPS study – reviewed by a board of subject matter experts from numerous federal agencies – demonstrated possible approaches to updating extreme precipitation estimates at a national scale and also included research and recommendations for climate change considerations.

NOW, THEREFORE, BE IT RESOLVED, that the Western States Water Council supports NOAA leading federal efforts toward developing 21st century national PMP standards for estimating extreme rainfall in order to provide consistent requirements for ensuring public safety; and

BE IT FURTHER RESOLVED, that the Western States Water Council recommends Congress address this issue and authorize and fund necessary steps to update federal PMP standards, including a National Academies of Science, Engineering and Medicine (NASEM) study of the current state of the practice and options for extreme rainfall estimation, in order to provide NOAA clear direction toward development of 21st century national standards for estimating extreme rainfall (including PMP).

¹ <https://damsafety-prod.s3.amazonaws.com/s3fs-public/files/2023%20ASDSO%20Costs%20of%20Dam%20Rehab%20Report.pdf>

² <https://spl.cde.state.co.us/artemis/nrmonos/nr5102p412018internet/>



RESOLUTION
of the
WESTERN STATES WATER COUNCIL
to Support the Use of
FORECAST INFORMED RESERVOIR OPERATIONS and INNOVATIONS
~~Texas Hosted Spring Virtual Meetings~~
~~March 25, 2021~~ Washington, DC
March 14, 2024

WHEREAS, Western States experience great variability in precipitation, with serious impacts and consequences for the operation of water projects, particularly aging water infrastructure, as well as water supply and emergency planning and management, drought and flood preparedness and response, and other public and private decisions; and

WHEREAS, decisions to operate water projects to protect life and property by reducing flood risks, while at the same time maximizing water supply storage, including carryover storage, impact billions of dollars of economic investments in the West to maintain and protect municipal and industrial centers, agriculture, hydropower generation, and fisheries; and

WHEREAS, these investments depend on our ability to observe, understand, model, predict, and adapt to precipitation variability on operational time scales ranging from hours to days, weeks and months, seasons and longer; and

WHEREAS, observations, modeling, high-performance computing capabilities, research, and demonstration projects are essential to significantly improving operational forecasting of precipitation to maximize the use of our existing water storage projects to reduce flood damages, mitigate economic and environmental damages, and maximize water storage and water use efficiently; and

WHEREAS, operating aging water infrastructure effectively in the face of growing and often competing water supply and water management and flood protection demands requires that state, federal, tribal, and local agencies optimize operations and seek innovative alternative strategies to support their decision-making; and

WHEREAS, project operations and alternatives may include, but are not limited to, using enhanced forecasting capabilities to better inform reservoir operators, operations, and actions – to dynamically determine reservoir levels to improve storage opportunities, and to alter static reservoir operating rule curves and requirements based on updated hydrologic information; and

WHEREAS, FY20 appropriations legislation directed the U.S. Army Corps of Engineers (USACE) to develop a comprehensive list of water control manuals at Corps-owned projects located in states where a Reclamation project is also located, including a prioritized list of needed updates of those manuals; and

~~**WHEREAS**, Section 1222 of WRDA 2018 directed that one year after the date of completion of the Forecast Informed Reservoir Operations (FIRO) research pilot program at Coyote Valley Dam in California, the Secretary shall issue a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Environment and Public Works of the Senate that among other things provides an assessment of the viability of using FIRO at other dams owned or operated by the Secretary. In addition, the report will provide an identification of other dams owned or operated by the Secretary where FIRO may assist the Secretary in optimization of future reservoir operations as well as any additional areas for future study of FIRO.~~

WHEREAS, Section 8109 of WRDA 2022 (P.L. 117-263) authorized USACE to update water control manuals for water resources development projects in states where the governor declared a statewide drought disaster in 2021, with priority given to projects that include water supply or water conservation as an authorized purpose; and

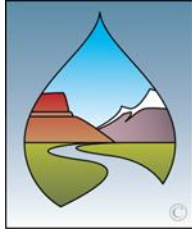
WHEREAS, USACE Engineer and Research Development Center (ERDC) developed a Forecast Informed Reservoir Operations (FIRO) screening process and has tested it in the South Pacific Division; and

WHEREAS, States have exclusive authority over the allocation and administration of rights to the use of surface water located within their borders and are primarily responsible for protecting, managing and otherwise controlling the resource.

NOW, THEREFORE, BE IT RESOLVED that the Western States Water Council supports the use of innovative and forecast informed reservoir operations by public and private entities at all levels to maximize the effective and efficient use of our existing and future infrastructure to benefit our myriad and growing economic uses of water, while at the same time balancing and protecting our need for public health and safety, as well as a resilient and healthy environment.

BE IT FURTHER RESOLVED, nothing stated in this position is intended to apply to the interpretation or application of any interstate compact, court decrees, international treaty or tribal settlement agreement.

*Position No. 460
Revised and Readopted
(see former Position No. 417, March 14, 2018)*



RESOLUTION
of the
WESTERN STATES WATER COUNCIL
in support of
WEATHER STATION NETWORKS
~~**Texas Hosted Spring Virtual Meetings**~~
~~**March 25, 2021**~~**Washington, DC**
March 14, 2024

WHEREAS, Western States experience great variability in precipitation, with serious impacts and consequences for water supply planning and management, drought and flood preparedness and response, water rights and water market administration, operation of water projects, and irrigation management; and

WHEREAS, sound decision-making to protect life and property and to inform decisions involving billions of dollars of economic activity involving urban centers, agricultural production, and fisheries depends on our ability to observe, understand, model, predict and adapt to precipitation variability; and

WHEREAS, data made available by weather station networks of all kinds operated by federal and state agencies, local interests, volunteer private observers, and universities that span the West is critical for sound decision-making; and

WHEREAS, at the local scale the National Weather Service's (NWS') Cooperative Observer Program – the nation's oldest and largest weather network – collects critical information on precipitation intensity that supports design of community flood control infrastructure and planning for flood hazard mitigation, especially in rural areas; and

WHEREAS, at the global scale NWS geostationary and polar-orbiting weather satellites capture the data needed to make hourly to two-week forecasts, and issue public safety warning and watches; and

WHEREAS, the U.S. Bureau of Reclamation's Agrimet network is an example of an agroclimate network of weather stations whose data can be used for improving water planning and water use efficiency in the agricultural sector, conserving water, improving crop yields, reducing pesticide and fertilizer application, and reducing energy costs for growers; and

WHEREAS, weather station network data serve as an important and efficient ground-truthing, calibration, and model validation tool for analysis of information products derived from satellite and remote-sensing platforms such as Landsat and others; and

WHEREAS, network observations can provide near real-time information for estimation of vegetation evapotranspiration (ET) and in-the-field crop water use, that can be used to optimize production and increase the efficiency of irrigation, estimate crop water shortages, and are used extensively by irrigation districts, farmers, resource conservation agencies, municipal and state entities, and agricultural consultants; and

WHEREAS, agricultural water use is the largest consumptive use of water in the West, and weather stations and other observing systems that aid in water conservation and more efficient use of water will be a critical tool for meeting future water supply and water quality challenges posed by growing needs for food and fiber; and

WHEREAS, many of the nation's weather observing networks suffer from the challenges of aging instrumentation infrastructure, deferred maintenance, need for technology upgrades, and budgets that fail to keep up with observing system needs, making it difficult to maintain data continuity for users; and

WHEREAS, weather station networks operate very efficiently and yield public safety and water supply benefits that are much greater than the cost of their operation providing significant value to their users.

NOW, THEREFORE, BE IT RESOLVED, that the Western States Water Council expresses its continuing support for critical weather station network observations and programs and urges the Administration, Congress, and supporting partners at all levels, to give a high priority to the allocation and appropriation of funds for their continued operation and expansion.

Position No. 461
Revised and Readopted
(see former Position No. 418, March 14, 2018)



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
in support of
WATER INFRASTRUCTURE FUNDING
~~Texas Hosted Spring Virtual Meetings~~
~~March 25, 2021~~ Washington, DC
March 14, 2024**

WHEREAS, maintaining and delivering sufficient water supplies of suitable quality is key to the West's economic prosperity, environmental needs, and our quality of life, both now and in the future; and

WHEREAS, appropriate water-related infrastructure investments ensure our continued ability to store, manage, conserve, and control water during both floods and droughts – as well as protect and treat our water resources; and

WHEREAS, existing and new infrastructure is critical to meet drinking water, municipal and industrial, wastewater treatment, irrigation, hydropower, flood control, interstate compact, tribal settlement, international treaty, and fish and wildlife habitat needs; and

WHEREAS, the West depends on an intricate and aging system of weirs, diversions, dams, reservoirs, pipelines, aqueducts, pumps, canals, laterals, drains, levees, wells, stormwater channels, and water and wastewater treatment and hydroelectric power plants; and

WHEREAS, water infrastructure in the West is financed and maintained under a complex network of state, tribal, local, private, and federal ownership, benefitting a broad segment of water users and other stakeholders;

WHEREAS, inconsistent, inadequate, and untimely funding increases project construction and financing costs, as well as risk, including the failure of critical infrastructure; and

WHEREAS, substantial and sustained investments in water project construction, maintenance, rehabilitation and replacement is necessary and pays long-term dividends to the economy, public health and safety, and the environment; and

WHEREAS, water infrastructure systems require ongoing, thoughtful investments to account for life-cycle costs, and should be managed with planned retirement or replacement in mind; and

WHEREAS, existing federal, state and local programs to publicly finance water-related infrastructure projects are crucial, but insufficient to meet water quality and water resources management challenges related to future growth, including municipal, industrial, agricultural, environmental, and energy needs; and

WHEREAS, the federal government has a significant role to play in financing and cost-sharing for water-related infrastructure given federal economic and environmental objectives, federal tribal trust and treaty obligations, other past commitments, and federal regulatory mandates; and

WHEREAS, aging federal water infrastructure has deteriorated – due to underfunded and deferred maintenance, repair, and replacement needs – and in many cases has exceeded its useful lifespan, raising public health and safety issues, risking loss of life and threatening public and private property; and

WHEREAS, federal financial resources are limited and many authorized federal water infrastructure projects have not been started or remain incomplete for decades due to inconsistent, incremental, or insufficient appropriations; permitting and licensing backlogs; duplicative environmental reviews; litigation delays; and oversight by multiple federal agencies without adequate interagency coordination; and

WHEREAS, current federal budget scoring guidelines assess the full cost of infrastructure investments up front, while disproportionately discounting long-term economic, public health and safety, and environmental benefits – sometimes making new water project investments challenging to justify financially; and

WHEREAS, local water district and state agency investments, private capital markets, performance-based contracting, and other alternatives offer help to close the federal funding, delivery, and maintenance gaps, and meet some of our national water infrastructure needs in partnership with federal agencies; and

WHEREAS, such partnerships have the potential to reduce overall project development costs and risks associated with such capital investments, expedite project delivery and associated water resource benefits, improve efficiencies and cost effectiveness, and maximize the respective strengths of the public and private sectors; and

WHEREAS, opportunities exist to leverage federal and non-federal funding through grants, loans and credit enhancements, as well as provide greater access to private sources of financing; and

WHEREAS, there is no one-size-fits-all program, but several federal financial and technical assistance programs, grants, loans, cost-share programs, and federal-state-local or public-private partnerships have proven beneficial to the timely completion and ongoing maintenance of infrastructure projects at all scales; and

WHEREAS, federal agencies often lack legislative authority to dedicate a sustained revenue stream to assure non-federal investors are fairly compensated for the costs and risks of constructing or maintaining federal water projects, sometimes requiring approval through an act of Congress to proceed.

NOW, THEREFORE, BE IT RESOLVED that the Council supports collaboration and leadership at all government levels – federal, state, tribal, and local – and the private sector – to address the Nation’s infrastructure needs and establish water infrastructure improvements as a public policy priority.

BE IT FURTHER RESOLVED, that the Council supports appropriate federal investments in water-related infrastructure projects and programs that provide jobs and economic security, while protecting the environment.

BE IT FURTHER RESOLVED, that the Administration and Congress should work together to ensure adequate, stable, and continuing federal appropriations for constructing, maintaining, and replacing critical federal water projects and to assist States and local governments as they address their water infrastructure needs.

BE IT FURTHER RESOLVED, that the Council encourages Congress and the Administration to continue to work together and with States to streamline permitting processes and coordinate environmental and other regulatory reviews to eliminate duplicative procedures, reduce costs of compliance and construction, and ensure timely completion, maintenance, or relicensing of authorized infrastructure projects so vital to the West and the Nation.

BE IT FURTHER RESOLVED, that the Council supports the creation and maintenance of dedicated water infrastructure funding through special accounts with dedicated receipts to be promptly appropriated for authorized purposes following their deposit, as well as a variety of grant, loan, credit enhancement and other financial incentive programs to help meet diverse needs at all scales.

BE IT FURTHER RESOLVED, that the Council supports appropriate infrastructure asset management and capital budgeting.

BE IT FURTHER RESOLVED, that the Council supports a method of congressional budget scoring that considers the unique timing of the costs and benefits of water infrastructure investments, and accounts for long-term public health and safety, economic and environmental benefits, with fair and appropriate discounting.

Position No. 462
Revised and Readopted
(see former Position No. 419, March 14, 2018)



**POSITION
of the
WESTERN STATES WATER COUNCIL
regarding
INTEGRATING WATER AND ENERGY PLANNING AND POLICY**

**~~Texas Hosted Spring Virtual Meetings~~
~~March 25, 2021~~ Washington, DC
March 14, 2024**

WHEREAS, the West enjoys diverse and abundant energy resources, including renewable and non-renewable resources, but water is scarce in much of the region and may or may not be sufficient for all proposed uses; and

WHEREAS, power plant cooling and other energy resource development and related water requirements can be significant on state, local and westwide scales; and

WHEREAS, the West is a leader in the planning, development, diversification, management and protection of the Nation's water and energy resources; and

WHEREAS, in the West, maintaining adequate and sustainable supplies of clean water and energy present interrelated challenges given a growing population, increasing water and energy demands, and an uncertain climate subject to multi-year drought and other extremes; and

WHEREAS, an integrated approach to water and energy resource planning, development, diversification, management and protection is necessary to achieve a thriving and sustainable future for the West; and

WHEREAS, effectively planning for the future requires gathering and integrating data and information on past, present and future water and energy supplies and demands, including embedded demands by different sectors/uses and users; and

WHEREAS, in general, current water use data (especially consumptive water use data) are not sufficient for detailed and comprehensive analyses to support many water/energy decisions and policymakers' needs; and

WHEREAS, the Western Governors' Association, Western States Water Council, Department of Energy, Sandia National Laboratories (and other DOE laboratories), Western Interstate Energy Board, Western Electric Coordinating Council, Electric Reliability Council of Texas and others have worked collaboratively to develop a better understanding of water and energy supplies and demands; and

WHEREAS, public-private partnerships are increasingly important in addressing our future water and energy challenges; and

WHEREAS, there is a continuing need for federal and state water and energy resource agencies, public utility commissions, and other planners, regulators and policymakers to better define and consider the nexus between water and energy resources in their respective areas of jurisdiction; and

WHEREAS, continuing water and energy nexus research and development is needed to further our understanding and evaluate the effectiveness of different policies and programs given various future scenarios; [and](#)

[**WHEREAS**, the Regional Clean Hydrogen Hubs Program \(H2Hubs\) includes up to \\$7 billion to establish 6-10 regional clean hydrogen hubs to form the foundation of a national clean hydrogen network.](#)

NOW THEREFORE BE IT RESOLVED, that western water and energy planners, policymakers, managers and regulators should consider the following:

- (1) integrating water and energy policies and engaging water and energy planners to maximize program and project effectiveness and efficiencies;
- (2) supporting new and continuing data gathering, analyses and research related to better understanding water and energy supplies and demands, and related science;
- (3) promoting integrated water and energy conservation and use efficiency;
- (4) seeking to minimize economic, environmental and other costs of providing adequate, reliable and sustainable supplies of water and energy;
- (5) expanding public education, engagement and outreach to highlight the importance, vulnerability and interrelated nature of our water and energy resources;
- (6) ensuring decisions related to the siting, construction and operation of water and energy development projects include an evaluation and appropriate consideration of the interrelated impacts of such development;
- (7) tailoring the use of alternative cooling technologies and other energy-related options to the availability of water, and the related opportunity costs related to other water uses;
- (8) seeking to develop a diversified portfolio of water and energy resources and assets to maximize reliability and flexibility;
- (9) taking advantage of synergies and economies of scale related to integrating water and energy conservation, development and protection programs and projects;
- (10) evaluating and integrating life-cycle costs related to water and energy supply development, conveyance and transmission;
- (11) integrating short and long-range water and energy supply planning;
- (12) promoting the development and use of “smart” technologies for management of water and energy demands and production; and
- [\(13\)](#) ensuring that the West maintains sustainable, reliable and robust infrastructure systems necessary to deliver adequate supplies of clean water and energy to meet present and future needs; [and](#)
- [~~\(13\)~~\(14\) evaluating the water resources needed for hydrogen energy development.](#)

Position No. 463
Revised and Readopted
(see former Position No. 420, March 14, 2018)



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
supporting
FEDERAL RESEARCH ON CLIMATE ADAPTATION**

~~Texas Hosted Spring Virtual Meetings~~
~~March 25, 2021~~ Washington, DC
March 14, 2024

WHEREAS, climate variability has serious potential consequences for water supply availability, water resources planning and management, water rights administration, flood management, and water quality management; and

WHEREAS, much of the West's water infrastructure was designed and constructed prior to our current understanding of climate variability, often from short hydrologic records from the first half of the 20th century; and

WHEREAS, the impacts of climate variability can include increased frequency and intensity of severe weather (droughts and floods), reduction of mountain snowpacks, changes in timing and amount of snowmelt runoff, and changes in plant and crop evapotranspiration resulting in changed water demand patterns; and

WHEREAS, climate variability is an additional stressor on western water resources, which are already challenged by population growth, competition for scarce resources, increasingly stringent environmental regulations, and other factors; and

WHEREAS, water resources planning and management at all levels of government and sound future decision-making depend on our ability to understand, monitor, predict, and adapt to climate variability; and

WHEREAS, the Council has over the years co-sponsored several workshops to gather input on climate adaptation and research needs, including research on extreme events; and

WHEREAS, these workshops and various federal reports have helped in identifying knowledge gaps, research needs, opportunities to improve planning capabilities, and other activities that would assist in climate adaptation, including those that could impact water quality and thus, available water supply; and

WHEREAS, applied research needs and improvements to water resources planning capabilities include subjects such as evaluation of modifications to reservoir flood control rule curves, evaluation of the adequacy of existing federal hydroclimate monitoring networks, improvements to extreme precipitation observing networks and forecasting capabilities, development and improvement of applications for remote sensing data (satellite imagery), preparation of reconstructed paleoclimate datasets for drought analyses, and development of new guidelines for estimation of flood flow frequencies;

NOW, THEREFORE, BE IT RESOLVED, that the Western States Water Council supports state and federal applied research and hydroclimate data collection programs that would assist water agencies at all levels of government in adapting to climate variability and making sound scientific decisions.

Revised and Readopted
(see former Position No. 421, March 14, 2018)



Position No. 465

**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
in support of
UNIVERSAL ACCESS TO RELIABLE, CLEAN DRINKING WATER FOR
FEDERALLY RECOGNIZED INDIAN TRIBES AND ALASKA NATIVE COMMUNITIES**

~~Texas Hosted Spring Virtual Meetings~~
~~March 25, 2024~~ Washington, DC
March 14, 2024

WHEREAS, access to reliable, clean drinking water is an essential human need that is critical to the public health, well-being, educational attainment, and economic development of all communities in the United States; and

WHEREAS, “Indian water rights claims” is a term of art referring specifically to the quantification of the implied reserved water rights for use on reservations of land to Native Americans in the Lower 48 that arise under the U.S. Supreme Court doctrine in *Winters v. United States*, 207 U.S. 564 (1908); and

Commented [MB1]: Alaska - copied verbatim from Position #454, and noted “If Hawaii objects, we can swap <in the lower 48> with <excluding Tribes and Native Communities in Alaska>

WHEREAS, “Indian Tribes,” as used here, refers to federally recognized Tribes in the Lower 48; and

WHEREAS, lack of access to reliable, clean drinking water has long been a significant problem for many federally recognized Indian Tribes ~~and Alaska Native communities~~ such that nearly half of all households still do not have access to reliable, clean drinking water, and are significantly more likely than non-Native households to lack indoor plumbing; and

WHEREAS, reliable, clean drinking water may be unavailable to households in federally recognized Indian Tribes ~~and Alaska Native communities~~ for a number of reasons, including because—

- (1) there is no piped water system connecting to the house;
- (2) the water available to the household does not meet minimum standards protective of human health;
- (3) the water and sanitation infrastructure is deteriorating, insufficient or non-existent; or
- (4) federally recognized Indian Tribes ~~and Alaska Native communities~~ are unable to support the operation and maintenance needs of existing water and sanitation infrastructure; and

WHEREAS, federal programs administered through the Department of the Interior, Indian Health Service of the Department of Health and Human Services, the Environmental Protection Agency, the Department of Agriculture, and other federal and state agencies have ~~been~~ not been fully successful in developing and/or maintaining the infrastructure necessary to provide reliable, clean drinking water in some federally recognized Indian Tribes ~~and Alaska Native communities~~; and

WHEREAS, many federally recognized Indian Tribes ~~and Alaska Native communities~~ have

unresolved Indian water rights claims, which may not be immediately resolved, due in part to the complex and significant issues typically involved in the adjudication or negotiated settlement of Indian water rights claims; and

WHEREAS, while funding for drinking water infrastructure in those communities has benefited greatly from appropriations in the Infrastructure Investment and Jobs Act of 2021 and the Inflation Reduction Act of 2022, more effort is required to provide a complete solution and ensure that the benefit of the funding previously made available is realized; and

Commented [MB2]: Colorado

WHEREAS, the Western States Water Council recognizes the sovereignty of the states to administer and distribute the waters of each state and that adjudication of Indian water rights claims occur through state water rights adjudications, and strongly supports the negotiated settlement of Indian water rights claims; and

WHEREAS, the development of drinking water infrastructure for federally recognized Indian Tribes ~~and Alaska Native communities~~ is often included in the settlement of Indian water rights claims, but the Western States Water Council recognizes that because of the length of time it takes to successfully adjudicate or negotiate settlement of Indian water rights claims, an alternative means for immediate action is needed to provide funding to develop drinking water infrastructure for federally recognized Indian Tribes and Alaska Native communities; and

WHEREAS, the trust responsibility of the Federal Government to ensure the survival and welfare of federally recognized Indian tribes, where applicable, ~~and Alaska Native communities~~ includes the provision of safe and reliable drinking water infrastructure for basic water services; and

Commented [MB3]: Alaska - Qualifying references to the federal trust responsibility as in Position No. 454

~~WHEREAS, the ongoing COVID-19 pandemic has had a disproportionate impact on federally recognized Indian Tribes and Alaska Native communities due to multiple factors including lack of access to running water, and has provided a stark reminder that access to reliable, clean drinking water to support basic personal hygiene practices is a matter of life or death for all citizens of the United States.~~

WHEREAS, the lack of access to clean and safe drinking water supplies has had a significant and adverse public health impact on federally recognized Indian Tribes, and the COVID 19 pandemic provided a stark reminder that access to reliable, clean drinking water to support basic personal hygiene practices is a matter of life or death for all citizens of the United States.

Commented [MB4]: Colorado

NOW, THEREFORE, BE IT RESOLVED, that the Western States Water Council supports the provision of reliable, clean drinking water to meet the domestic needs of federally recognized Indian Tribes ~~and Alaska Native communities~~ and recognizes that providing access to reliable, clean drinking water through water infrastructure, coupled with developing the technical, managerial, and financial capacity to operate and maintain that infrastructure, is an essential component of the Federal trust responsibility to Native Americans, where applicable; and

BE IT FURTHER RESOLVED, that while recognizing that adjudication or negotiated settlement of Indian water right claims is critically important, and that the provision of reliable, clean drinking water and related infrastructure is frequently an important component of adjudications and

settlements, the Western States Water Council believes that a final adjudication or settlement is not and should not be a prerequisite to providing reliable, safe drinking water infrastructure to federally recognized Indian Tribes ~~and Alaska Native communities~~; and

BE IT FURTHER RESOLVED, that the Western States Water Council urges the Administration and Congress to support, encourage, and fund the appropriate, expedited resolution of negotiated settlements and adjudications relating to Indian water rights claims; and

BE IT FURTHER RESOLVED, that the Western States Water Council urges the Administration to employ a coordinated approach to meeting the aforementioned safe drinking water needs by working across departmental and agency boundaries in collaboration with Tribal governments and encourages entry into inter-governmental agreements to facilitate such coordination; and

BE IT FURTHER RESOLVED, that the Western States Water Council also urges Federal agencies and Tribal governments to coordinate and work collaboratively with appropriate State and local jurisdictions to establish expedited planning, design, development, and operation of infrastructure necessary to provide reliable, affordable, and clean drinking water for federally recognized Indian Tribes ~~and Alaska Native communities~~ in accordance with applicable law.

Commented [MB5]: Colorado

MEMORANDUM

To: Western States Water Council
From: Colorado Delegation to Western States Water Council,
via Tracy Kosloff, Acting State Engineer
Date: March 1, 2024
Subject: **Proposed resolution - Universal Access to Reliable Clean Drinking Water for
Federally Recognized Indian Tribes and Alaska Native Communities**

Background

Access to clean water is a basic human right. It is essential for people to live with dignity and foundational for human health, growing economies, and basic quality of life. It is unacceptable that in the 21st Century, many Native Americans must travel for miles to collect water that is safe for drinking and everyday use. An estimated 48% of households on Indian reservations do not have access to reliable water sources, clean drinking water, or adequate sanitation.[1]

Household water security is defined as “the safe and reliable access to sufficient quantity and quality of water for household consumption, production, and cleanliness.”[2] “In the United States, potable water infrastructure is broadly assumed to be ‘universal’ in its coverage, to the point where the U.S. Census Bureau has recently considered dropping its plumbing question from the [American Community Survey] questionnaire.”[3] However, despite public perception, “universalized water infrastructure remains an incomplete promise for different populations in different places across the nation[.]”[4]

Native American households are more likely to lack adequate water services than any other group in the United States. Existing water infrastructure on reservations continues to deteriorate and inadequate water quality remains pervasive across Indian Country. According to the U.S. Water Alliance, Native households are 19 times more likely than white households to lack indoor plumbing.[5] This is not a random disparity - the lack of access to clean and safe drinking water in Tribal communities reflects historical and persisting racial inequities.

The United States government has long promised all Native American Tribes a “permanent homeland,” a “livable reservation,” and a home “conducive to the health and prosperity of the Indians.” But these promises are broken when Tribal people do not have clean water to drink or for cooking and personal hygiene. A permanent, livable, and prosperous homeland cannot exist without this minimum requirement of life—access to an adequate and healthful supply of drinking water.



Thanks to the sponsors of Tribal Clean Water legislation in the 117th Congress, funding for safe drinking water systems for Tribal communities received a significant boost from the Bipartisan Infrastructure Law and the Inflation Reduction Act. While groundbreaking and long overdue, the funding now available for construction and repair of domestic water systems in Indian country is not a complete solution. The gaps in available funding and support include technical assistance for planning, design, and training, provision of clean water hookups to essential community structures like schools and nursing homes, and assistance with ongoing operation and maintenance expenses. Many of these deficiencies would be remedied by legislation introduced in 2023, the Tribal Access to Clean Water Act, [S. 2385](#) and [H.R. 4746](#). This bill would authorize the U.S. Department of Agriculture, the Indian Health Service and the Bureau of Reclamation to provide technical assistance for needed Tribal water infrastructure and ensure that Native communities are treated equitably and appropriately when considered for grants and loans. It would also authorize funding for the connection of Native community facilities to clean domestic water supplies, and for operation and maintenance assistance.

There also remains a critical need for formalized coordination among the Federal departments and agencies in addressing the water access gap in Indian country. As many as eight different executive branch agencies are charged with various aspects of the provision of clean and safe water supplies and authorized to provide funding to such efforts. It is essential that these agencies work across departmental and agency boundaries in collaboration with Tribal governments to optimize their various authorities and funding and to remove barriers that have prevented the achievement of universal clean water access in the past. The Federal agencies should also work with appropriate State and local jurisdictions to begin to correct decades of inattention to Native American communities through the provision of basic clean drinking water and sanitary services that non-Indian communities across the country currently enjoy.

Conclusion

The Western States Water Council, in adopting Resolution No. 465, recognized the critical importance of access to reliable, clean drinking water for Native Americans and affirmed the responsibility of the Federal Government to ensure such water access. The resolution called on the Executive Branch to employ a coordinated approach working across departmental and agency boundaries in collaboration with Tribal governments and state and local jurisdictions to provide reliable, affordable, and clean drinking water for federally recognized Indian Tribes and Alaska Native communities in accordance with applicable law. Much progress has occurred, but much more is also needed. The Council's ongoing support for this basic human right for all Americans is greatly appreciated.

[1] House Committee on Natural Resources, Democratic Staff, [*Water Delayed is Water Denied: How Congress has Blocked Access to Water for Native Families*](#) (Oct. 2016).

[2] Shiloh Deitz & Katie Meehan, [*Plumbing Poverty: Mapping Hot Spots of Racial and Geographic Inequality in U.S. Household Water Insecurity*](#) (2019).

[3] *Id.* at 1, 7.

[4] *Id.* at 8.

[5] DigDeep-US Water Alliance, [*Closing the Water Access Gap in the United States*](#) (2019).

ec: Lauren Ris, Jojo La, Becky Mitchell, Kelly Romero-Heaney, Anne Castle



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
on
STATE PRIMACY OVER GROUNDWATER**

**~~Texas Hosted Spring Virtual Meetings~~
~~March 25, 2021~~ Washington, DC
March 14, 2024**

WHEREAS, groundwater is a critically important natural resource that is vital to the economy and environment of the arid West; [and](#)

WHEREAS, the Desert Land Act of 1877 and the United States Supreme Court in *California Oregon Power Co. v. Beaver Portland Cement Co.*, 295 U.S. 142 (1935) recognize States have exclusive authority over the allocation and administration of rights to the use of the groundwater within their borders and States and their political subdivisions are primarily responsible for the protection, control and management of the resource; [and](#)

WHEREAS, the Congress has created and the U.S. Supreme Court has recognized federal reserved rights to surface water, but no federal statute has addressed any federal property or other rights related to groundwater; and

WHEREAS, the regulatory reach of federal statutes and regulations, including but not limited to the Clean Water Act, Endangered Species Act, Multiple-Use Sustained-Yield Act, National Environmental Policy Act, Organic Administration Act (USFS), Reclamation Act of 1902, Safe Drinking Water Act, Wild and Scenic Rivers Act, Wilderness Act and the Comprehensive Environmental Response, Compensation, and Liability Act, were never intended to infringe upon state or private ownership or control over groundwater; and

WHEREAS, States recognize the importance of effective groundwater management and are in the best position to protect groundwater quality and allow for the orderly and rational allocation and administration of the resource through state laws and regulations that are specific to their individual circumstances; and

WHEREAS, working cooperatively with their federal partners, states have shown that they have the ability and authority to address federal needs regarding groundwater within existing legal frameworks, including but not limited to memoranda of understanding, water rights compacts, stipulations, and other methods; and

WHEREAS, the conditions affecting groundwater supplies, demands, and impairments vary considerably across the West and within individual states; and

WHEREAS, statutory restrictions on obtaining general state permits for federal remediation projects, such as CERCLA §121(e)(1) (42 U.S. Code § 9621), should not apply to the withdrawal and use of limited water resources; and

WHEREAS, federal efforts to exert control over or ownership interests related to groundwater or otherwise infringe upon or supersede state rights to the use of groundwater or state groundwater management laws and authorities are contrary to federal law and threaten effective groundwater management and protection.

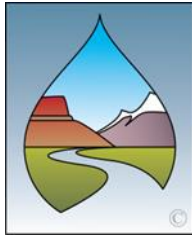
NOW, THEREFORE, BE IT RESOLVED, states have exclusive authority over the allocation and administration of rights to the use of the groundwater located within their borders and are primarily responsible for allocating, protecting, managing and otherwise controlling the resource; and

BE IT FURTHER RESOLVED, that the Western States Water Council opposes any and all efforts that would establish a federal ownership interest in groundwater not otherwise recognized or allowed under state law, or diminish the primary and exclusive authority of States over groundwater; and

BE IT FURTHER RESOLVED, that federal agencies should work cooperatively with appropriate state agencies and officials to address federal needs involving groundwater through state laws and authorities; and

BE IT FURTHER RESOLVED, nothing stated in this position is intended to apply to the interpretation or application of any interstate compact, court decrees, international treaty or tribal settlement agreement.

Position No. 466
Revised and Readopted
(see former Position No. 422, March 14, 2018)



RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding
THE *DIVIDING THE WATERS* PROGRAM
~~Texas Hosted Spring Virtual Meetings~~
~~March 25, 2021~~ Washington, DC
March 14, 2024

WHEREAS, the *Dividing the Waters* Program of the National Judicial College has served western judges overseeing complex water litigation since 1993 for more than 20 years, providing information and training resources on water law and water conflicts to state, tribal, and federal judges; and

WHEREAS, five judicial officers with extensive experience in water adjudication lead *Dividing the Waters* for the benefit of their colleagues in the judiciary, making it a program by judges for judges; and

WHEREAS, the Program includes participating judicial officers from 12 western states who adjudicate a wide range of water cases, from statewide water right adjudications to conflicts over endangered species and water quality; and

WHEREAS, *Dividing the Waters* ~~has~~ received funding from public interest foundations for 22 years, but after foundation funding for education programs ~~has~~ dwindled the program sought support from state governments, its Board of Advisors, and regional foundations in recent years; and

WHEREAS, it is in the interest of the executive branch water agencies of the western states to ensure that the judicial officers who adjudicate water cases in their states have an understanding of the fundamentals of western water law and the latest information on water adjudication; and

WHEREAS, many states have limited funding for judicial branch education, particularly for water and related natural resource topics; and

WHEREAS, *Dividing the Waters* provides a critical link between the executive branch water agencies and the judicial branch that adjudicates water conflicts in the western states;

NOW, THEREFORE, BE IT RESOLVED, that the Western States Water Council supports *Dividing the Waters* and urges public interest foundations and other interested entities to provide funding for the program; and

BE IT FURTHER RESOLVED, that the Western States Water Council supports and strongly encourages judges, masters and referees who adjudicate or preside over water litigation in the member states to participate in the *Dividing the Waters* Program; and

BE IT FURTHER RESOLVED, that the Western States Water Council supports consideration by member states of support for the *Dividing the Waters* Program through funding or other means that supports judicial education on water resource management disputes.

Position No. 467
Revised and Readopted
(see former Positions No. 374, October 10, 2014,
No. 415, October 20, 2017, and No. 457, October 15, 2020)

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.)
507	L	9/14/2023	outlining actions Federal agencies should take to expedite State General Stream Adjudications
506	WQ	9/14/2023	asserting state primacy on Protecting Ground Water Quality
505	WR	9/14/2023	supporting U.S. Department of Agriculture (USDA) Conservation Programs and Water Resources
504	L	9/14/2023	supporting Indian Water Rights Settlements
503	WR/E	5/24/2023	regarding water-related federal rules, regulations, directives, orders and policies
502	WR	5/24/2023	support federal authorization and financial support through the U.S. Geological Survey (USGS) for State Water Resources Research Institutes
501	WR	5/24/2023	requests Congress fully appropriate receipts accruing to the Reclamation Fund for their intended purpose
500	WR	5/24/2023	supporting NOAA data, forecasting, and research programs
499	L	5/24/2023	opposes any federal legislation intended to preempt state water law
498	WR	5/24/2023	supporting national dam safety programs
497	WR	5/24/2023	regarding the rural water and wastewater project/infrastructure needs and U.S. Department of Agriculture programs
496	WQ	5/24/2023	regarding the clean and drinking water state revolving funds and state and tribal assistance grants
495	WR	5/24/2023	regarding the National Levee Safety Act of 2007, levees and canal structures
494	WR	5/24/2023	regarding the transfer of federal water and power projects and related facilities
493	WR	5/24/2023	regarding the Reclamation Safety of Dams Act of 1978
492	WR	5/24/2023	regarding the Bureau of Reclamation's maintenance, repair and rehabilitation needs
491	WR	5/24/2023	urging Congress to support subseasonal to seasonal weather research, forecasting, and innovation
490	WQ	5/24/2023	water quality standards and federal reserved treaty rights for tribes
489	L	10/21/2022	supporting legislation requiring the federal government to pay state filing fees in state general stream adjudications
488	WR	10/21/2022	expressing support for implementation of the SECURE Water Act
487	WR	10/21/2022	urges the Administration and NASA to enhance focus on research for water resources applications and promote long term engagement with the WSWC
486	WQ	10/21/2022	related to EPA exercise of authority under Section 404(c) of the Clean Water Act,
485	WR	8/5/2022	urging the Administration and Congress to Support Water Research and Development Programs at the Department of Energy National Laboratories
484	WQ	8/5/2022	regarding Hydraulic Fracturing
483	WR	8/5/2022	supporting Strengthening the Resiliency of Our Nation to the Impacts of Extreme Weather Events
482	WR	8/5/2022	on the Preservation of Radio Frequencies necessary for Weather forecasting and Water Management
481	WQ	4/6/2022	regarding Clean Water Act Jurisdiction
480	L	4/6/2022	regarding Migratory Birds and the Management of State Water Rights and Resources
479	WR	4/6/2022	supporting Renewable Hydropower Development
478	WR	4/6/2022	supporting Rural Water Infrastructure Needs & Projects
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 > Past Position - replaced by Position #481 <
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

Sunsetted Positions

2022

#472 Regarding Clean Water Act Jurisdiction (*superseded by more recent position*)

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 a permanent mission statement, A Vision of Water*)

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

FY2023 Approved Budget w/FY2023 Year-End Income & Expenses Estimates & FY2024 Budget Projections

		WaDE-WSWC FY2023 Total Budget	FY2023 WaDE Approved Budget	FY2023 WaDE Income/Expenses	FY2024 WaDE Approved Budget	FY2023 WSWC Approved Budget	FY2023 WSWC Income/Expenses	FY2024 WSWC Budget Projections	FY2024 WSWC/WaDE Combined Budget
INCOME									
Member States Assessments	1	\$ 594,000.00	\$ -		\$ -	\$ 594,000.00	\$ 594,000.00	\$ 648,000.00	\$ 648,000.00
Miscellaneous Income		\$ -	\$ -		\$ -	\$ -	\$ 1,241.00	\$ 1,200.00	\$ 1,200.00
Council Meeting Sponsors		\$ 4,500.00	\$ -		\$ -	\$ 4,500.00	\$ 10,462.00	\$ 5,000.00	\$ 5,000.00
Interest		\$ 2,500.00	\$ -		\$ -	\$ 2,500.00	\$ 20,731.04	\$ 25,000.00	\$ 25,000.00
Symposium/Workshop Sponsors		\$ 8,000.00	\$ -		\$ -	\$ 8,000.00	\$ -	\$ 8,000.00	\$ 8,000.00
NARF WSWC Symposium		\$ -	\$ -		\$ -	\$ -	\$ -	\$ 5,000.00	\$ 5,000.00
NASA JPL		\$ 14,191.58	\$ -		\$ -	\$ 14,198.50	\$ 14,198.50	\$ -	\$ -
USBR Water SMART (\$200k/2 years)		\$ 100,000.00	\$ 90,000.00	\$ 93,230.31	\$ 86,769.69	\$ 10,000.00	\$ 20,717.84	\$ 20,717.84	\$ 107,487.53
Water Foundation Grant		\$ 125,000.00	\$ 112,500.00	\$ 255,000.00	\$ 140,000.00	\$ 12,500.00	\$ -	\$ -	\$ 140,000.00
Moore Foundation - Internet of Water		\$ 54,998.83	\$ 49,498.95	\$ -	\$ -	\$ 5,499.88	\$ 8,953.33	\$ -	\$ -
BHP Foundation - Internet of Water		\$ 166,992.71	\$ 150,293.44	\$ 32,411.79	\$ 100,000.00	\$ 16,699.27	\$ 9,084.48	\$ 10,000.00	\$ 110,000.00
TOTAL INCOME		\$ 1,070,183.12	\$ 402,292.39	\$ 380,642.10	\$ 326,769.69	\$ 667,890.73	\$ 665,189.69	\$ 722,917.84	\$1,049,687.53
EXPENSE									
Accounting		\$ 10,000.00	\$ -			\$ 10,000.00	\$ 9,025.00	\$ 4,500.00	\$ 4,500.00
Annual & Sick Leave Funding		\$ -	\$ -			\$ -	\$ 22,083.23	\$ -	\$ -
Audit		\$ 5,000.00	\$ -			\$ 5,000.00	\$ -	\$ 10,000.00	\$ 10,000.00
Contingencies		\$ 7,000.00	\$ 3,500.00	\$ 950.00	\$ 1,500.00	\$ 3,500.00	\$ 5,074.17	\$ 6,000.00	\$ 7,500.00
Contract Services		\$ 59,400.00	\$ -			\$ 59,400.00	\$ 12,883.75	\$ 25,000.00	\$ 25,000.00
Equipment Replacement Fund		\$ 3,000.00	\$ -			\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00
Furniture-Equipment		\$ 2,000.00	\$ -			\$ 2,000.00	\$ 1,717.81	\$ 2,000.00	\$ 2,000.00
Insurance		\$ 7,500.00	\$ 3,600.00		\$ -	\$ 3,900.00	\$ 1,413.00	\$ 5,000.00	\$ 5,000.00
Maintenance Contracts		\$ 5,000.00	\$ -			\$ 5,000.00	\$ 4,690.38	\$ 5,000.00	\$ 5,000.00
Meetings & Arrangements		\$ 24,000.00	\$ 1,000.00	\$ -	\$ 1,000.00	\$ 23,000.00	\$ 22,127.81	\$ 25,000.00	\$ 26,000.00
Office Supplies		\$ 1,500.00	\$ 350.00			\$ 1,150.00	\$ 1,289.54	\$ 1,500.00	\$ 1,500.00
Payroll Benefits									
Dental Insurance		\$ 4,000.00	\$ 1,900.00	\$ 190.60	\$ 1,143.60	\$ 2,100.00	\$ 2,064.74	\$ 2,064.00	\$ 3,207.60
Life Insurance		\$ 360.00	\$ 144.00	\$ 21.80	\$ 130.80	\$ 216.00	\$ 196.02	\$ 196.20	\$ 327.00
LT Disability Insurance		\$ 2,350.00	\$ 940.00	\$ 135.46	\$ 891.81	\$ 1,410.00	\$ 1,334.14	\$ 1,422.01	\$ 2,313.82
Medical Insurance		\$ 85,900.00	\$ 38,826.00	\$ 3,720.54	\$ 23,327.64	\$ 47,074.00	\$ 45,566.25	\$ 47,065.32	\$ 70,392.96
Pension		\$ 73,713.00	\$ 28,350.00	\$ 4,604.36	\$ 30,321.66	\$ 45,363.00	\$ 47,174.23	\$ 48,348.33	\$ 78,669.99
Payroll Salaries		\$ 430,000.00	\$ 162,508.00	\$ 58,169.20	\$ 178,362.69	\$ 267,492.00	\$ 233,136.23	\$ 284,401.93	\$ 462,764.62
Payroll Taxes		\$ 37,109.00	\$ 14,024.00	\$ 2,088.42	\$ 14,536.45	\$ 23,085.00	\$ 23,168.82	\$ 23,062.50	\$ 37,598.95
Pension Management		\$ 6,000.00	\$ -			\$ 6,000.00	\$ 4,590.89	\$ 6,000.00	\$ 6,000.00
Postage & Freight		\$ 750.00	\$ -			\$ 750.00	\$ 463.43	\$ 550.00	\$ 550.00
Printing & Reproduction		\$ 2,500.00	\$ -			\$ 2,500.00	\$ 1,301.55	\$ 1,500.00	\$ 1,500.00
HOA Fees (w/o Property Tax)		\$ 3,565.00	\$ -			\$ 3,565.00	\$ 3,750.00	\$ 3,600.00	\$ 3,600.00
Property Tax		\$ 3,765.00				\$ 3,765.00	\$ -	\$ 4,000.00	\$ 4,000.00
Storage Rent		\$ 4,620.00	\$ -			\$ 4,620.00	\$ 3,970.00	\$ 4,800.00	\$ 4,800.00
Reports & Publications		\$ 7,500.00	\$ -			\$ 7,500.00	\$ 5,001.13	\$ 6,000.00	\$ 6,000.00
Symposium (Nat'l Water Data Workshop)		\$ -	\$ -	\$ -		\$ -	\$ -	\$ 500.00	\$ 500.00
Symposium (CDWR-S2S)		\$ -	\$ -			\$ -	\$ -	\$ 8,000.00	\$ 8,000.00
Symposium (WSWC / NARF)		\$ -	\$ -			\$ -	\$ -	\$ 1,000.00	\$ 1,000.00
Telephone (UBS)		\$ 3,780.00	\$ -			\$ 3,780.00	\$ 2,583.00	\$ 2,800.00	\$ 2,800.00
Travel		\$ 45,000.00	\$ 14,950.39	\$ 2,115.00	\$ 10,000.00	\$ 30,049.61	\$ 30,457.68	\$ 40,000.00	\$ 50,000.00
Utilities (Questar & Murray Power)		\$ 2,200.00	\$ -			\$ 2,200.00	\$ 1,622.89	\$ 2,000.00	\$ 2,000.00
Other - Software & Licensing		\$ 2,500.00	\$ 2,200.00		\$ 12,000.00	\$ 300.00	\$ -	\$ -	\$ 12,000.00
WaDE Contractor Payments (DPL)		\$ 130,000.00	\$ 130,000.00	\$ 36,500.00	\$ -	\$ -	\$ -	\$ -	\$ -
WaDE State Assistance		\$ -	\$ -		\$ -	\$ -	\$ -	\$ -	\$ -
TOTAL EXPENSES		\$ 970,012.00	\$ 402,292.39	\$ 108,495.38	\$ 273,214.65	\$ 567,719.61	\$ 489,685.69	\$ 574,310.29	\$ 847,524.94
Balance		\$ 100,171.12	\$ (0.00)	\$ 272,146.72	\$ 53,555.04	\$ 100,171.12	\$ 175,504.00	\$ 148,607.55	\$ 202,162.59

Tab E – WaDE/In-Kind Contribution Survey

Water Data Exchange Update Report

Adel Abdallah: WaDE Program Manager
Ryan James: WaDE Data Analyst / Hydroinformatics Specialist
Tony Willardson: Western States Water Council Executive Director

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Water Data Exchange Update Report

March 8, 2024

Adel Abdallah: WaDE Program Manager

Ryan James: WaDE Data Analyst / Hydroinformatics Specialist

Tony Willardson: Western States Water Council Executive Director

The Water Data Exchange Program is committed to assisting the Western States Water Council member states in making their water rights, administrative and regulatory overlays, water use, and water supply data Findable, Accessible, Interoperable, and Reusable (FAIR) through a platform that enables streamlined and standardized regional analyses to inform water resources planning and policies. See <https://westernstateswater.org/wade>.

This report provides a brief update of the WaDE Program's progress over the period from September 2023 through February 2024 in the following areas: (1) WaDE Users Update; (2) WaDE Data Sharing Update; (3) Key Outreach and Coordination Activities; (4) WaDE Funding Updates; and (5) Next Steps.

1. Western States Water Data Access and Analysis Tool Users Update

Through February 29, 2024, WestDAAT has attracted 1,947 unique active users who collectively visited it 3,528 different. Of those users, 478 unique users kept returning and visiting WestDAAT. Most WestDAAT visitors are from the Western U.S. (Figure 1). Since September 2023, WestDAAT has had an average of 45 weekly visitors (Figure 2). WestDAAT offers free access, analysis, and visualization for any user, and it also provides a data download feature. The feature requires users to create a free WestDAAT account to help the WaDE team understand who uses the data. A total of 54 users have created accounts to download data from Arizona, California, Illinois, Colorado, Maryland, Massachusetts, North Dakota, Nebraska, New Mexico, New York, North Carolina, North Dakota, Oregon, Pennsylvania, Texas, Virginia, Washington, and West Virginia. These users City, Consulting, Federal, Non-profit organizations, State, and University.

In summary, WestDAAT has been a game-changer for WaDE as it has allowed visualization and query of water rights data across the West in an unprecedented way. The WaDE team now gets frequent emails from users asking about different aspects of WestDAAT data. Appendix A describes eight WestDAAT active users and why they are using the data. Appendix B provides use case storymaps that illustrate WestDAAT's capabilities.

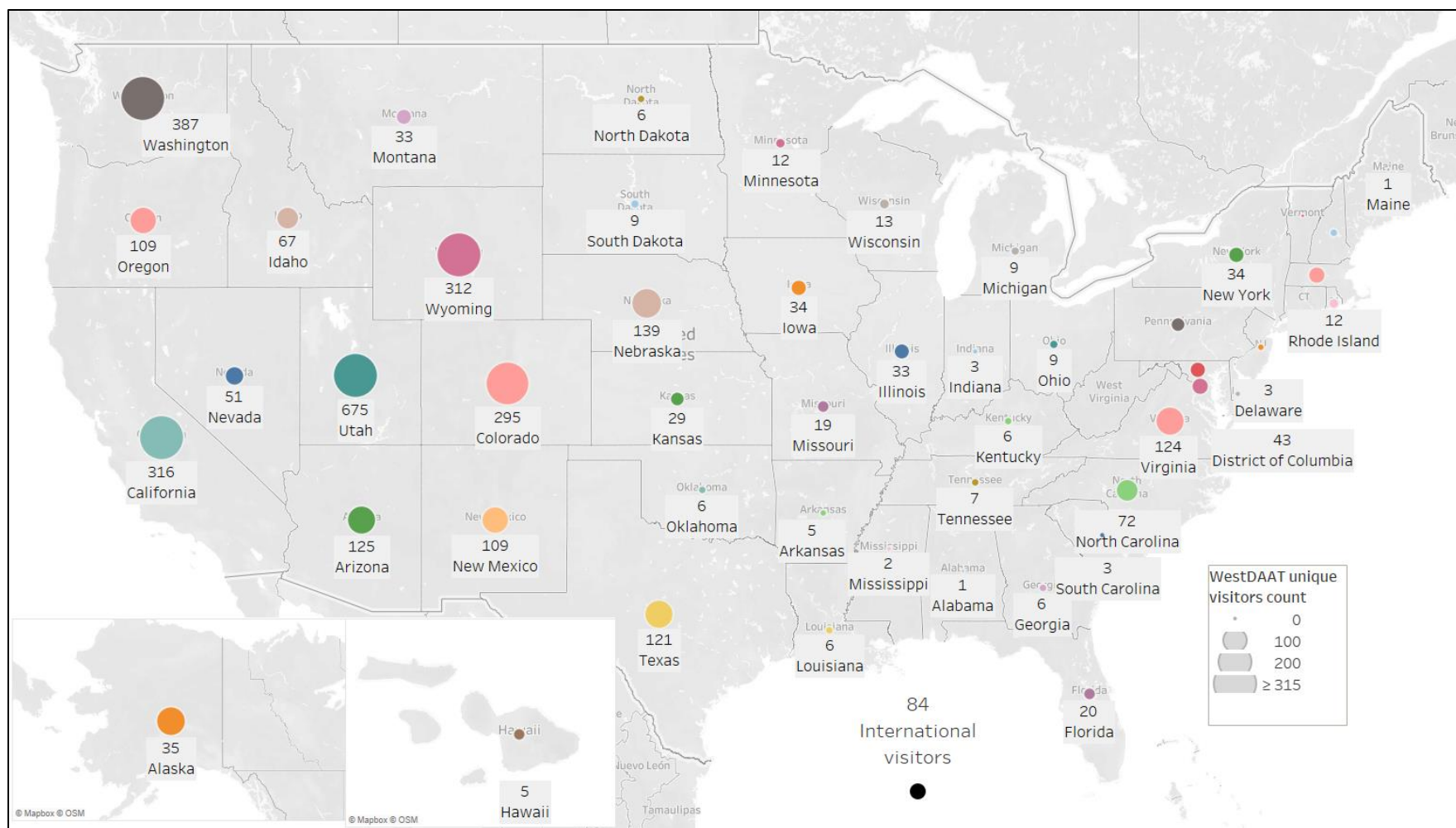


Figure 1: Geographic distribution of WestDAAT active visitors across the US from September 1, 2022, through February 29, 2024. A total of 3,528 visitors interacted with WestDAAT, including 84 international users.

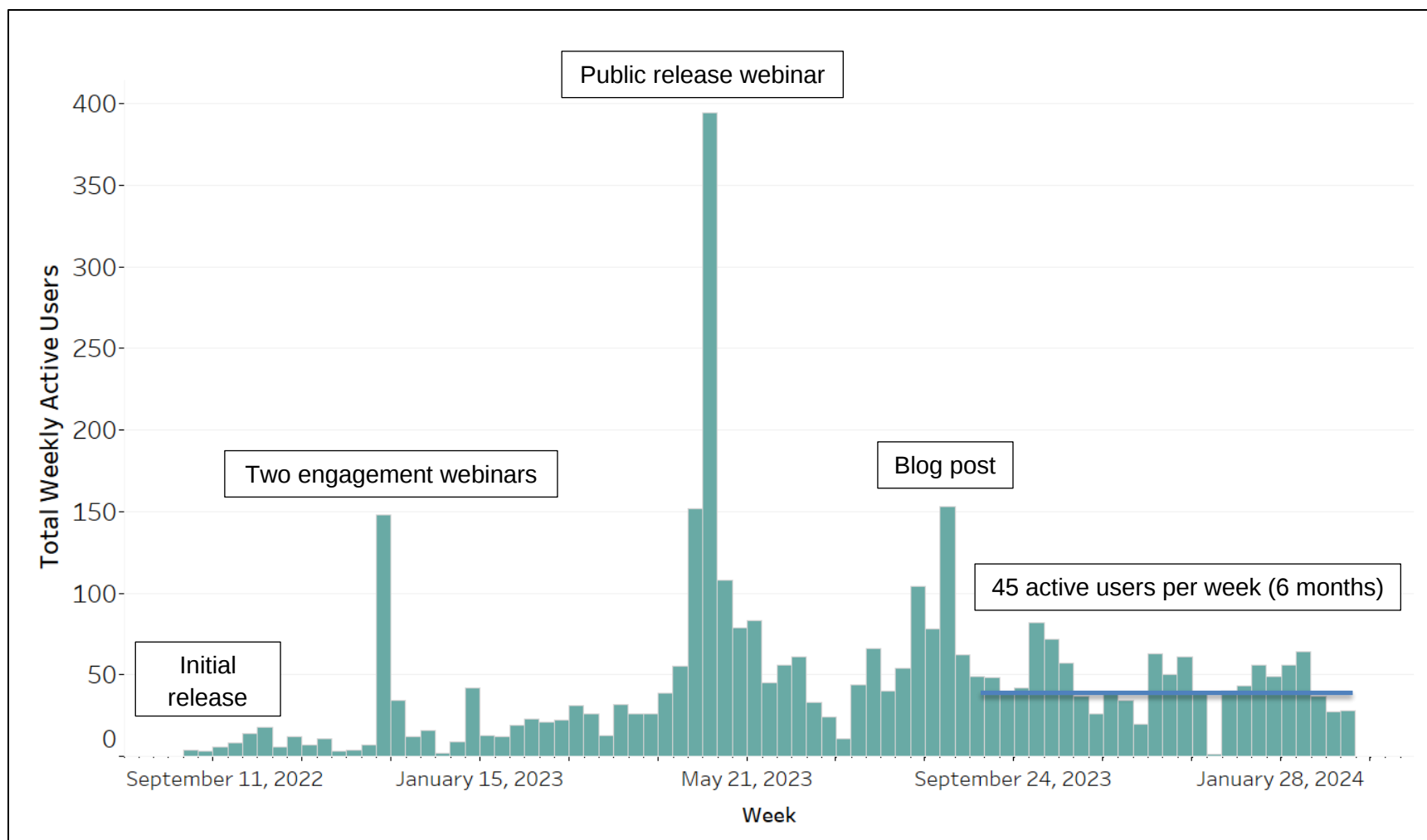


Figure 2: Distribution of WestDAAT 3,528 active weekly visitors from September 1, 2022, through February 29, 2024. Spikes in visitor activity during key engagement events are labeled. The last six months show 45 visitors per week

2. Water Data Sharing Update

The WaDE Program's database and its Application Programming Interface (APIs) offer consistent data access originating from 95 unique datasets across our 18 Western States. One state may have multiple datasets. There are three categories of state water data presented in a consistent format with standard terminology: (1) water rights data and related metadata, as well as administrative and regulatory overlays; (2) site-specific water supply data which includes a historical data for reservoirs and streamgages or groundwater pumping, and available aggregated water supply estimates at a watershed scale; (3) water use data which includes historical site-specific withdrawals¹ related to water rights, site-specific state public-supply water use, and aggregated withdrawal, demand, delivered water, and consumptive use at a watershed scale (Table 1).

Currently, only water rights data and metadata are accessible through WestDAAT, while the rest are accessible through the WaDE APIs or prototype applications in RShiny.

Figure 3 shows the total datasets available in the WaDE database in each state across the data categories and types supported in WaDE. The large number of datasets shared in California, Idaho, Nebraska, and Texas reflect the public availability of machine-readable data.

¹ WaDE uses the point of diversion to describe the location and withdrawal to describe the diverted amount, but both withdrawal and diversion are synonymous such as water being taken out.

Table 1: Summary of WaDE-supported datasets that are shared through the APIs and WestDAAT

#	Data Type	Data and key metadata	# States Sharing	# Datasets Shared	WaDE Database and API	WestDAAT
1	Water Rights - Administrative And Regulatory Overlays	Water Rights: Point of diversion, purpose of use, owner, permitted flow or volume, place of use, water source name and type, priority date.	18	32	Yes	Yes
		Regulatory & administrative overlays.	17	26	Yes	No
2	Water Supply – Site-Specific and Aggregated	Site-specific historical reservoir and streamgages or groundwater pumping.	12	12	Yes	No
		Aggregated water supply, such as streams, reservoirs, or groundwater.	3	3	Yes	No
3	Water Use – Site-Specific Withdrawals and Aggregated Us	Site-specific historical withdrawals related to water rights.	4	4	Yes	No
		Site-specific state public-supply water use.	4	4	Yes	No
		Aggregate withdrawal, demand, delivered water, consumptive use.	10	10	Yes	No

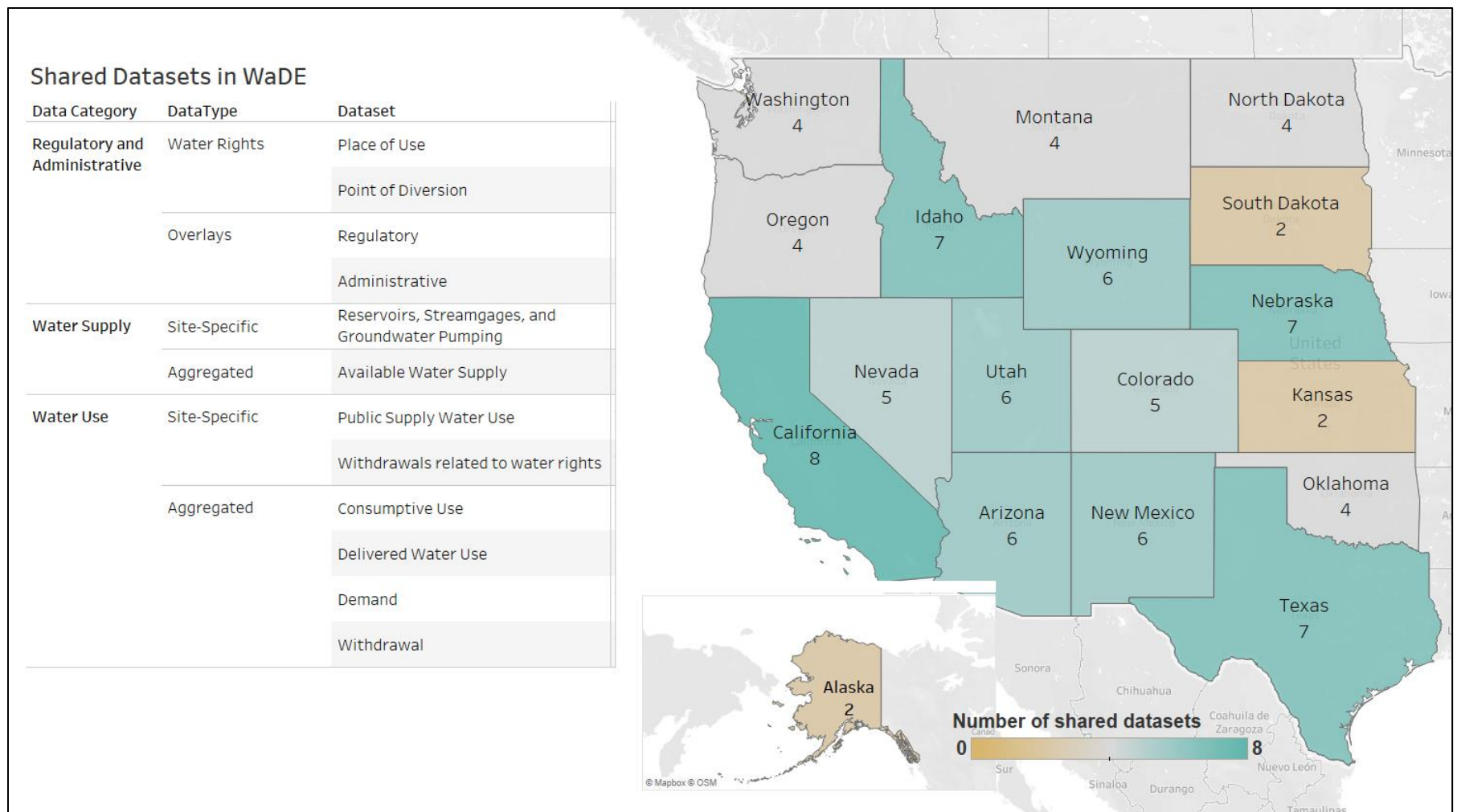


Figure 3: Screenshot of an interactive Tableau dashboard showing the distribution of 95 unique water datasets in WaDE across the Western 18 states. The dashboard is accessible online at https://public.tableau.com/app/profile/wswc/viz/WaDE2_0_Shared_Datasets/NumberOfSharedDatasets?publish=yes.

2.1 Water Rights, Regulatory and Administrative Overlay

Water Rights Data Shared

WestDAAT provides streamlined access to 2.5 million water rights across the WSWC's 18 Member States with consistent and searchable metadata that includes: point of diversion, place of use, purpose of use, owner, permitted flow or volume, water source type, and priority date. Over the past six months, the WaDE team updated the water rights data to reflect each State's database changes. In many cases, the update requires a remapping of the data when the state API or data structure changes, as in the case of the Montana Department of Natural Resources and Conservation. All data and documentation updates over time can be tracked on WaDE GitHub.²

The WaDE team also remapped surface water rights data for California and Texas to connect the point of diversion with historical withdrawal data in the WaDE database. The WaDE team also remapped surface water and groundwater rights data for the same purpose in Colorado and North Dakota. The connection or sharing of the same site identifier in the database allows users to query historical withdrawal data from the water right or vice versa. We note this connection only worked for some of Colorado's water rights data due to a limitation in the WaDE database design. Historical diversion data in Colorado are reported at the point of diversion structure, which often provides water to multiple water rights. The WaDE database allows historical withdrawal data for one water right at a time. The WaDE team will continue to evaluate how prevalent this case is among other states. In the future, it's possible to update the WaDE database design to allow historical withdrawal data at one point of diversion to be related to multiple water rights.

WestDAAT currently shares water rights with a legal status indicating "active" use or with permission to use water. The WSWC General Counsel is leading the effort to refine and classify a group of 83 unique terms describing the legal status of a state's water right. After compiling a list of these myriad legal terms and determining which states have similar or different definitions, a limited number of terms will be presented to allow WestDAAT users to query water rights with a similar legal status. WSWC General Counsel drafted five classifications (Figure 4) describing where a water right is in the legal process. This work is in progress and will be finalized over the next few months. These process-based classifications are considered generic but yet apply to each state's water rights unique legal status.

² WaDE GitHub documentation:
<https://github.com/WSWCWaterDataExchange/MappingStatesDataToWaDE2.0>.



Figure 4: Proposed WaDE legal status terms covering the legal processes for prior-appropriation water rights across the West.

Regulatory and Administrative Overlays Data

Regulatory and administrative overlays are geographic areas that may follow natural basin or aquifer boundaries, or boundaries of districts or offices where specific regulations or rules apply to the exercise of water rights and water use. Each overlay has a geospatial boundary, name, whether it is regulatory or administrative, the water source type it applies to, an oversight agency, and a hyperlink that points to online documentation provided by that agency.

In the WaDE database, each overlay is mapped to water rights that could be subject to its administration or regulation. Thus, overlays are another geospatial metadata to water rights that provide context to surface and groundwater water rights and water use administration across the West. When future funding allows the sharing of overlay data in WestDAAT, users will be able to answer questions like the following: (1) What are the regulations or regulatory agencies or districts with authority over groundwater or surface water across the West? (2) What water rights are subject to administration or regulation within a geospatial boundary such as a district, state, or interstate compact? and (3) What local, state or regional regulations (administrative or court ordered) may apply to the exercise of a water right or water use in an area of interest?

Thanks to work done by Joseph Wirthlin (an independent contractor that WSWC hired during the Summer and Fall of 2023), WaDE now has a new prototype RShiny application that allows visualizing regulatory and administrative overlays (Figure 5). Each overlay has a landing page describing its metadata and a hyperlink to the oversight agency. The regulatory overlay shown in Figure 6 represents the Idaho Eastern Snake Plain Aquifer (ESPA) Groundwater Management Area (GWMA) administered by the Idaho Department of Water Resources.³

³ Idaho Groundwater Manage Areas: <https://idwr.idaho.gov/water-rights/groundwater-management-areas/eastern-snake-plain-aquifer-advisory-committee/>

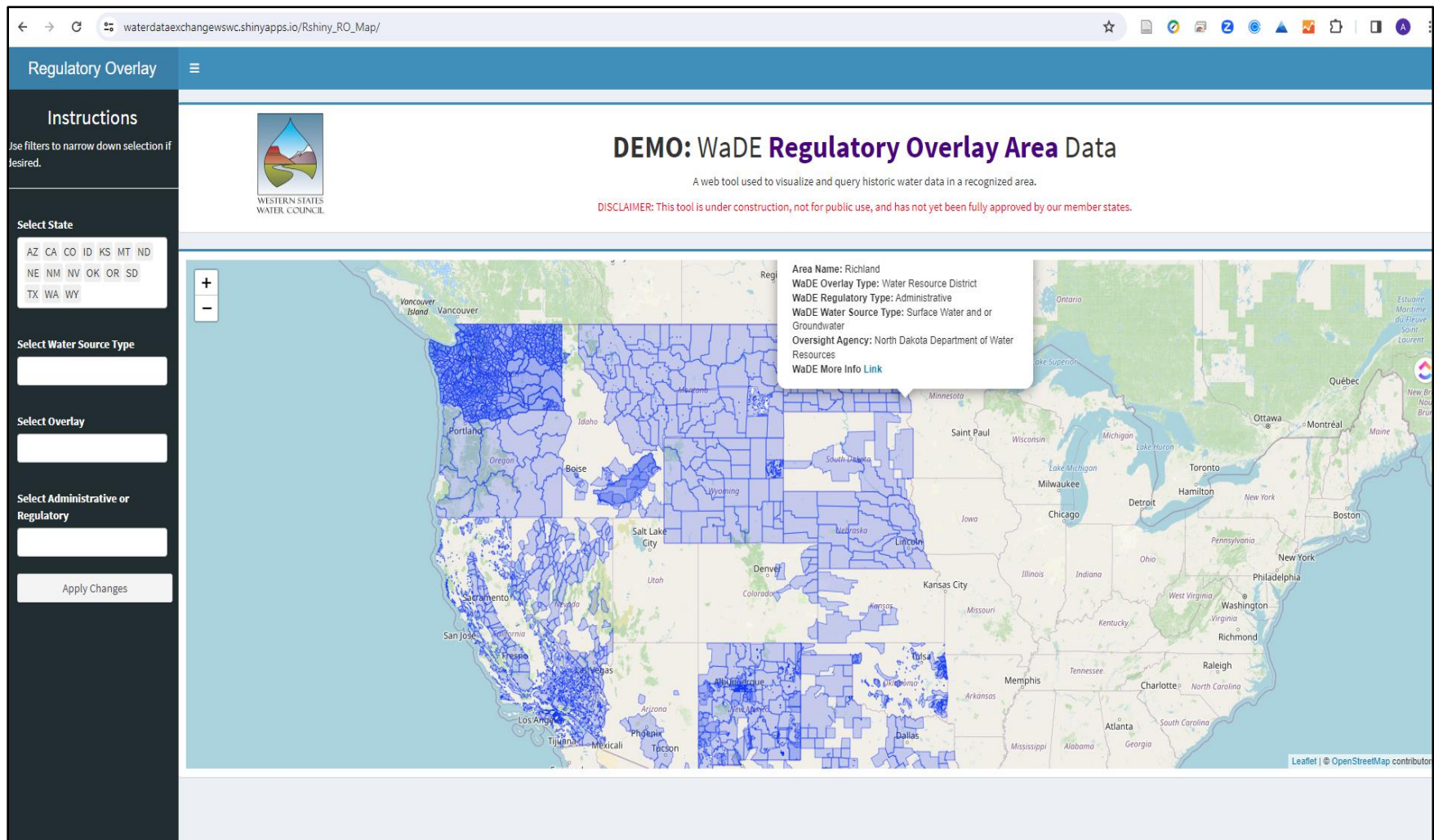


Figure 5: Screenshot of the prototype RShiny application homepage view for regulatory and administrative overlays.
https://waterdataexchangewswc.shinyapps.io/Rshiny_RO_Map/

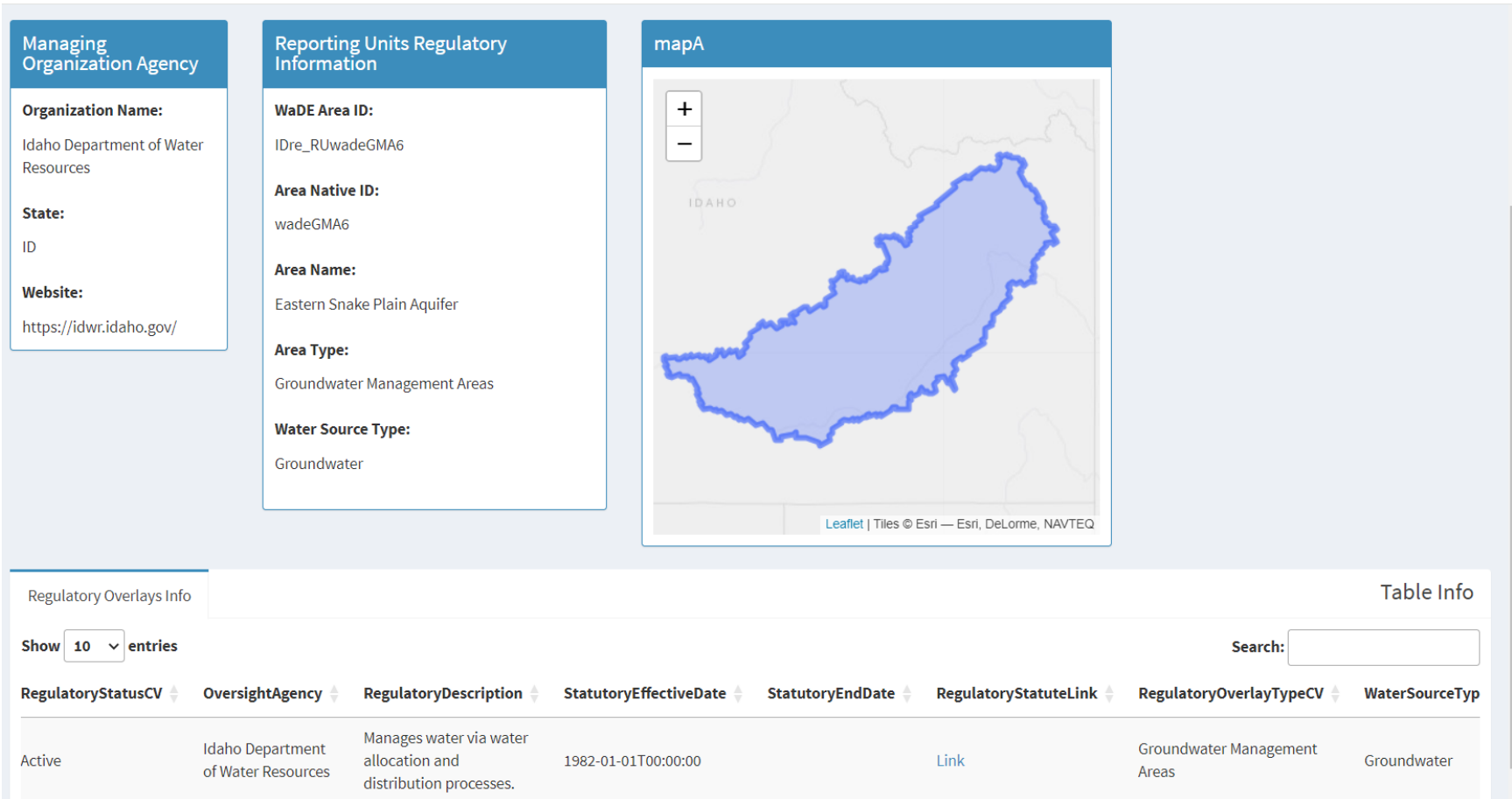


Figure 6: Prototype RShiny Application for regulatory and administrative overlay landing page showing specific metadata and providing an external link (when available) to each state of the agency. Link: <https://idwr.idaho.gov/water-rights/groundwater-management-areas/eastern-snake-plain-aquifer-advisory-committee/>

2.2 Water Supply Time Series Data

Over the past six months, the WaDE team added historical site-specific water supply data measuring daily water flows for 168 sites in New Mexico and 16 sites in Oklahoma. Below is a summary of all site-specific water supply data in the WaDE database.

Water Supply: Reservoir Level and Storage Data

- California has 128 reservoir-level time series data.
- Montana has 25 reservoir-level time series data.
- Texas has 122 reservoir levels and storage time series data.
- Utah has 32 reservoir storage volume time series data.
- Wyoming has 38 reservoir storage volume time series data.

Water Supply: Streamgage or Diversion Sites with Flow Measurement Data

- California has 80 sites measuring monthly water flow.
- Colorado has 1,509 sites measuring monthly water flow.
- Idaho has 177 sites measuring daily water flows.
- Montana has 87 sites measuring daily water flows.
- Nebraska has 208 sites measuring daily water flows.
- New Mexico has 168 sites measuring daily water flows.
- Nevada has 684 sites measuring daily water flows.
- Oklahoma has 16 sites measuring daily water flows.
- Oregon has 97 sites measuring daily water flows.
- Utah has 1,123 sites measuring daily water flows.
- Wyoming has 5,33 sites measuring daily water flows.

2.3 Water Use Time Series Data in WaDE

As mentioned earlier, the WaDE team has imported water rights-related withdrawal time series data for California, Colorado, New Mexico, and Texas. Below is a summary of all site-specific water use data in the WaDE database.

Water Use: Water Right-Related Withdrawals

- The California State Water Resources Control Board has 34,551 sites measuring monthly water withdraws related to surface water rights.
- The Colorado Division of Water Resources has 2,281 sites measuring monthly water withdrawals related to surface water and groundwater rights.
- North Dakota has 2,668 sites measuring annual water withdraws related to water rights.
- The Texas Commission on Environmental Quality has 3,964 sites measuring monthly water withdraws related to surface water rights.

Water Use: Groundwater Pumping Data

- Colorado has 8,710 sites that measure groundwater pumping.
- Nevada has 603 sites that measure groundwater pumping.

Water Use: Public Supply Water Use Data

- California State Water Resources Control Board has 3,960 public supply service areas with reported monthly produced and delivered water use data.
- The New Mexico State Engineer's Office has 535 public supply service areas with reported annual withdrawals data.
- The Texas Water Development Board has 4,035 public supply service areas with reported monthly intake data.
- The Utah Division of Water Resources and Division of Water Rights have 541 public supply service areas along with 4,926 points of diversion with annual reported public water deliveries and withdrawals, respectively.

Thanks to work done by Andrew Campbell, an independent contractor that WSWC hired during the Summer and Fall of 2023, WaDE now has a new prototype application visualizing non-federal water supply and water use time series data for thirteen Member States (Figure 7).

This prototype application is based on WestDAAT infrastructure but is not yet available via WestDAAT. Each site has a landing page providing more metadata and time series data for reported measurements through time (Figure 8). The application offers access to the following data:

Besides site-specific use data, the WaDE database has aggregated time series data for nine Member States, which are available through the WaDE API and an RShiny application that is available online.⁴

⁴ Rshiny Demo on WaDE API:
<https://waterdataexchange.swc.shinyapps.io/AggregatedBudgetWaterUseDemo>.

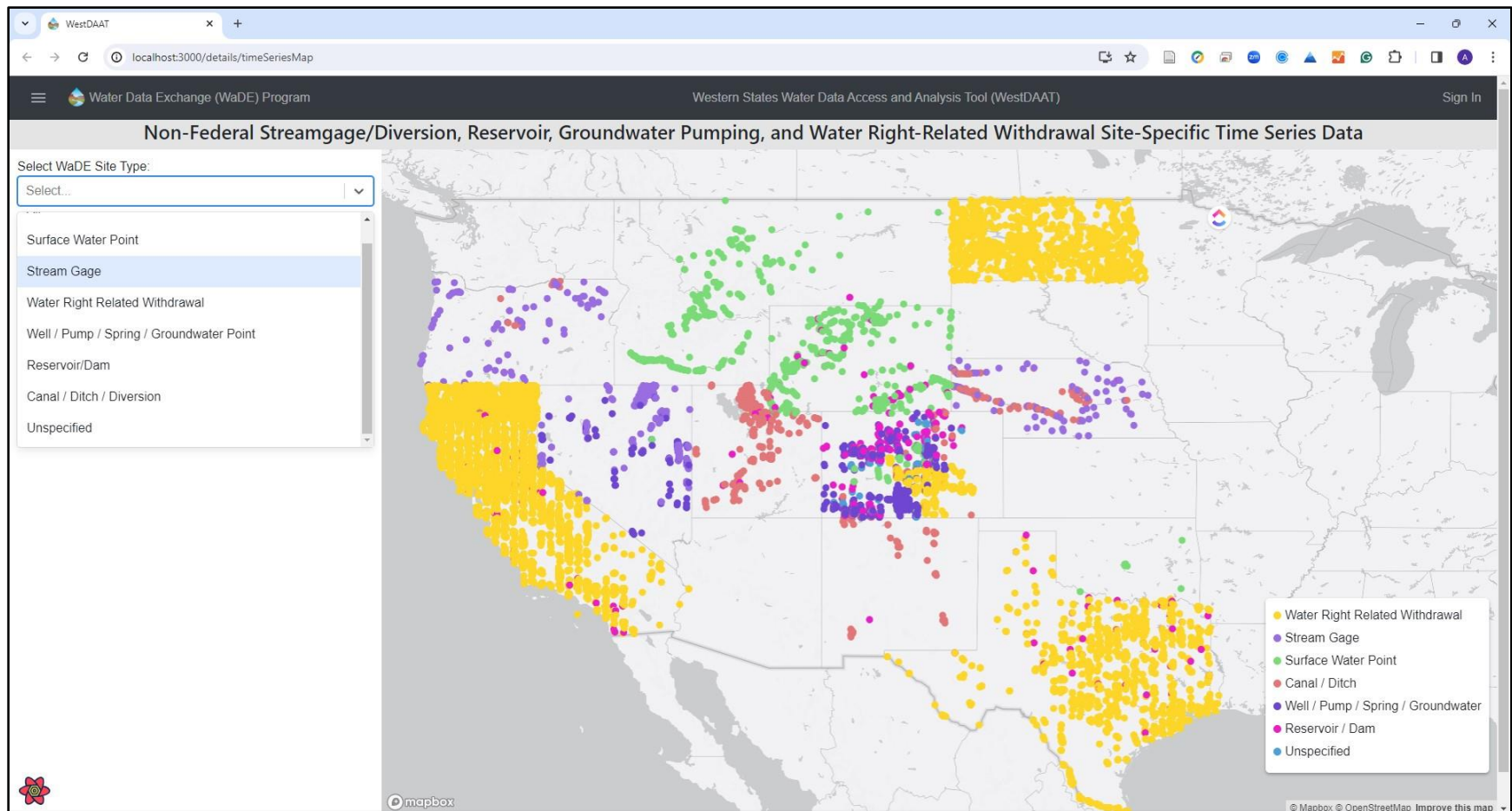


Figure 7: Screenshot of a primitive WestDAAT prototype Site-Specific Time Series Data extension for Non-Federal Streamgage/Diversion, Reservoir, Groundwater Pumping, and Water Right-Related Data in the WaDE database.

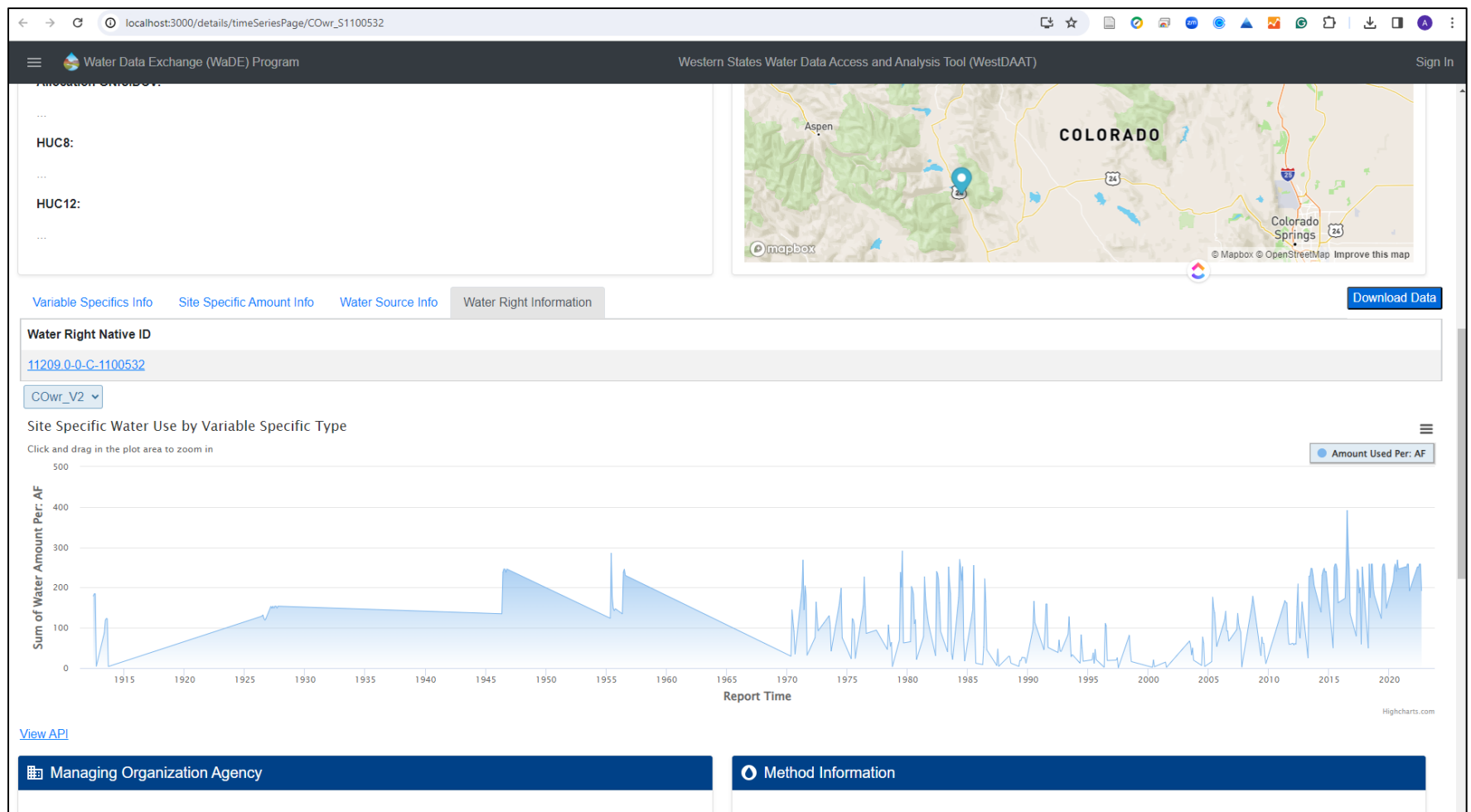


Figure 8: Screenshot of a primitive WestDAAT prototype extension landing page for site-specific time series data in the WaDE database. These historically reported withdrawal amounts are for diversions in Colorado related to a water right in WestDAAT. More info is available here: https://westdaat.westernstateswater.org/details/right/COwr_WR1120900C1100532.

3. Key Outreach and Coordination Activities

The WaDE team: (1) engaged with dozens of agencies and organizations to demonstrate WestDAAT capabilities; (2) coordinated with the IoW team through bi-monthly calls and participated in IoW Coalition Meetings; (3) participated in coordination calls with agencies and different groups related to water data management; (4) coordinated data sharing calls with various agencies; and (5) held coordination calls with the Bureau of Reclamation and IoW team on the Western Water Data Hub. More details are provided below.

WaDE / WestDAAT Demos

The WSWC Executive Director and WaDE Program Manager demonstrated WestDAAT and WaDE data to staff at the following agencies and organizations: Aqaix Nimbus; Audubon; Bureau of Land Management; Department of Justice; Forest Service National Water Rights and Uses Program; WaterCard; METER Group, Inc. USA; Montana Fish, Wildlife, & Parks; Northern Arizona University; Pennsylvania State University; Vibrant Planet, Virginia Tech; Walton Foundation; and the Wright-Ingraham Institute.

Internet of Water (IoW) Coordination

The WSWC Executive Director and WaDE Program Manager shared updates and participated in the following meetings: (1) IoW bimonthly check-in calls related to WaDE progress as a major IoW data hub; (2) IoW Coalition Steering Committee Meetings; and (3) two IoW Coalition Meetings- the first in Washington DC on September 26-27, 2023, and the second virtually on February 8, 2024.

Other Coordination

The WSWC Executive Director and/or WaDE Program Manager coordinated with the following: Bureau of Reclamation - Upper Colorado River Basin; National Aeronautics and Space Administration (NASA) Western Water Applications Office (WWAO); Oak Ridge and Pacific Northwest National Laboratories; OpenET; United States Geological Survey (USGS) Water-Use Data and Research (WUDR) program; Upper Colorado River Commission; USGS National Groundwater Monitoring Network; National Integrated Drought Information System (NIDIS); University Corporation for Atmospheric Research (UCAR); and Utah Water Research Laboratory.

Data Sharing

The WSWC Executive Director, WaDE Program Manager, and WaDE Data Analyst conducted calls with the California State Water Resources Control Board, Delaware River Basin Commission, Great Lakes Commission, Minnesota Department of Natural Resources, Oklahoma Water Resources Board, and the Utah Division of Water Rights.

Western Water Data Hub

The WSWC Executive Director, WaDE Program Manager, and WaDE Data Analyst participated in developing a Stakeholder Engagement Plan for a new project to develop a Western Water Data Hub funded by the Bureau of Reclamation and managed by the Center for Geospatial

Solutions (CGS) at the Lincoln Institute for Land Policy. The WSWC has a subcontract with CGS to assist. Recent activities involved WaDE and IoW coordination calls to discuss engagement plans, as well as calls with Reclamation's Implementation Team leading the Hydrology and Hydraulics Community of Practice (H&H CoP) community. The WaDE and IoW team also hosted a webinar to introduce the Western Water Data Hub project and distribute a survey to the H&H CoP members soliciting their input, participation and suggestions for the Hub.

Other Major Meetings

- January 9, 2024 – WSWC Deputy Director and WaDE Program Manager attended the Annual Utah American Water Resources Association Luncheon and the keynote speech was presented by Brian Steed, the Great Salt Lake Commissioner.
- February 20-23, 2024, the WSWC Executive Director attended the Family Farm Alliance Meetings in Reno, Nevada.
- February 21-23 – The WaDE Program Manager attended the National Reservoir Data Symposium in Ft. Collins, Colorado.
- February 27-28, 2024 - WSWC Executive Director and Hydroinformatics Specialist attended the OpenET Conference in Santa Ana Pueblo, New Mexico.

4. Water Data Exchange Funding Updates

The following have funded WaDE and contributed to the development of its flagship product, the Western States Water Data Access and Analysis Tool (WestDAAT), over the past couple of years.

- Bureau of Reclamation Applied Science WaterSmart Grant

Later in March 2024, WSWC will conclude a 2-year agreement with the Bureau of Reclamation for a \$200,000 grant that funded the development of WestDAAT and classifying water rights that the states recognize as either owned by Reclamation or by an irrigation or water district or canal company that receives water from a Reclamation project. The grant was matched with philanthropic funds mentioned below.

- Water Foundation Grant

In December 2023, WSWC concluded a 2-year \$510,000 grant with the Water Foundation, which largely funded the development of the WestDAAT via a contractor, Don't Panic Labs, as well as related outreach to users. A final project report and report on the availability in WaDE of aggregated water use data from Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming.

- Broken Hill Proprietary (BHP) Foundation Grant through Duke University

In September 2023, WSWC concluded Year 2 of a 5-year agreement with Duke funded by BHP as part of a subcontract with Duke and \$450,000 grant. During Year 2, substantial effort was spent on finalizing the WestDAAT and engaging stakeholders in using the tool. The WSWC team has also substantially improved on an initial Shiny App prototype for visualizing site-

specific water use data by providing access to 5 additional states compared to the ten states in Year 1.

WSWC has also agreed to Year 3 deliverables which will focus on the following key tasks: continue importing historical water right-related withdrawal data for four Western States (California, Colorado, North Dakota & Texas); demonstrate the ability to scale up WaDE data and platform resilience by adding Minnesota permitting and Great Lakes Commission aggregate water use data to WaDE (for BHP); review state plans submitted under the United States Geological Survey (USGS) Water Use Data and Research (WUDR) program; create a template and produce 5-7 factsheets for WSWC member states illustrating the availability of their water data and related program capabilities.

- Center for Geospatial Solutions at the Lincoln Institute of Land Policy Grant

In October 2023, WSWC entered into a two-year \$118,964 grant agreement with the Center for Geospatial Solutions at the Lincoln Institute (CGS) to support development of a Western Water Data Hub (and Application Programming Interface, API) for the Bureau of Reclamation. The project will streamline access to diverse water data sources to support Reclamation's mission to manage, develop, and protect water and related resources in an environmentally and economically sound manner. The initial release of the Hub is expected to be in July 2025.

The WSWC agreement with Lincoln-CGS includes the following tasks: (1) identify relevant representative Reclamation stakeholders and determine formats for engagement; (2) create and document personas and use cases for data visualizations and dynamic data tools; (3) work with stakeholders to evaluate functional drafts of data visualizations and dynamic data tool; (4) support the development of a common API; (5) determine state datasets which will be integrated and served by WaDE; (6) advise CGS in the creation of catalogues of variables and search terms; (7) incorporate geographical and hydrological index information for stations with data mediated by WaDE; and (8) support CGS in development of data visualization and communication products.

WSWC and CGS have already developed the stakeholder engagement plan in collaboration with Reclamation advisors, including the Open Water Data and the Hydrology and Hydraulics Community of Practice (H&H CoP) coordinators. The engagement plan is based on agile project management, enabling expedient iterative feedback. The goal is to develop representative personas that guide the design of the Western Water Data Hub. Engaged stakeholders will consist of internal Reclamation staff in various analytical, engineering, and operations roles. The stakeholders will be drawn from the H&H CoP groups, which includes about 250 Reclamation employees with expertise in one or more of the following subcommunities: (1) Planning; (2) Hydrologic Analyses; (3) Hydraulic & Ecologic Analyses; and (4) Operations. The engagement will begin later in March 2024.

- Western Water Conservation Application Tool: WestDAAT with OpenET

In October 2023, WSWC submitted a grant application to Reclamation for an Applied Science matching grant under the WaterSmart program to develop a Western Water Conservation Application Tool (WestCAT) that streamlines applications for voluntary compensated, in-state and temporary water conservation measures. We appreciate the many support letters from our member states and other organizations. Conservation measures might include full-season or partial season fallowing, alternative irrigation strategies, and crop switching. WestCAT will

integrate two foundational data sets for water conservation: WestDAAT⁵ and evapotranspiration (ET) data mapped by OpenET as a proxy for consumptive use estimates.⁶ Successful grant applicants are expected to be announced in April 2024.⁷

With its contractor (Don't Panic Labs), the WaDE team has scoped and estimated the cost of building WestCAT as an extension to WestDAAT. The scoping process helped narrow down critical design decisions and showcase how the user experience would operate. Depending on our contractor's schedule, the tool could be operational within six months if funding is available.

5. Next Steps

The WaDE team will continue to work with states to expand access to additional data as it becomes available in machine-readable formats, including historic water withdrawals, state-operated reservoir and streamgage data, and regulatory and policy overlays.

The WaDE team will continue to work with CGS and Reclamation over the next two years on development of the Western Water Data Hub.

A WSWC WaterSMART grant application to integrate water rights and water use data through development of a Western Water Conservation Application Tool (WestCAT) is presently being considered and if selected for funding, the WaDE team will start an outreach plan to develop the tool, which would be a two year project.

⁵ WestDAAT: <https://westdaat.westernstateswater.org>

⁶ OpenET: <https://openetdata.org>

⁷ Applied Science Grants: <https://www.usbr.gov/watersmart/appliedscience/index.html>

Appendix A: WestDAAT Active Users

The following eight users contacted the WaDE team, asking questions and sharing their interest in the data. They are actively using the data or considering its integration into their projects, programs or business processes. They praised WestDAAT's visualization capabilities and consistency filtering such extensive data across the West. WestDAAT now has a growing user base that will be a catalyst for further engagement and an increased potential to support sound decision-making across the West and the Nation.

1. **User:** Bureau of Reclamation

Project: Water Rights Information Management System (WRIMS).

Goal: Reclamation is developing WRIMS as a *“centralized repository of information on Reclamation’s interests in water rights to ensure they are inventoried and protected to avoid litigation processes on authorized Reclamation projects. Developing this water rights information management system will streamline data collection and maintenance of Reclamation’s water rights, improve data quality and data integrity, and ensure consistency. Improved data management, integration, and consistency in business practices will result in significant resource savings regarding funding, time, and staff.”*

How is WestDAAT being used? Reclamation staff is querying water rights data from WestDAAT that the Western States recognizes for Reclamation as an owner. In addition, WSWC is collaborating with Reclamation to classify water rights that receive water from Reclamation projects such as districts or canal companies. This effort is important because Reclamation *“provides 1 out of 5 (or 140,000) Western farmers with irrigation water for 10 million farmland acres that produce 60 percent of the nation’s vegetables and one-quarter of its fresh fruit and nut crops.”*

More info at <https://www.usbr.gov/research/projects/detail.cfm?id=20088>

2. **User:** Kat Hoenke, the Southeast Aquatic Resources Partnership

Project: Aquatic Barrier Prioritization Tool: Southeast and Intermountain regions.

Goal: To build a community of practice among resource managers and enable them to identify high-priority aquatic connectivity restoration projects. Regularly updating barriers in this inventory allows it to reflect better the degree of aquatic habitat fragmentation from aquatic barriers across political boundaries nationally.

How is WestDAAT being used? The team uses WestDAAT's data to identify infrastructure and small dams affecting stream connectivity. *“WestDAAT has been extremely useful for us. It is currently used in our national aquatic barrier inventory and prioritization tool when Points of Diversion (PODs) have a structure present. We use the data to find undocumented diversion structures that block habitat to aquatic species by manually reviewing those that map to streams. Sometimes, we find hundreds of additional dams we previously did not have in our inventory. In addition, we are working on aligning WestDAAT data to existing structures to identify the water rights and beneficial use information so that it can be used as filters in our prioritization tool.”*

More info at <https://aquaticbarriers.org>

3. **User:** Dr. Landon Marston Research Group at Virginia Tech
Project: Toward resilient and adaptive community-driven management of groundwater-dependent agricultural systems.
Goal: Model agriculture water use curtailment due to drought and the impact on national and global food supplies.
How is WestDAAT being used? The project will pair land use ownership with WestDAAT water rights and infrastructure to link water rights to land. Dr. Marston Group downloaded a copy of WestDAAT's water rights data.
More info at <https://marstonresearchgroup.com>
4. **User:** Dr. Benjamin Ruddell Research Group at Northern Arizona University
Project: Mesoscale Data Fusion to Map and Model the U.S. Food, Energy, and Water (FEW) System.
Goal: Identify adaptive options for farmers in the Colorado River Basin.
How is WestDAAT being used? *"The team is using WestDAAT data to map what adaptive options are available in the region based on existing water rights and any unallocated water."*
More info at <https://fewsion.us/data>
5. **User:** Economic Research Service at the United States Department of Agriculture (USDA)
Goal: Develop models on the economic impacts of reduced snowpack on agriculture across the Western U.S., especially the Colorado River Basin. More info at <https://www.ers.usda.gov/authors/ers-staff-directory/aaron-ates>
How is WestDAAT being used? The team uses WestDAAT data to examine drought impacts on junior vs. senior water rights.
6. **User:** The Program on Coupled Human and Earth Systems (PCHES), Pennsylvania State University
Goal: The team focuses on driving innovations in the modeling and analyzing multisector, multiscale land, energy, water, and infrastructure systems to advance understanding of complex risk and response behaviors.
How is WestDAAT being used? The team uses WestDAAT data to model multisector dynamics of intersectoral water allocation changes through water markets.
More info at <https://www.pches.psu.edu/index.html>
7. **User:** Certain Measures and Wright-Ingraham Institute

Goal: Develop an educational data visualization tool relating to water rights for the Colorado River.

How is WestDAAT being used? The team uses WestDAAT data as input to their model that aggregates surface water rights in the Colorado River Basin.

More info <https://wright-ingraham.org/about>

8. **User:** Vibrant Planet

Project: The team developed a Land Tender online to assess wildfire risks and model landscape restoration.

How is WestDAAT being used? The team is considering using WestDAAT data, especially points of diversion, as a water infrastructure layer in their Land Tender tool to inform the prioritization of landscape restoration measures to protect from potential wildfires.

More info at <https://www.vibrantplanet.net/landtender>

Appendix B: Documentation and Reporting Update

The WaDE team created and updated the following WestDAAT use cases and documentation, which will be revised over time.

WestDAAT Use Cases

The WaDE team developed the following eight use case storymaps demonstrating and describing WestDAAT capabilities and applications for different users across the West. The first six use cases are for district personas that motivated the design capabilities of WestDAAT. Each persona has different roles in managing or understanding water resources with varying water needs data. The last two use cases focus on data query tasks that could be of interest to a broad range of users. The WaDE team will continue to revise and update these storymaps when new data capabilities become available.

- Gary the Governor (Persona):
<https://storymaps.arcgis.com/stories/dd122f6c7231439ebfb1bb74f14b3235>
- Stan the State Engineer (Persona):
<https://storymaps.arcgis.com/stories/25958528b73e43e7bb4c3ba49e284c32>
- Maggie, the River Basin Manager (Persona):
<https://storymaps.arcgis.com/stories/5048ba782a1a4e7eac5b2aa7d4df662d>
- Laila, the Land Use Manager (Persona):
<https://storymaps.arcgis.com/stories/7c8fde6322464b138718d5b000b3f9eb>
- Frank the Farmer (Persona):
<https://storymaps.arcgis.com/stories/aae370ce17e04e36bc4d43e00f6ce6ee>
- Ratibah, the Researcher (Persona):
<https://storymaps.arcgis.com/stories/0c254e67e11046a0a4dc303e9461348f>
- Tracking Downstream Water Quality and Water Use after a Spill on the Colorado River:
<https://storymaps.arcgis.com/stories/e83f651e48bc4c8b83f7b0475dcca9c2>
- Identifying Water Users in the Bear River Watershed:
<https://storymaps.arcgis.com/stories/e83f651e48bc4c8b83f7b0475dcca9c2>

WestDAAT Documentation and Instructions

The WaDE team created and continued to update the following web pages to provide instructions and descriptions of different aspects of WestDAAT's data, metadata, and features and their limitations. The WaDE team will continue to revise and update these pages over time.

- About Water Rights Data and their Metadata Dictionary:
<https://westernstateswater.org/wade/water-rights-data>

- Water Data Exchange (WaDE) Data and Software Terms of Service: <https://westernstateswater.org/wade/westdaat-terms-of-service>
- WestDAAT NLDI Geoconnex Documentation: <https://westernstateswater.org/wade/westdaat-nldi-geoconnex-documentation>
- Known Data Issues and Limitations: <https://westernstateswater.org/wade/known-issues>
- WestDAAT Analytics and Data: <https://westernstateswater.org/wade/westdaat-analytics>
- WestDAAT Filters Documentation: <https://westernstateswater.org/wade/westdaat-filter-documentation>
- WestDAAT Use Case: <https://westernstateswater.org/wade/westdaat-use-cases>

Survey: Operating Cost of Western States Water Rights, Water Use, and Water Supply Programs

This short survey is designed to develop an estimate of the costs of developing, operating, and maintaining WSWC member state water rights, water use, and water supply data programs which generate public information that is shared through our [Water Data Exchange \(WaDE\) Program](#). Please provide your best estimate. It will be used to demonstrate our non-federal state in-kind contributions and match for federal grants and philanthropic funds.

The WaDE team shares state data consistently under FAIR Data Principles (Findable, Accessible, Interoperable, and Reusable) through the WaDE database and the [Western States Water Data Access and Analysis Tool \(WestDAAT\)](#). These tools depend on available state data.

Specific Questions: How much does it cost your state agency per year to collect, store, and manage databases related to (1) water rights, (2) water use, and (3) water supply?

This may be actual or estimated costs or authorized or appropriated funds related to data collection, storage, and management, *including* staffing, outside IT support, quality assurance/quality control (QA/QC), and hardware and software costs, etc. Also, include any other costs related to publicly sharing the data.

1. **Water Rights Data:** Tabular and geospatial data on the point of diversion, place of use, and all metadata such as owner name, beneficial use, and priority date (for groundwater and surface water).
2. **Water Use Data:** Site-specific and/or aggregated time series/ historical water use data either at the point of diversion/withdrawal and/or place of use, including for any available domestic and public-supply water use data (for groundwater, surface water, or water reuse).
3. **Water Supply Data:** Data on diversions or withdrawals, as well as storage, from state or non-federally operated streamgages, diversion structures, groundwater pumping, and/or reservoir storage and release data.

1. Name _____

2. Email _____

3. State _____

4. Agency _____

5. What's the name of your water rights, water use, or water supply data program?

6. Is your budget annual or biennial?

☐ Annual

☐ Biennial

7. When does your fiscal year start?

☐ July 1st

☐ September 1st

☐ October 1st

☐ Other _____

Please use only a numeric response on the following questions/tables to allow for easy aggregation. You may round the numbers.

8. What's the annual total program budget for FY22, FY23, and FY24? If your budget is biennial, please provide annual numbers (i.e., divide by 2).

	Cost per data item or overall annual program budget		
	FY22	FY23	FY24
Annual cost related to Water Rights Data			
Annual cost related to Water Use Data			
Annual cost related to Water Supply Data			
If the cost per the items above is not readily available, what is the total annual program budget?			

9. How many full-time equivalents (FTEs) are working in your program with tasks related to collecting, storing, managing, and sharing water rights, water use data, and water supply data as described above during FY22, FY23, and FY24?

	Number of FTEs per data item or for the entire program		
	FY22	FY23	FY24
FTEs working on Water Rights Data			
FTEs working on Water Use Data			
FTEs working on Water Supply Data			
If the number of FTEs per items above is not readily available, what is the total number of program FTEs?			

10. Any comments to add?

11. Who should we contact with any questions? Please share a name and email

Tab F – WSWC Activities and Events

Western States Water Council Summary of Activities

September 2023 – March 2024

ADMINISTRATION/CONGRESSIONAL OUTREACH

On January 10, the WSWC sent a letter of support and recommendations for the Good Samaritan Remediation of Abandoned Hardrock Mines Act (S. 2781) to Senate Leadership, and to the Senate Environment and Public Works Committee.

On January 31-February 1, WSWC Executive Director, as a member of the Landsat Next Coalition, met with Congressional staff in Washington, DC. WSWC support for water data, including OpenET data, was also a focus of a number of visits.

On March 4, the WSWC sent a letter of support and recommendations for the Weather Act Reauthorization Act of 2023 (H.R. 6093) to House Leadership, and to the House Committee on Science, Space and Technology to improve the National Oceanic and Atmospheric Administration's weather research, and support improvements in weather forecasting and prediction.

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

November 6-8, 2023, WSWC's Executive Director and Deputy Director/General Counsel attended WGA's Winter Meeting in Jackson Hole, Wyoming.

WSWC CALLS, MEETINGS, SURVEYS, SYMPOSIA AND WORKSHOPS

On September 12-14, 2023, the WSWC Fall Meetings (202nd) were held in Anchorage, Alaska.

On February 1, the WSWC Water Quality Committee Chair sent a survey to the Committee regarding workplan priorities and potential positions on emerging issues.

COORDINATION WITH WESTFAST AGENCIES

WSWC and WestFAST leadership communicate weekly and via monthly WestFAST calls as needed.

EPA has also invited the WSWC to join their Dialogue with Intergovernmental Associations (monthly).

November 14, 2023, the Interagency Wild and Scenic River Coordinating Council hosted an overview of an unpublished technical paper on water quality guidance. WSWC member state water quality agency employees agreed to review the document and provide feedback.

January 30-February 1, WSWC Executive Director as part of the Landsat Next Coalition visited congressional offices in Washington, DC to promote federal funding for NASA and USGS towards a 2030 launch schedule.

WestFAST WEBINARS

October 18, 2023 – Stream Restoration and Water Rights in Utah and Colorado.

December 12, 2023 – Stream Restoration and Water Rights in Nebraska and California.

COORDINATION WITH OTHER ORGANIZATIONS

September 26 – 27, 2023, WSWC Deputy Director/General Counsel attended the Interstate Council on Water Policy (ICWP) Annual Meeting in Denver, Colorado.

October 26, 2023 – WSWC Executive Director presented at the NIDIS Executive Council Meeting (virtually).

November 12-15, 2023, WSWC Executive Director attended and presented at the Council of State Governments (CSG) Annual Meeting in Los Angeles, California.

On February 20-23, WSWC Executive Director attended the Family Farm Alliance Meetings in Reno, Nevada and presented to the FFA Board on WaDE, WestDAAT and OpenET.

February 27-28, WSWC Executive Director and Hydroinformatics Specialist attended the OpenET Conference at the Santa Ana Pueblo, New Mexico.

WaDE DEVELOPMENT AND OUTREACH

Ongoing: WSWC and IT contractor (Don't Panic Labs) – WaDE Support Agreement.

WaDE/WestDAAT Demos

WSWC Executive Director and WaDE Program Manager demonstrated WestDAAT and WaDE to staff at the following agencies and organizations: Aqaix Nimbus; Audubon; Bureau of Land Management; Department of Justice; Forest Service National Water Rights and Uses Program; WaterCard; METER Group, Inc. USA; Montana Fish, Wildlife, & Parks; Northern Arizona University; Pennsylvania State University; Vibrant Planet, Virginia Tech; Walton Foundation; and the Wright-Ingraham Institute.

Internet of Water (IoW) Bimonthly Calls

WSWC Executive Director and WaDE Program Manager shared updates and participated in the following meetings: (1) IoW bimonthly check-in calls related to WaDE progress as a major IoW data hub; (2) IoW Coalition Steering Committee Meetings; and (3) two IoW Coalition Meetings- the first in Washington DC on September 26-27, 2023, and the second virtually on February 8, 2024.

Coordination and Participation Calls

WSWC Executive Director and/or WaDE Program Manager conducted the following coordination calls with different agencies and organizations: Bureau of Reclamation - Upper Colorado River Basin; National Aeronautics and Space Administration (NASA) Western Water Applications Office (WWAO); Oak Ridge and Pacific Northwest National Laboratories; OpenET; United States Geological Survey (USGS) Water-Use Data and Research (WUDR) program; Upper Colorado River Commission; USGS National Ground-Water Monitoring Network; National Integrated Drought Information System (NIDIS); University Corporation for Atmospheric Research (UCAR); and Utah Water Research Laboratory.

Data Sharing Calls

WSWC Executive Director, WaDE Program Manager, and WaDE Data Analyst conducted the following calls related to WaDE water data sharing requests: California State Water Resources Control Board; Delaware River Basin Commission; Great Lakes Commission; Minnesota Department of Natural Resources; Oklahoma Water Resources Board; and the Utah Division of Water Rights.

Western Water Data Hub for the Bureau of Reclamation

WSWC Executive Director, WaDE Program Manager, and WaDE Data Analyst participated in the following main calls related to developing a Stakeholder Engagement Plan for the Western Water Data Hub funded by the Bureau of Reclamation: (1) WaDE and Internet of Water coordination call to discuss outreach plans; (2) WaDE and Internet of Water coordination call with the Bureau of Reclamation's Implementation Team leading the Hydrology and Hydraulics Community of Practice (H&H CoP) community; and (3) WaDE and Internet of Water team webinar to introduce the Western Water Data Hub project and distribute a survey to the H&H CoP members soliciting their input and suggestions on the Hub.

Other Meetings

January 9, WSWC Deputy Director and WaDE Program Manager attended the Annual Utah American Water Resources Association Luncheon keynote by Brian Steed, the Great Salt Lake Commissioner.

February 20-23, WSWC Executive Director attended the Family Farm Alliance (FFA) Meetings in Reno, Nevada, and presented on WaDE, WestDAAT, and OpenET to the FFA Board.

February 21-23, WaDE Program Manager attended the National Reservoir Data Symposium in Ft. Collins, Colorado.

February 27-28, WSWC Executive Director and Hydroinformatics Specialist attended the OpenET Conference in Santa Ana Pueblo, New Mexico.

COMMITTEES, TASK FORCES AND WORKGROUPS

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

American Water Resources Association (AWRA) – WSWC Exec. Dir. and WaDE Program Manager

AWRA 2023 Summer Land and Water Conference Program Planning Committee – WSWC Exec. Dir

CUAHSI Hydroinformatics Conference Planning Committee – WaDE Program Manager

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

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/Deputy Director

Tab G – Future WSWC Meetings

WESTERN STATES WATER COUNCIL

FUTURE MEETINGS

Upcoming Council Meetings/Host States

Summer – Fargo, North Dakota
July 24-26, 2024
DoubleTree by Hilton West Fargo
West Fargo Conference Center

Fall– Kansas
September 18-20, 2024 (tentative)
Hotel: TBD
Lawrence, Kansas

2025 Meetings Projections

Spring –	Nebraska	last held 4/14/2017 in Nebraska City
Summer –	Utah	last held 9/30/2016 in St. George
Fall –	California	last held 6/29/2017 in Rohnert Park

MEETING SCHEDULE

	Alaska	Arizona	California	Colorado	Idaho	Kansas	Montana	Nebraska	Nevada	New Mexico	North Dakota	Oklahoma	Oregon	South Dakota	Texas	Utah	Washington	Wyoming	Other
164			San Diego 10/29/10																
165										Santa Fe 4/15/11									
166													Bend 7/29/11						
167					Idaho Falls 10/7/11														
168																			Wash. DC 3/15/12
169																	Seattle 6/8/12		
170															San Antonio 10/12/12				
171				Denver 4/5/13															
172																		Casper 6/26/13	
173														Deadwood 10/4/13					
174																			Wash. DC 4/3/14
175							Helena 7/18/14												
176		Scottsdale 10/10/14																	
177												Tulsa 4/17/15							
178									50 th Anniversary Stateline 7/10/15										
179						Manhattan 10/9/15													
180																			Wash. DC 3/22/16
181											Bismarck 7/15/16								

[illegible]

Tab H – Draft FY 2023-2024 Committee Workplans

WATER RESOURCES COMMITTEE
WORK PLAN
2024/2025

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. The WSWC serves as a foundational hub for the Internet of Water, and promotes related FAIR data standards (Findable, Accessible, Interoperable and Reproducible). Greater interoperability and consistent data standards to facilitate decisionmaking 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. In August 2023, the WSWC hosted a National Water Use Data Workshop in Salt Lake City, Utah.

On April 25, 2023, the WSWC publicly released its Western States Water Data Access and Analysis Tool (WestDAAT) with data for over 1.7 million water rights, including where available, in a machine-readable format, ownership, point of diversion, place of use, purpose of use, and priority date. For the first time, such information was presented in a user-friendly format across state lines. Work continues to add data to the tool, including state time series data related to state streamgages, wells and reservoirs. A significant amount of outreach with various state and federal agencies, and public and private stakeholders was involved in the development and production phases of WestDAAT's release. Such outreach continues.

2023/2024: WSWC is working 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.

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 continues to discuss with USGS ways of 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 is seeking resources to maintain current efforts. A number of philanthropic foundations have provided support, as has the U.S. Bureau of Reclamation through its WaterSMART program

The WSWC working with an IT contractor has also completed scoping the effort and resources needed to incorporate OpenET (evapotranspiration data) into WestDAAT in order to tie measurable consumptive use with water rights and field boundaries. Such capabilities would help facilitate efforts to conserve water for various private and public purposes. The WSWC is working with the Upper Colorado River Commission and other interests to help expedite and simplify initiatives such as the UCRC's System Conservation Pilot Program.

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 #473 Sept. 2021; #487 Oct. 2022; and #500 May 2023). 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.

2024/2025: The WSWC 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. This includes working with Congress on authorizations and appropriations, as well as with the Administration on budget requests and program implementation.

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. In 2022, the WSWC worked with its members and congressional staff to encourage support for appropriations to initiate work on a western pilot project.

2024/2025: Additional S2S workshops have and will be held, 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 also work to promote federal funding to implement the 2017 Act, and the recommended S2S pilot projects in the West. (Position #491, May 2023)

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.

A second planned WSWC/NASA workshop was postponed due to the pandemic. Future workshops would 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 agencies for R2O.

20243/20254: The Committee will consider holding another workshop to identify best practices to transfer applied research to operational programs working with 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 (Positions #500 May 2023 and #473 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 #483 Aug. 2022). The Council’s Executive Director serves as Co-Chair of the National Integrated Drought Information System (NIDIS) Executive Council with NOAA and USDA.

20243/20254: 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.

2024³/2025⁴: 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.

2024³/2025⁴: 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 #501, May 2023). 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 has been an 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 #485, Aug. 2022). The Council has in the past participated with the Western Electric Coordinating Council (WECC) and related State Provincial Steering Group and Environmental Data Work Group.

20243/20254: 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, pumped hydropower projects, Clean Water Act Section 401 certification, and other practices.

Subcommittee:

Timeframe: Ongoing

**EXECUTIVE COMMITTEE
WORK PLAN
2024/2025**

1. WGA/WSWC COORDINATION and COLLABORATION

Work to date: The Western Governors’ Association (WGA) has adopted two comprehensive policy statements, one Water Resource Management in the West (2021-08) and the other Water Quality in the West (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 taken the lead on some issues and deferred to the Council on other issues, such as tribal water rights settlements.

2023/24: 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: The creation in 2008 of our Western States Federal Agency Support Team (WestFAST) has had many benefits. It is a unique forum for addressing western (and national) water issues that has brought together fifteen separate 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.

2024/25: 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) precipitation 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.

2024/25: The Council will continue to communicate our positions with the 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. During the pandemic, meetings were held virtually. One benefit of virtual and now hybrid meetings 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.

2024~~3~~/25~~4~~: The Spring 2023 meetings were held in Reno, Nevada late in May, and the Fall meetings scheduled in mid-September, in Anchorage, Alaska. Therefore, it was determined there would be no Summer 2023 meetings, nor would there be an attempt to schedule a winter meeting. Rather, the WSWC will meet in March 2024 in Washington, D.C. in collaboration with the Interstate Council on Water Policy (ICWP), with a joint roundtable meeting. Unlike past roundtables, the National Water Supply Association (NWSA) will not be joining us.

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 has been 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. A subscription fee for others has been discontinued. It is primarily distributed via email, and is posted on our website.

2024~~3~~/25~~4~~: 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 last WSWC/NARF Symposium was held virtually in August 2023. The Executive Committee considers hosting symposia on any topic and issues as their importance merits.

In 2022-23, the Council held a number of meetings and webinars in collaboration with relevant federal agencies, multiple stakeholders, and public and private experts. This included exploring a potential regional approach to defining "Waters of the United States" (WOTUS), and a technical white paper summarizing the discussions was drafted. Further, a National Water Use Data Workshop was held. One goal is identifying common interests and promoting partnerships.

20243/254 The Legal Committee, under the direction of the Executive Committee, coordinated with NARF in sponsoring the 2023 Indian Water Rights Settlement Symposium, and in 2024 may consider other topics

Time Frame –2023-24

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.

20243/254: The staff will work on the current backlog of annual reports.

Time frame: October 2023-June 2024

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.

20243/254: The Committee with 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.

2024³/25⁴: 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, Jeff Cowley

Time frame:

**WATER QUALITY COMMITTEE
WORK PLAN
July 1, 2024³ to June 30, 2025⁴**

1. WATER QUALITY/QUANTITY NEXUS

Background: Western Governors’ Association (WGA) Policy Resolution 2021-08, 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.

[Beginning January 2022, WestFAST held a monthly Wildfire Webinar Series. The series continued for a full year and covered topics regarding science, policy, and outreach. Technical topics explored include wildfire prediction, restoration and resilience-building, and the relationship of wildfire to water quality and water availability. Other policy topics explored the intersection of wildfire with property insurability and public health. WestFAST also covered engagement topics such as community planning, investment in watershed health, NASA’s FireSense strategy, and available risk reduction tools.](#)

[From February to May 2023, WestFAST held a three part webinar series on Pumped Storage Hydropower. The first in this series gave an overview of types of pumped storage systems, and their benefits and challenges. The following two installments covered various permitting processes for new pumped storage hydropower projects, including the Federal Energy Regulatory Commission licensing process, compliance requirements, and Reclamation’s lease of power privilege process.](#)

From July to December 2023, WestFAST held a four part Stream Restoration webinar series. They covered introductory concepts, the science of stream restoration, as well as stream restoration and water rights in Utah, Colorado, Nebraska and California.

20243-20254: The Committee supports WGA Resolution 2021-08, 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

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). The 2020 WOTUS Rule was vacated, and was replaced by the Revised Definition of the "Waters of the United States" Rule (2023 WOTUS Rule), finalized on January 18, 2023 (88 FR 3004). On May

25, 2023, the U.S. Supreme Court issued its decision in *Sackett v. EPA* (#21-454). Citing the Justice Scalia plurality opinion in *Rapanos*, the five-Justice majority Court concluded that the definition of WOTUS in Clean Water Act (CWA) §1362(7) “encompasses only those relatively permanent, standing or continuously flowing bodies of water forming geographical features that are described in ordinary parlance as streams, oceans, rivers, and lakes.” The Court held that WOTUS does not apply to all wetlands, but extends only to those wetlands with a continuous surface connection to bodies of water that are WOTUS in their own right, so that they are indistinguishable from those waters. The Court acknowledged that “temporary interruptions in surface connection may sometimes occur because of phenomena like low tides or dry spells.” In footnote 16, the Court said: “Although a barrier separating a wetland from a water of the United States would ordinarily remove a wetland from federal jurisdiction, a landowner cannot carve out wetlands from federal jurisdiction by illegally constructing a barrier on wetlands otherwise covered by the CWA. Whenever the EPA can exercise its statutory authority to order a barrier’s removal because it violates the Act...that unlawful barrier poses no bar to its jurisdiction.” On August 29, 2023, the EPA and Corps issued an Amended 2023 Rule to conform key aspects of the regulatory text to the *Sackett* decision.

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. At the April 2022 meeting in Arlington, Virginia, Position #481 was revised and adopted, replacing #472.

In the Summer of 2022, WSWC hosted a series of workshops to consider the technical and policy implications of a regional approach to WOTUS implementation, and prepared a ~~draft~~ white paper to document this effort for future use:

https://westernstateswater.org/wp-content/uploads/2022/10/WSWC-WOTUS_RegionalConcepts_Technical_Whitepaper_Final.pdf

20243-20254: 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)~~, ~~Laura Driscoll (WA)~~, Jennifer Carr (NV);

*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~~ is available ~~on the WSWC website at:~~ <https://westernstateswater.org/publications/other-reports/2021/2021-water-reuse-report/>

2024-2025: 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

[When Congress enacted the 2022 Infrastructure Investment and Jobs Act \(IIJA\) \(P.L. 117-58\) it authorized significant but short-term federal funding for SRFs. However, a substantial portion of those increases were earmarked for Congressionally-directed spending on earmarked projects.](#)

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 #496 urges the Administration and Congress to provide greater flexibility and fewer restrictions on state SRF management, ~~and to provide~~ stable and continuing appropriations to the SRF capitalization grants at adequate funding levels, and to ensure that states' allocations are not reduced or harmed by directed congressional earmarks. Appropriations should be that are adequate to help states address their water infrastructure needs and meet federal mandates. WGA Policy Resolution 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.

[On August 21, 2023, WSWC joined a coalition of organizations led by the Council of Infrastructure Financing Authorities \(CIFA\) urging Congressional leaders to fund the CW and DW SRFs to their maximum authorized amount of \\$3B each for FY2024, and noting concerns with Congressional earmarks. WSWC joined a letter of similar language, urging continued funding and protections through FY2025, which CIFA sent to the House and Senate Appropriations Committee on December 14, 2023. In February of 2024, WSWC joined a CIFA-led letter to the House Committee on Appropriations, again urging full funding for FY2024 \(which had not yet been appropriated due to a series of continuing resolutions which extended into March\).](#)

20243-20254: 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.

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 2021-10 (paragraph B(2)(c)) and WSWC Position #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.

20232-20243: 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, and the Radhika Fox memo *Accelerating Nutrient Pollution Reductions in the Nation's Waters* -on April 5, 2022.

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.

The Fox memo sets forth five “governing principles” to guide the EPA Office of Water as it works with states, tribes, and local partners to reduce nutrient pollution. The guiding principles are: (1) Advance equity and environmental justice; (2) Build and foster partnerships; (3) Follow the science and invest in data-driven solutions; (4) Support innovation; (5) Scale successful initiatives.

The memo also outlines EPA’s primary strategies and secondary strategies to drive reductions in nutrient pollution.

- **Deepen collaborative partnerships with agriculture.** Secondary strategies to this end include collaboration with USDA, engagements with agricultural stakeholders, and improving on-the-ground collaboration between USDA, states, territories, tribes, and stakeholders.
- **Redouble our efforts to support states, tribes, and territories to achieve nutrient pollution reductions from all sources.** Secondary strategies include encouraging states to use One Water approach, championing innovative financing and use of CWA flexibility for implementing market-based approaches, and prioritizing support to disadvantaged communities.
- **Utilize EPA’s Clean Water Act authorities to drive progress, innovation, and collaboration.** Secondary strategies include urging adoption of numeric nutrient criteria into Water Quality Standards, more fully using the Clean Water Act assessment and listing process, supporting development of TMDLs for nutrient pollution, and further reducing nutrient loads from point sources.

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.

20243-20254: 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 2019, the Trump administration issued Executive Order 13868, leading to EPA's issuance of the 2020 CWA Section 401 Certification Rule (2020 Rule)(85 FR 42210). The 2020 rule narrowed the authority of states to determine certification timeframes, application materials requirements, and the scope of certifications. WSWC and WGA submitted comments and letters to the administration, congress, and EPA prior to Executive Order 13868 and throughout the rulemaking process, opposing changes which may diminish state authority. In January 2021, the Biden administration issued Executive Order 13990, directing agencies to review and address regulations promulgated under the Trump administration. On April 21, 2022, WSWC sent a letter to the Administration encouraging the accelerated review of the CWA 401 Certification Final Rule and requesting the involvement of states as co-regulators.

In June 2022, the Environmental Protection Agency (EPA) released a pre-publication version of a revised rule for CWA (Clean Water Act) §401 certification. In August, the Council of State Governments-West (CSG-West) and the WSWC submitted a comment letter to EPA, commending the proposed rule's cooperative elements, but criticizing its provision that a pre-filing meeting cannot occur until the federal agency has drafted the license. They argued that it placed states at the end of the federal permitting process and limited collaboration. They expressed support for early substantive consultation with states.

On September 14, 2023 the Environmental Protection Agency (EPA) announced the final *Clean Water Act Section 401 Water Quality Certification Improvement Rule* (2023 Rule) (88 FR 66558), which went into effect in November 2023 (WSW #2575). The rule

provides the following: (1) allows states to specify additional application requirements, beyond EPA baselines; (2) maintains the 30-day pre-filing meeting time period; (3) limits the scope of state certifications to the water quality impacts of the “activity as a whole”, rather than point source only; and (4) limits EPA’s certification review to only the timeliness of action, rather than the substance of the determination.

On December 4, 2023 a coalition of states (including AK, MT, OK, and WY) and regulated entities challenged the 2023 Rule in the U.S. District Court of the Western District of Louisiana (*State of Louisiana et al. v. U.S. Environmental Protection Agency et al.*, case No. 2:23-cv-01714). The petitioners requested an order declaring that the 2023 Rule violates the CWA and the Administrative Procedure Act (APA); vacating and setting aside the 2023 Rule; and enjoining EPA from applying or enforcing the 2023 Rule. In January 2024, 18 states including California, New Mexico, Oregon, and Washington jointly filed a motion for leave to intervene for the purpose of defending the 2023 Rule (WSW #2592). The intervenor defendant states argued that they have a “clear and direct interest in upholding the 2023 Rule to preserve their sovereign authority over water quality within their respective states under section 401 of the CWA.”

~~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. On April 21, 2022, WSWC sent a letter to the Administration encouraging the accelerated review of the CWA 401 Certification Final Rule, under Executive Order 13990, and requesting the involvement of states as co-regulators.

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.

2024-2025: 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:

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. [In Summer 2022, EPA plans to submit a proposed rule for public comment. In 2023, EPA published its proposed rule, Federal Baseline Water Quality Standards for Indian Reservations \(88 FR 29496\). At least 12 of our member states provided substantive comments. See WSW Special Report #2571.](#)

[In December 2022, EPA issued a proposed rule, Water Quality Standards Regulatory Revisions To Protect Tribal Reserved Rights \(87 FR 74361\). At least 10 of our member states provided substantive comments. See WSW Special Report #2548.](#)

Work-to-Date: In December 2016, the WSWC submitted a [letter](#) commenting on the ANPR proposing federal baseline WQS for tribes. In May 2023, the WSWC approved a new policy position #490 regarding Water Quality Standards, Protecting Tribal Reserved Rights, and Federal Baseline Water Quality Standards for Indian Reservations. In August 2023, the WSWC submitted a [comment](#) on EPA’s proposed rule for federal baseline WQS for tribes.

20243-20254: 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. On February 3, 2022, Senator Martin Heinrich (D-NM) introduced the Good Samaritan Remediation of Abandoned Hardrock Mines Act (S. 3571). On July 28, 2022, WSWC sent letters to Congress and to the Administration regarding the Good Samaritan bill and joint efforts to address abandoned hardrock mine cleanup.

[On September 13, 2023 Senators Martin Heinrich \(D-NM\) and Jim Risch \(R-ID\) reintroduced the bipartisan Good Samaritan Remediation of Abandoned Hardrock Mines Act \(S. 2781\)\(WSW #2577\). On January 10, 2024 the WSWC sent a letter to the Senate leadership and the Environment and Public Works Committee, supporting and making recommendations on the bill. The letter included WSWC Policy Position No. 447 and recommended financial flexibility for states, the establishment of a formal consultation process under the bill's pilot program, and the establishment of a permanent program through which states can administer Good Samaritan permits \(WSW #2591\). In January 2024, the bill was reported favorably by the Senate Environment and Public Works Committee and placed on Senate Legislative Calendar No. 312.](#)

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). 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.

20243-20254: 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

i. Per- and Polyfluoroalkyl Substances (PFAS)

Background: The widespread use and persistent nature of PFAS chemicals presents a complex environmental problem that affects water quality, human health, and ecosystems in varying degrees around the nation. Water sources with high levels of contamination in some instances must be replaced by alternative water sources, which can be costly and difficult in the arid west. Additionally, cleanup efforts may require coordination between state, federal, tribal, and local authorities.

Work-to-Date: [In 2022-23, the Subcommittee explored the possibility of WSWC position and actions that might be taken to address PFAS water contamination in a collaborative way. The WSWC hosted a States-only PFAS Roundtable and prepared a](#)

summary of the meeting: <https://westernstateswater.org/events/states-only-pfas-roundtable/> In May 2023, the Committee determined not to pursue a PFAS policy position at this time, but to continue to keep an eye on PFAS developments.

~~20243-20254~~: The Committee will continue to monitor PFAS developments and revisit this issue as needed. ~~explore the possibility of a WSWC position and actions that might be taken to address PFAS water contamination in a collaborative way. The Committee will coordinate efforts with sister organizations such as ECOS and ASDWA in order to not unnecessarily duplicate efforts.~~

Subcommittee: Buck Smith (WA), Mary Verner (CO) (will volunteer a colleague), Jennifer Zygmunt (WY), Julie Pack (AK), Jeremy Neustifter (CO) (will volunteer a colleague)

j. NPDES Permits/Quality Assurance Project Plans QAQC/Other?

Background:

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 #2021-10 and WSWC Position #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.

2024~~3~~-2025~~4~~: 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: 2016-2024, pending available staff time and resources.

**LEGAL COMMITTEE
WORK PLAN
July 1, 202⁴³ to June 30, 202⁵⁴**

**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)	https://westernstateswater.org/publications/2021/stock-water-rights-for-grazing-livestock-on-federal-lands/
September, 2021	Wild and Scenic Rivers (SD)	https://westernstateswater.org/publications/seminars-workshops/2021/wild-scenic-rivers-workshop/

202⁴³-202⁵⁴: 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 identifying useful principles for state-federal memoranda of understanding (MOUs) to develop a useful framework and recommended approaches.

Time Frame: Ongoing

Federal Non-Tribal Water Claims Subcommittee: Jay Weiner (MT), Jennifer Verleger (ND), 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), Stephen Bartell (Department of Justice), Lauren Dempsey (Air Force) and Chris Carlson (U.S. Forest Service).

2. 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. The 2020 WOTUS Rule was vacated, and was replaced by the Revised Definition of the “Waters of the United States” Rule (2023 WOTUS Rule), finalized on January 18, 2023 (88 FR 3004). On May 25, 2023, the U.S. Supreme Court issued its decision in *Sackett v. EPA* (#21-454). Citing the Justice Scalia plurality opinion in *Rapanos*, the five-Justice majority Court concluded that the definition of WOTUS in Clean Water Act (CWA) §1362(7) “encompasses only those relatively permanent, standing or continuously flowing bodies of water forming geographical features that are described in ordinary parlance as streams, oceans, rivers, and lakes.” The Court held that WOTUS does not apply to all wetlands, but extends only to those wetlands with a continuous surface connection to bodies of water that are WOTUS in their own right, so that they are indistinguishable from those waters. The Court acknowledged that “temporary interruptions in surface connection may sometimes occur because of phenomena like low tides or dry spells.” In footnote 16, the Court said: “Although a barrier separating a wetland from a water of the United States would ordinarily remove a wetland from federal jurisdiction, a landowner cannot carve out wetlands from federal jurisdiction by illegally constructing a barrier on wetlands otherwise covered by the CWA. Whenever the EPA can exercise its statutory authority to order a barrier’s removal because it violates the Act...that unlawful barrier poses no bar to its jurisdiction.” On August 29, 2023, the EPA and Corps issued an Amended 2023 Rule to conform key aspects of the regulatory text to the *Sackett* decision.

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. At the April 2022 meeting in Arlington, Virginia, Position #481 was revised and adopted, replacing #472.

In the Summer of 2022, WSWC hosted a series of workshops to consider the technical and policy implications of a regional approach to WOTUS implementation, and prepared a draft white paper to document this effort for future use.

20243-20254: 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: Jennifer Zygmunt (WY), 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 #~~504454~~). As a result, the WGA and WSWC have worked with the Native American Rights Fund (NARF) for over forty 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.

On August 8-9, 2023, the WSWC and NARF co-hosted the 18th Biennial Symposium on the Settlement of Reserved Water Rights, highlighting the Hualapai Tribe's settlement authorized by the 117th Congress. The Symposium also provided a forum to discuss the Biden Administration's settlement and negotiation policies, Congressional outlooks for pending settlement bills and permanent funding mechanisms, and water leasing of reserved water rights. Recordings and presentation materials are available at: <https://westernstateswater.org/events/wswc-narf-18th-biennial-indian-reserved-water-rights-symposium/>

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 2025 Symposium on the Settlement of Indian Reserved Water Rights Claims in partnership with the Native American Rights Fund.

Time Frame: Ongoing

Reserved Rights Subcommittee: Jay Weiner (MT). NARF members participating in the Subcommittee in an *ex officio* capacity include: John Echohawk, Steve Moore, Dan Lewerenz, and David Gover. Other *ex officio* members include.

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.

On May 10, 2022, the Council sent a letter in support of Senator Cramer's proposed legislation to create a committee with the Corps of Engineers and the States focused on cooperative federalism concerns surrounding the management of water resources, which passed as §8158 of WRDA 2022. The purpose of the Western Water Cooperative Committee (WWCC) is to ensure that U.S. Army Corps of Engineers (Corps) "flood control projects in Western States are operated consistent with congressional directives by identifying opportunities to avoid or minimize conflicts between the operation of the [Corps] projects and water rights and water laws in such States." The membership of the Cooperative Committee includes the Assistant Secretary of the Army for Civil Works, the Chief of Engineers, two representatives from each Western State appointed by the governor and the attorney general, and one employee from each of the impacted regional offices of the Bureau of Indian Affairs. On March 17, 2023, the WSWC co-hosted a briefing for our western states on the WWCC with the Conference of Western Attorneys General (CWAG) and WGA, and encouraged our Governors and Attorneys General to prepare appointment letters to the Committee. The briefing materials are available at: <https://westernstateswater.org/events/wswc-cwag-briefing-wwcc/>

On May 18, 2023, the WSWC and CWAG sent a group of 25 appointment letters to Assistant Secretary Mike Connor, with some Governors and Attorneys General sending letters directly to the Army Corps of Engineers. On August 29, 2023, the Corps reached out to verify contact information for each of the current appointees, and WSWC assisted with outreach and filling in the gaps. The Corps indicated that they were nearing a point where they would be able to stand up the WWCC, but were still waiting for approval on funding to facilitate efficient operation of the committee and to determine whether FACA rules apply. [In December 2023, the Army determined that FACA rules apply.](#)

2023-2024: 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);~~

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).

Additionally, the Department of Defense is considering reserved water rights claims to the use of groundwater for Naval Air Weapons Station China Lake in the groundwater basin adjudication *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.* (Orange County Superior Court, California, 30-2021-01187275-CU-OR-CJC).

[On January 31, 2024, the U.S. Fish and Wildlife Service submitted a letter asserting federal reserved water rights to groundwater that could be negatively impacted by a proposed permit from the Georgia Environmental Protection Division \(GEPD\) for a mining company that seeks to withdraw 1.4 million gallons a day to mine titanium dioxide three miles from the Okefenokee National Wildlife Refuge. The letter noted the risk to the refuge, despite GEPD’s conclusion that there would be a minimal impact.](#)

2023-2024: 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.

20242-20253: 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.

20243-20254: 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.

2024~~3~~-2025~~4~~: 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.

2024~~3~~-2025~~4~~: 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 I – Agrimet

New Oregon AgriMet Stations

On February 23, 2024, the United States Bureau of Reclamation (USBR), the Oregon Department of Water Resources (ODWR), and the Oregon State University Extension Service (Extension), completed installation and launch of nine new AgriMet weather stations throughout Oregon. In 2023, the Oregon legislature appropriated funding to both OWRD and OSU to expand the AgriMet network, allowing the collective purchase of 30 new AgriMet stations and hiring of additional support staff. OSU Extension and OWRD identified key agricultural areas to optimize the impact of new installations. A total of 13 new stations have been launched since the bill went into effect. They expect to launch all 30 new stations by April 2024. This development builds on investments made by OWRD in prior years to purchase new stations and to fund O&M of five USBR-purchased stations. The bills authorizing these investments (H.B. 2018, H.B. 2010) were developed in the State House Committee on Agriculture, Land Use, Natural Resources, and Water chaired by Rep. Ken Helm, with Vice Chairs Rep. Mark Owens and Rep. Annessa Hartman.

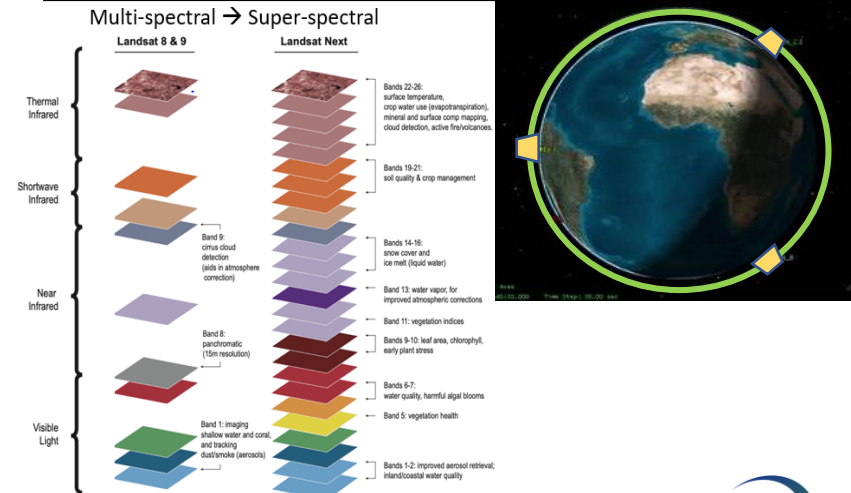
AgriMet is a network of automatic agricultural weather stations dedicated to crop water use modeling. AgriMet is currently a network of more than 90 automated weather stations throughout Washington, Oregon, Idaho, Montana, Utah, Colorado, Nevada, New Mexico, and some in Wyoming. Types of data collected at each station vary, but may include: (1) 15-minute average temperature; (2) precipitation; (3) soil temperature; (4) average dew point temperature; (5) wind direction and speed; and (6) evapotranspiration. The network is sponsored by the USBR with additional support from the USDA Agricultural Resource Service, the USDA Natural Resources Conservation Service, land grant universities, the Cooperative Extension System, electric utilities, power companies, and other public and private agencies and organizations. AgriMet stations collect and telemeter site-specific weather data and translate it into crop-specific water use information. It emphasizes evapotranspiration modeling, allowing farmers and ranchers to make real-time decisions for optimal irrigation timing and volume. OWRD also relies on the crop evapotranspiration data from AgriMet when conducting groundwater basin studies, place-based planning analyses, and water right transactions.

Tab J – Landsat Next

Landsat Next Requirements Meet Emerging Science Needs

- **Landsat Next Mission is a constellation of three identical “triplets” observatories with equal orbit spacing providing critical operational resiliency**
 - Each observatory images the full swath required to achieve global coverage; three satellites used to improve revisit
 - With all three observatories operating, revisit is expected to be 6 days
 - With two of three observatories operating, revisit is expected to be 9 days
- **The selected mission architecture is endorsed by Landsat user communities, including over a dozen Federal Agency users & Landsat Science Team**
 - This architecture improves all temporal, spectral, and spatial capabilities by approximately twofold, while maintaining historical Landsat data continuity
- **User need surveys provided a clear set of priorities for Landsat Next requirements to meet emerging needs at breakthrough effectiveness:**
 - **Higher Spatial Resolution.** Experience with Sentinel-2 has underscored importance of 10-meter data for monitoring small agricultural fields, forest disturbance, urbanization, and other applications.
 - **Improved Revisit Frequency.** Dynamic phenomena (crop health & productivity, water quality, snow/ice state, wildfire) which require ~weekly clear views.
 - **Additional spectral bands** to support emerging applications in water quality, snow hydrology, soil mapping, and other areas.
 - **Maintaining Gold Standard** radiometric quality established by Landsat 8/9

Parameter	Value
Mission Category	Category 2, Class B
Mission Life	5-years
Altitude	653 km Sun-synchronous
Inclination	~98 degrees
Orbital Separation	120 degrees
Mean Local Time Descending Node	10:10 AM +/- 5-min
Obs. Repeating Ground Track	18-day
Swath Width	164 km
Half Angle FOV	7.2 degrees



Landsat Next will provide more than twice as many spectral bands, with resolution improved by a factor of 2, and with the repeat coverage of Landsat 8 and 9, combined



Who We Are. The Landsat Next Coalition comprises a group of leading stakeholders in aerospace, engineering, research, resource management, and web services who are committed to ensuring the critical Landsat Next Program launches in 2030. Coalition members currently include Amazon Web Services, AmericaView, Ball Aerospace, Global Insights, KBR, Raytheon, SSAI, University of Oklahoma, and Western States Water Council.

What We Care About. **The Landsat Program**, a joint effort by the United States Geological Survey (USGS) and the National Aeronautics and Space Administration (NASA), delivers critical remote sensing observation data to inform how landscapes and associated natural resources are changing at local, regional, and global scales. Since 1972, the eight Landsat earth observation satellites to date have captured over 14.5 million images used to quantify and characterize changes to land surfaces and their use. Landsat data is essential for managers to make informed decisions concerning the planet's resources and environment. This decade marks a paradigmatic expansion of the Landsat Program. USGS and NASA are preparing to launch **Landsat Next** in late 2030 – a trio of earth observation satellites designed in concert with current Landsat 9 to provide higher resolution images, finer spatial resolution, expanded spectral imaging capabilities, and higher temporal frequencies than current Landsat technology. Landsat Next promises to deliver significant and improved benefits to resource managers tasked with diverse responsibilities that include maintaining water quality, monitoring stress in forests and croplands, undertaking fire prevention, evaluating snow and ice states, measuring water content and freeze-thaw dynamics, assessing soil fertility, tracking crop productivity, and identifying carbon sequestration.

Why Act Now. For Landsat Next to meet its target launch date, it is essential for Congress to fund design and development of Landsat Next's Ground System through USGS and design and development of the Landsat Next spacecraft through NASA.



Landsat Program and Landsat Next

Summary

Landsat in 60 Seconds. The Landsat Program, a joint effort by the United States Geological Survey (USGS) and the National Aeronautics and Space Administration (NASA), delivers critical remote sensing observation data to inform how landscapes and associated natural resources are changing at local, regional, and global scales. Since 1972, the eight Landsat earth observation satellites to date have captured over 14.5 million images to quantify and characterize changes to land surfaces and land surface use. Landsat data is essential for managers to make informed decisions concerning the planet's resources and environment. Under Landsat NASA develops the satellite mission and the USGS provides satellite operations and develops the ground system. USGS satellite flight operations are co-located at the NASA Goddard Space Flight Center (GSFC) in Greenbelt, Maryland. Image data collection, archiving, processing, and distribution are performed from the USGS Earth Resources Observation and Science Center (EROS) in Sioux Falls, South Dakota. Currently, the Landsat 8 and Landsat 9 satellites capture operational data for the program with Landsat 8 rapidly approaching the end of its predicted operational life.

Supporting Landsat Next. This decade marks a paradigmatic expansion of the Landsat Program. The program partnership team of NASA and USGS are preparing to launch Landsat Next in late 2030 – a trio of earth observation satellites designed in concert with current Landsat 9 to provide higher resolution images, finer spatial resolution, expanded spectral imaging capabilities, and higher temporal frequencies than current Landsat technology. Landsat Next promises to deliver significant and improved benefits to resource managers tasked with diverse responsibilities that include maintaining water quality, resolving water disputes, monitoring stress in forests and croplands, setting agricultural commodity prices, undertaking fire prevention, evaluating snow and ice states, measuring water content and freeze-thaw dynamics, assessing soil fertility, tracking crop productivity, and identifying carbon sequestration. For Landsat Next to meet its target launch date, it is essential for Congress to fund the USGS National Land Imaging (NLI) Program at \$143,700,000 in fiscal year 2024 (FY 24) and provide \$12,000,000 in additional funding dedicated to Landsat Next satellite development.

Background and Identified Need

Introduction to Landsat. The Landsat Program, a joint effort by the United States Geological Survey (USGS) and the National Aeronautics and Space Administration (NASA), delivers critical remote sensing observation data to inform how landscapes and associated natural resources are changing at local, regional, and global scales. Since 1972, the eight Landsat earth observation satellites to date have captured over 14.5 million images to quantify and characterize changes to land surfaces and land surface use. Landsat data is essential for resource managers to make informed decisions concerning the planet's resources and environment. Under Landsat NASA develops the satellite mission and the USGS provides satellite operations and develops the ground system. USGS satellite flight operations are co-located at the NASA Goddard Space Flight Center (GSFC) in Maryland. Image data collection, archiving, processing, and distribution are performed from the USGS Earth Resources Observation and Science Center (EROS) in Sioux Falls, South Dakota. Currently, the Landsat 8 and Landsat 9 satellites capture data for the program with Landsat 8 rapidly approaching the end of its operational life.

Value of Landsat. The Landsat Program has continued to provide essential data which has been used principally to map land use and land cover, assist with agricultural production, manage and monitor both ecosystems and natural resources, water utilization, and assist with urban planning. According the USGS, the Landsat Program provided domestic and international users an estimated \$3.45 billion in benefits in 2017 alone, with users in the United States accounting for \$2.06 billion.¹ Much of the societal value of Landsat data stems from the free and open data policy that allows tens of thousands of users to access imagery and data products for important Earth-based research and analysis.

Landsat Next and the Future. Landsat Next, which is anticipated to launch in late 2030, will not only ensure the continuity of the longest space-based record of Earth's land surface, but also fundamentally transform the breadth and depth of actionable information freely available to researchers, resource managers, and other users. Landsat Next will be a trio of earth observation satellites sent into orbit on the same launch vehicle. The satellites will be spaced 120 degrees apart at an orbital altitude of 406 miles. Each satellite will include a Landsat Next Instrument Suite, which is designed to acquire all spectral bands nearly simultaneously. This capability will minimize illumination change between bands, facilitating both cloud screen detection and products derived from multispectral surface reflectance and thermal emission data (e.g., evapotranspiration). With two to three times the temporal, spatial, and spectral resolution, Landsat Next will build upon the legacy established by the Landsat program of observing, managing, and adapting to change on Earth and provide expanded capabilities to support evolving and emerging applications in land, water, and climate science.

Landsat Next Measurement Capabilities. Landsat Next represents a significant step forward in measurement capabilities. The enhanced temporal and spatial resolution of the new 26-spectral band will enhance existing Landsat applications and unlock new applications that support water quality and aquatic health assessments, crop production and soil conservation, forest management and monitoring, climate and snow dynamics research, and mineral mapping. Landsat Next will also have a water vapor band that will provide for atmospheric correction without ancillary data from other satellites. Landsat Next will continue the Landsat Program's decades-long data record of spaceborne multispectral imagery, which affords global, synoptic, and repetitive coverage of Earth's land surfaces at a scale where natural and human-induced changes can be detected, differentiated, characterized, and monitored over time.

Landsat Next Spectral Capabilities. Landsat Next will collect 26 spectral bands – 15 more bands than Landsat 8 and Landsat 9. The Instrument Suite on each new satellite will acquire refined versions of the 11 Landsat "heritage" bands to maintain data continuity, five new bands with similar spectral characteristics to the European Space Agency's Copernicus Sentinel-2 mission to allow for improved data synergy and fusion, and 10 new spectral bands to support data user needs and emerging applications. All bands will have higher spatial resolutions with ground sample distances of 10 to 20 meters for visible, near infrared, and shortwave infrared bands and 60 meters for atmospheric and thermal infrared bands.

Landsat Next Temporal and Spatial Capabilities. Landsat Next satisfies Landsat data user needs by improving temporal and spatial, capabilities, all while maintaining Landsat data continuity and quality. The Landsat Next trio will provide an improved collective 6-day temporal revisit, a significant upgrade from the 16-day repeat interval that Landsat 8 and Landsat 9 currently provide. The shorter temporal frequency will increase the probability of acquiring cloud-free scenes and enhance monitoring and management of dynamic and changing landscapes. Landsat Next will capture phenological signatures used for vegetation classification and modeling crop development, health, and yields; detect periodic disturbances due to harvesting and episodic insect and disease agents; assess near-continuous water use and evapotranspiration; provide early warnings

¹ Straub, C.L., Koontz, S.R., and Loomis, J.B., 2019, Economic valuation of Landsat imagery: U.S. Geological Survey Open-File Report 2019–1112, 13 p., <https://doi.org/10.3133/ofr20191112>.

about the onset of fires and harmful algal blooms; monitor public health during heat wave seasons; and track dynamics of snow and ice on both land and sea.

Landsat Next Radiometric and Geometric Capabilities. Landsat Next will preserve the robust radiometric and geometric accuracy requirements associated with the Landsat Program to ensure long-term data consistency and facilitate critical time-series analyses. The radiometric accuracy will be comparable to the signal-to-noise ratios and noise equivalent differential temperatures of Landsat 8 and Landsat 9. The geometric accuracy of previous Landsat missions will match the finer ground sample distances of Landsat Next. Radiometric and geometric calibration and validation methods will be employed to provide band-to-band and image-to-image registration. Top of atmosphere and surface reflectance data products will be comparable with those from previous Landsat missions.

Launch in 2030 but the Need is Now. With the aging Landsat 8 satellite coming to the end of its operational life, it is critical to support the development of Landsat Next in fiscal year 2025 (FY 25) to ensure that no break occurs in the Landsat data record. Continuous Landsat measurements ensure a consistent record of Earth surface changes envisioned for future decades – changes that stand to have a profound impact on our environment and society. By continuing the investment and utilization of commercial cloud data services, the USGS is exponentially increasing the amount of Landsat data products accessed by users at no cost – from tens of millions to billions of accesses each year.

Support for Landsat and Landsat Next = Support for the National Land Imaging Program. The USGS investment within NLI further enhances and leverages the value of current Landsat and future Landsat Next data. The USGS has cloud-enabled the entire Landsat archive by consistently processing data to the highest scientific standards and investing in public cloud platforms in support of science exploitation that reduce the time needed to process Landsat imagery into data suitable for analysis and assessment. Timely, accurate, and relevant results require significant new technology to accommodate the complexity of data processing. For example, projection based tools will integrate new Biological Carbon Sequestration models with land-use change models to improve assessment of land use practices and determine more accurately the feasibility and effectiveness of prescribed land management strategies. These USGS initiatives under NLI will allow users of current Landsat data and future Landsat Next data to access accurate and relevant data, information, and knowledge about the Earth’s land in a timelier manner than ever before.

Requested Action

Congress should include \$143,700,000 for the NLI program and \$12,000,000 in additional funding dedicated for Landsat Next satellite development in FY 24. Funding will allow USGS to commit to Landsat Next mission development activities jointly with NASA and stay on schedule for a 2030 launch date. USGS will design and develop ground system requirements and acquisition strategies specific to operations and data processing and distribution. USGS will gather user requirements from across the federal government, academia, and industry and provide these to NASA to inform further design to the Landsat Next program.

Conclusion

The Landsat program has provided enormous value in tracking and characterizing change to land surfaces over the past half century. Landsat Next promises even more value through higher resolution images, finer spatial resolution, expanded spectral imaging capabilities, and higher temporal frequencies. As the planet’s climate changes and evolves over time, Landsat data plays a pivotal role in numerous resource management activities, such as resolving water disputes, maintaining water quality, monitoring stress in forests and croplands, setting agricultural commodity prices, undertaking fire prevention, evaluating snow and ice states, measuring

water content and freeze-thaw dynamics, assessing soil fertility, tracking crop productivity, and identifying carbon sequestration. Congress should include adequate funding in FY 24 and beyond to allow USGS to commit to Landsat Next activities jointly with NASA, stay on schedule for a 2030 launch date, and ensure seamless continuity of Landsat data.



NEW MEXICO and Landsat

Landscapes of rose-colored deserts, broken mesas, and high, snow-capped peaks give New Mexico its reputation as the “Land of Enchantment.” To monitor the well-being of those areas, and to manage their recovery in the aftermath of disasters, New Mexico relies on observations from the Landsat series of satellites operated by the U.S. Geological Survey (USGS).

Data from Landsat also assist New Mexico in managing its precious water resources for agriculture, recreation, and industrial and community consumption. Landsat supports a variety of public and private sector decisions across New Mexico and the Nation for effective adaptation to changing landscapes.

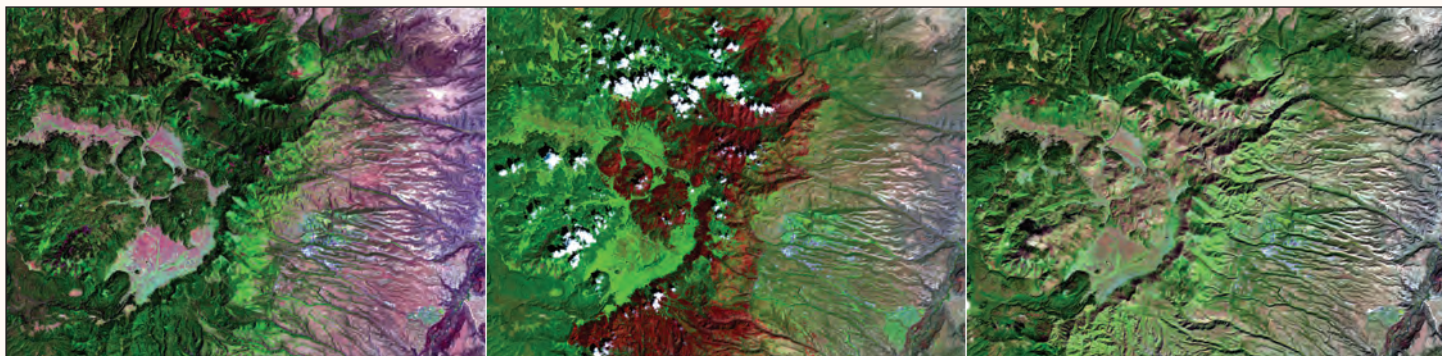
Here are some examples of Landsat’s benefits to New Mexicans.

Wildland Fires

With warming temperatures, trees weaken and die at increasing rates. The result is climate-stressed vegetation burning in unusually large and severe wildfires across the West. New Mexico is no exception. Landsat data can inform New Mexico land managers on areas where fuel loads are high and where prescribed burns can remove that fuel before wildfires occur. Burn maps derived from Landsat data show managers where land is vulnerable after wildfires, exposing soil to erosion, flooding, and mudslides from subsequent rainstorms. Sediments running downhill and downstream can damage houses, fill reservoirs, and put endangered species and community water supplies at risk. Maps created from Landsat images identify those potential risk areas and help to inform mitigation efforts (LANDFIRE, 2022).

National Land Imaging Program Benefits—New Mexico

The U.S. Geological Survey (USGS) National Land Imaging Program provides a wide range of satellite imagery and other remotely sensed and geospatial data to Government, commercial, academic, and public users. Those users can get worldwide access to Landsat satellite data through the National Land Imaging Program-funded USGS Earth Resources Observation and Science (EROS) Center.

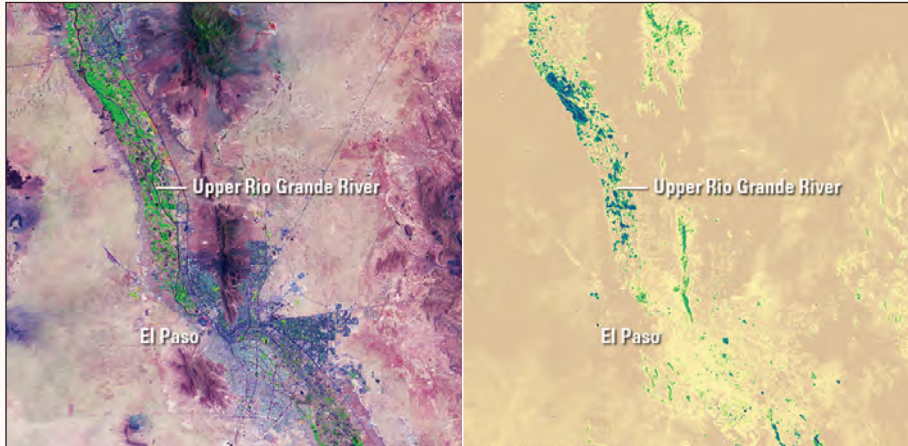


The depth of the Landsat archive tells the story of the Las Conchas wildfire that burned more than 156,000 acres near Los Alamos in June 2011. The left image was acquired days before the wildfire started, the center image shows the footprint of the burned area, and the right image from October 2019 shows the landscape’s partial recovery.

The Landsat series is a joint effort of the USGS and NASA. NASA develops and launches the spacecraft; the USGS manages satellite operations, ground reception, data archiving, product generation, and data distribution. Funding for the National Land Imaging Program’s Landsat operations and data management is provided through the USGS.

Managing Water Consumption

Water is crucial to agricultural, municipal, industrial, and recreational users throughout New Mexico's Upper Rio Grande Basin. With changes in climate, ongoing droughts, and decreased water levels in reservoirs, many communities look to groundwater sources to support their agriculture, industry, and homes. Researchers use Landsat data to accurately estimate how much groundwater is evaporating from the soil and vegetation surfaces or transpiring by plants. That information in turn helps measure water use on farm fields and municipalities, improving local water-management decisions (Senay and others, 2019).



At left, Landsat 8 image from June 7, 2019, shows irrigated land along the Upper Rio Grande River down to El Paso, Texas, and into Mexico. At right, using a USGS Landsat-derived Surface Temperature Model, the map shows a percentage estimate of water loss through evaporation and plant transpiration on the same date.



Preserving Natural Landscapes

New Mexico is known for its spectacular scenery, fascinating natural history, and unique cultural heritage. Landsat assists in the management and preservation of those landscapes. With the 8-day coverage of its two satellites and its 50-year archival record, Landsat can document the effects of people and nature on New Mexico's many national parks and thus help park managers make informed land management decisions (U.S. Department of the Interior, 2020). Where is disease affecting forests? Where is drought affecting biodiversity and ecosystems? Landsat helps to answer those questions.

Landsat 8 image from August 2019 of the white sands of White Sands National Monument in southern New Mexico.

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Landsat—Critical Information Infrastructure for the Nation

Landsat is the most widely used land remote sensing data source within Federal civilian agencies. Local, State, Tribal, and Federal agencies use Landsat to monitor and forecast a wide range of land surface phenomena. Information from Landsat contributes to day-to-day decisions on land, water, and resource use that protect life and property; safeguard the environment; advance science, technology, and education; support climate change resiliency; and grow the U.S. economy. Landsat's imagery provides a landscape-level view of land surface, inland lake, and coastal processes, both natural and human-induced. Landsat enables us to better understand the scope, nature, and speed of change to the natural and built environment.

Businesses draw upon Landsat data to provide customer-specific applications to improve logistics, resource allocation, and investment decisions. Commercial space-imaging firms leverage Landsat data to refine product offerings and support new information services. A 2017 USGS study determined the total annual economic benefit of Landsat data in the United States to be \$2.06 billion, far surpassing its development and operating costs (Straub and others, 2019).

Landsat 8 and Landsat 9 provide 8-day repeat coverage of the Earth's land surfaces. The National Aeronautics and Space Administration (NASA) and the USGS are currently reviewing the findings from a joint Architecture Study Team, which will inform the design and implementation approach for Landsat Next, the follow-on mission to Landsat 9. Landsat 9 and its successors are planned to provide a sustainable, space-based system to extend the 50-year Landsat series of high-quality global land imaging measurements—the world's longest time series of the Earth's land surface.

The long-term availability of consistent and accurate Landsat data, combined with a no-cost data policy, allows users to analyze extensive geographic areas and to better understand and manage long-term trends in land surface change. New cloud computing and data analytics technologies use Landsat data in a wide range of decision-support tools for Government and industry. Much like global positioning system and weather data, Landsat data are used every day to help us better understand our dynamic planet.

For additional information on Landsat, please contact:
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Tab K – Federal Legislation: Water Data Act,
OpenET, Weather Reauthorization
Legislation

118TH CONGRESS }
1st Session } HOUSE OF REPRESENTATIVES { REPORT
118-306

WEATHER RESEARCH AND FORECASTING INNOVATION
REAUTHORIZATION ACT OF 2023

DECEMBER 11, 2023.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. LUCAS, from the Committee on Science, Space, and Technology,
submitted the following

R E P O R T

[To accompany H.R. 6093]

The Committee on Science, Space, and Technology, to whom was
referred the bill (H.R. 6093) to improve the National Oceanic and
Atmospheric Administration’s weather research, support improve-
ments in weather forecasting and prediction, expand commercial
opportunities for the provision of weather data, and for other pur-
poses, having considered the same, reports favorably thereon with
an amendment and recommends that the bill as amended do pass.

CONTENTS

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Weather Research and Forecasting Innovation Reauthorization Act of 2023” or the “Weather Act Reauthorization Act of 2023”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

**TITLE I—REAUTHORIZATION OF THE WEATHER RESEARCH AND FORECASTING INNOVATION ACT
OF 2017**

Sec. 101. Public safety priority.
Sec. 102. United States weather research and forecasting.
Sec. 103. Verification of the Origins of Rotation in Tornadoes Experiment (VORTEX).
Sec. 104. Hurricane forecast improvement program.
Sec. 105. Tsunami Warning and Education Act reauthorization.
Sec. 106. Observing system planning.
Sec. 107. Observing system simulation experiments.
Sec. 108. Computing resources prioritization.
Sec. 109. Earth prediction innovation center.
Sec. 110. Satellite architecture planning.
Sec. 111. Improving uncrewed activities.
Sec. 112. Interagency Council for Advancing Meteorological Services.
Sec. 113. Ocean observations.
Sec. 114. Consolidation of reports.
Sec. 115. National Landslide Hazards Reduction Program.
Sec. 116. Amendments to the Harmful Algal Bloom and Hypoxia Research and Control Act of 1998.

TITLE II—ENHANCING FEDERAL WEATHER FORECASTING AND INNOVATION

Sec. 201. Weather innovation for the next generation.
Sec. 202. Next generation radar.
Sec. 203. Data voids in highly vulnerable areas of the United States.
Sec. 204. Atmospheric rivers forecast improvement program.
Sec. 205. Coastal flooding and storm surge forecast improvement program.
Sec. 206. Aviation weather and data innovation.
Sec. 207. NESDIS joint venture partnership transition program.
Sec. 208. Advanced weather interactive processing system.
Sec. 209. Reanalysis and reforecasting.
Sec. 210. National Weather Service workforce.

TITLE III—COMMERCIAL WEATHER AND ENVIRONMENTAL OBSERVATIONS

Sec. 301. Commercial Data Program.
Sec. 302. Commercial Data Pilot Program.
Sec. 303. Contracting authority and avoidance of duplication.
Sec. 304. Data assimilation, management, and sharing practices.
Sec. 305. Clerical amendment.

TITLE IV—COMMUNICATING WEATHER TO THE PUBLIC

Sec. 401. Definitions.
Sec. 402. Hazardous weather or water event risk communication.
Sec. 403. Hazard communication research and engagement.
Sec. 404. National Weather Service communications improvement.
Sec. 405. NOAA Weather Radio modernization.
Sec. 406. Post-storm surveys and assessments.
Sec. 407. Government Accountability Office report on alert dissemination for hazardous weather or water events.
Sec. 408. Data collection management and protection.

TITLE V—IMPROVING WEATHER INFORMATION FOR AGRICULTURE AND WATER MANAGEMENT

Sec. 501. Weather and climate information in agriculture and water management.
Sec. 502. National Integrated Drought Information System.
Sec. 503. National Mesonet Program.
Sec. 504. National Coordinated Soil Moisture Monitoring Network.
Sec. 505. National water center.
Sec. 506. Satellite transfers report.
Sec. 507. Precipitation forecast improvement program.

SEC. 2. DEFINITIONS.

(a) **IN GENERAL.**—In this Act, the terms “seasonal”, “State”, “subseasonal”, “Under Secretary”, “weather enterprise”, “weather data”, and “weather industry” have the meanings given such terms in section 2 of the Weather Research and Forecasting Innovation Act of 2017 (15 U.S.C. 8501).

(b) **WEATHER DATA DEFINED.**—Section 2 of the Weather Research and Forecasting Innovation Act of 2017 (15 U.S.C. 8501) is amended—

(1) by redesignating paragraph (5) as paragraph (6); and

(2) by inserting after paragraph (4) the following new paragraph:

“(5) **WEATHER DATA.**—The term ‘weather data’ means information used to track and predict weather conditions and patterns, including forecasts, observations, and derivative products from such information.”.

century with no service disruptions. Yet, the modernization plan envisioned 115 Weather Forecast Offices and resulted in the closure or consolidation of multiple Weather Service Offices and Weather Forecast Offices. It is the intent of the Committee that nothing in H.R. 6093 be construed to necessitate or recommend the closure or consolidation of any of the 122 current Weather Forecast Offices, and the Committee strongly discourages NOAA from pursuing any such related effort based on the legislative direction provided in H.R. 6093 or activities resulting from the bill.

The Committee also notes that Sec. 210 contains new directives regarding the National Weather Service workforce. It is the intent of the Committee that these authorities are exercised in accordance with all existing laws, statutes, and agreements in place at the time of enactment of H.R. 6093.

SECTION-BY-SECTION

Section 1: Short title; Table of Contents

States the short title of the bill and includes the table of contents for the bill.

Section 2: Definitions

Defines the terms “seasonal,” “State,” “subseasonal,” “Under Secretary,” “weather enterprise,” “weather data,” and “weather industry” to have the same meaning as in the Weather Research and Forecasting Innovation Act of 2017.

TITLE I—REAUTHORIZATION OF THE WEATHER RESEARCH AND FORECASTING INNOVATION ACT OF 2017

Section 101: Public safety priority

Amends the Weather Act of 2017 to ensure that the National Oceanic and Atmospheric Administration (NOAA) remains focused on providing accurate and timely weather forecasts that protect lives and property and enhance the national economy.

Section 102: United States Weather Research and forecasting

Amends the Weather Act of 2017 with authorization of appropriations for NOAA’s Office of Oceanic and Atmospheric Research to carry out the activities of this bill through four accounts: weather laboratories and cooperative institutes; the United States Weather Research Program; tornado, severe storm, and next generation radar research; and the joint technology transfer initiative.

The amounts authorized to be appropriated are a 1% annual increase from adjusted FY 22 appropriated amounts.

Section 103: Verification of the Origins of Rotation in Tornadoes Experiment (VORTEX)

Amends the Tornado Warning Improvement and Extension Program as established by the Weather Act of 2017. Specifically, this section expands the goals of the program to improve the effectiveness and timeliness of tornado forecasts, predictions, and warnings by optimizing lead times, transitioning to warn-on-forecast, and updating the system to rate the severity of tornadoes in collaboration with local communities and emergency managers.

Section 104: Hurricane Forecasting Improvement program

Amends the Hurricane Forecast Improvement Project as established by the Weather Act of 2017. Specifically, this section builds on the progress made through the project by establishing it as a long-term program which will incorporate social, behavioral, risk, and communication science into probabilistic modeling, forecasting, and response guidance.

Section 105: Tsunami Warning and Education Act reauthorization

Amends the Tsunami Forecasting and Warning Program as established and modified by the Tsunami Warning, Education, and Research Act of 2017 within the Weather Act of 2017 by inserting the text of Rep. Suzanne Bonamici's H.R. 6234. Specifically, this section directs NOAA to evaluate tsunami alert levels, maintain fail-safe warning capabilities, and align the analytic techniques and methodologies of the two existing tsunami warning centers in Hawaii and Alaska. Additionally, this section extends authorization of appropriations which had expired in 2021.

Section 106: Observing system planning

Amends the Weather Act of 2017 to ensure NOAA is focused on Federal systems when developing the prioritized list of observation data requirements that are necessary for weather forecasting capabilities to protect life and property. This section also requires NOAA to compare costs and schedule of Federal and private sector supplemental options when meeting these capabilities.

Additionally, this section directs NOAA to submit a report to Congress analyzing the technicalities, schedule, and cost benefits of a polar-orbiting environmental satellite in the early morning orbit.

Section 107: Observing system simulation experiments

Amends the Weather Act of 2017 to ensure NOAA assesses the capabilities and costs of current or experimental commercial systems capabilities when conducting required assessments of major Government-owned or Government-leased operational observing systems. Additionally, this section removes the priority placed on experiments for systems that have already been completed.

Section 108: Computing resources prioritization

Amends the Weather Act of 2017 by inserting Rep. Max Miller's H.R. 1715, which establishes a joint research initiative with the Department of Energy to conduct proof of concept weather forecasts and models on high performance or quantum computers and using cloud computing.

Additionally, this section directs NOAA to leverage artificial intelligence and machine learning technologies, as well as establish Centers of Excellence for public-private partnerships to address current and future mission needs, including workforce development.

This section also removes the requirement for NOAA to deliver a triennial report on computing infrastructure and inserts an updated report requirement on estimating the specific needs, timeline, and strategy for joint NOAA-DOE activities that advance high-resolution numerical weather prediction models.

Section 109: Earth Prediction Innovation Center

Amends the Weather Act of 2017 to modernize and improve the activities and mission of the Earth Prediction Innovation Center (EPIC). Specifically, this section directs EPIC to develop a community weather research model that is open source for testing and incorporates promising improvements from the weather industry.

Additionally, this section directs NOAA to establish a data lake that maintains and consolidates an updated collection of data and metadata that can be used in numerical weather prediction and EPIC models.

Section 110: Satellite architecture planning

Amends the Weather Act of 2017 to ensure that NOAA maintains a fleet of space-based observation platforms that prioritize the development of products or services tailored to meet NOAA's mission through a mix of government, academic, commercial sector, and international partnerships. This section also ensures that the existing National Centers for Environmental Information provide long-term archives and access to all data and metadata.

Additionally, this section removes the requirement for an annual report on the Constellation Observing System for Meteorology, Ionosphere, and Climate (COSMIC) program and a completed independent study, while extending until 2030 the existing requirement for an annual report on the use of additional transaction authority.

Section 111: Improving uncrewed activities

Amends the Weather Act of 2017 to ensure that uncrewed aircraft and marine systems are included in weather data research and development carried out by the United States Weather Research Program.

Section 112: Interagency Council for Advancing Meteorological Services

Amends the Weather Act of 2017 to update and refine the focus of the Interagency Council for Advancing Meteorological Services (ICAMS) that is chartered under the authority of the Office of Science and Technology Policy. Specifically, this section ensures ICAMS is the formal mechanism by which Federal departments and agencies coordinate implementation of policies and practices with the goal of United States global leadership in meteorological services.

Additionally, this section directs ICAMS to maintain a data inventory of Federal meteorological observations, as well as annually solicit updated information from private sector entities regarding current or near future sources of such data. This section also allows member departments and agencies of ICAMS to provide reimbursable financial support to the coordinating office.

Section 113: Ocean Observations

Amends the Integrated Coastal and Ocean Observation System Act by directing NOAA to establish a pilot program to contract with research or commercial ship operators for data collection in order to assess the viability of a global network to supplement the Integrated Coastal and Ocean Observation System.

Section 114: Consolidation of reports

Removes the requirement of 9 different out-of-date or completed reports.

Section 115: National Landslide Hazards Reduction Program

Amends the National Landslide Preparedness Act by extending the authorization of the National Landslide Hazards Reduction Program through Fiscal Year 2028.

Section 116: Amendments to the Harmful Algal Blooms and Hypoxia Research and Control Act of 1998

Amends the Harmful Algal Bloom and Hypoxia Research and Control Act by extending the authorization of the National Harmful Algal Bloom & Hypoxia Program and the associated comprehensive research plan and action strategy through Fiscal Year 2028. Additionally, this section directs the establishment of a national harmful algal bloom observing network, a national incubator program for control strategies and technologies, and increases the avenues of assistance NOAA can give to affected communities during an event of significance.

This section inserts the text of Rep. Suzanne Bonamici & Rep. Bill Posey's H.R. 6235, Rep. Bryon Donalds' H.R. 325, and Reps. Josh Harder, Nancy Mace, John Garamendi, and Eric Swalwell's H.R. 5756.

TITLE II—ENHANCING FEDERAL WEATHER FORECASTING AND
INNOVATION

Section 201: Weather innovation for the next generation

Inserts the text of Rep. Randy Feenstra's H.R. 3764, which establishes a research, development, test, and evaluation program to ensure the continued performance of weather radar capabilities. Specifically, this section requires NOAA to identify, evaluate, and test technologies or solutions that improve radar coverage and performance, including by mitigating the impacts of interferences.

Section 202: Next Generation Radar

Inserts the text of Rep. Rick Crawford's H.R. 4575, which directs NOAA to develop a plan to replace the Next Generation Weather Radar (NEXRAD) of the National Weather Service. This section requires NOAA to take action to implement the NEXRAD replacement plan by the end of Fiscal Year 2040 and give Congress periodic updates.

Additionally, this section gives NOAA the authority to utilize and contract with third party entities to fill radar data voids and supplement weather radar coverage by acquiring data, services, and technologies.

Section 203: Data voids in highly vulnerable areas of the United States

Inserts part of Rep. Tom Kean's H.R. 4069, which directs NOAA, in coordination with FEMA, to address weather observation gaps in under-observed, underserved, or highly vulnerable areas of the United States. Specifically, this section directs NOAA and FEMA to establish an interagency partnership to support pilot projects

that accelerate coordination and use of localized data and communications in infrastructure and emergency management.

Section 204: Atmospheric Rivers Forecast Improvement Program

Inserts part of Rep. Mike Garcia's & Rep. Jay Obernolte's H.R. 3966, which establishes an atmospheric river forecast improvement program to develop tools and improved forecast products, including quantitative forecast skill metrics, that advance accurate, effective, and actionable forecasts and warnings that reduce the loss of life or property from atmospheric rivers.

Section 205: Coastal Flooding and Storm Surge Forecast Improvement Program

Inserts part of Rep. Tom Kean's H.R. 4069, which establishes a coastal flooding and storm surge forecast improvement program to improve understanding and capacity for real-time operational prediction of coastal flooding, including high tide flooding, and storm surge events. Specifically, this section directs NOAA to use innovative observations and modeling to develop probabilistic estimates for use in long-term planning and risk management by States, Tribal governments, localities, and emergency managers.

Section 206: Aviation Weather and data innovation

Inserts the text of Rep. Rich McCormick's H.R. 3915, which establishes an airborne observation program for the acquisition of atmospheric sensor data and the deployment of critical atmospheric sensors. Specifically, this section directs NOAA to procure weather data from commercial aircraft and analyze such data when incorporated into the unified forecast system.

Additionally, this section directs the National Weather Service to include turbulence events, icing conditions, or other related phenomena in the forecasting capabilities of the Aviation Weather Center. In carrying out these activities, the NWS is authorized to designate an existing or establish a new interagency working group, identify current or future data gaps related to turbulence, and update interagency agreements.

Section 207: NESDIS Joint Venture Partnership Transition Program

Authorizes NOAA's National Environmental Satellite, Data, and Informative Service, in consultation with NASA, to administer broad agency announcements and contracting mechanisms to support a joint venture partnership program that engages with the private sector, academia, and other Federal departments and agencies to transition awards from research and study phases into demonstration. This section includes a total of \$20 million in authorization of appropriations for these activities.

Section 208: Advanced Weather Interactive Processing System

Directs the National Weather Service to develop a strategy to transition operations of the Advanced Weather Interactive Processing System—the system required to produce watches, warnings, and forecasts at every Weather Forecast Office—to an operational cloud-based environment. This section requires NWS to take ac-

tions to ensure the transition strategy is completed by the end of Fiscal Year 2030.

Section 209. Reanalysis and reforecasting

Authorizes NOAA to support reanalysis and reforecasting activities, including through the hazardous weather testbed, to improve forecasts, predictions, and datasets.

Section 210. National Weather Service workforce

Directs the National Weather Service to annually assess and submit to Congress the milestones, timelines, and service level expectations required for expeditious hiring and timely on-boarding of NWS employees. As part of this assessment, the Director of the NWS is required to report on the total number of staff and designated positions at each Weather Forecast Office. This section also directs the NWS to contract or continue to partner with an external organization to conduct an assessment of medical impacts, including stress and mental health, on NWS employees required to work rotating shifts.

Additionally, this section authorizes the Director of the NWS to designate at least one service hydrologist at each Weather Forecast Office. This position can be performed by an existing employee or in addition to current responsibilities of another position.

TITLE III—COMMERCIAL WEATHER AND ENVIRONMENTAL
OBSERVATIONS

Section 301: Commercial Data Program

Codifies the Commercial Data Program at NOAA to expand on activities related to obtaining a broad variety of weather and environmental data and services from the private sector for operational use. This section directs NOAA to maintain a Data Governance Committee within its Observing System Council for the purpose of ensuring coordinated and uniform processes for commercial data acquisitions. This section also establishes an Ombudsman position in NOAA's Office of Research, Transition, and Applications to serve as a liaison between commercial data providers and NOAA.

Additionally, this section authorizes the appropriation of \$100 million for each Fiscal Year 2024 through 2028 to acquire surface-based, airborne-based, space-based, and coastal-and ocean-based data, metadata, and services for operational use. This section includes a Sense of Congress that NOAA should enter contracts or agreements with private sector providers to expend all amounts appropriated in a fiscal year.

Section 302: Commercial Data Pilot Program

Modifies the existing commercial data pilot program to be a testing program within the Commercial Data Program. Directs the Pilot Program to engage with external partners and providers to test and evaluate all sources and types of observation services, imagery, products, and data. The Pilot Program is also directed to test, develop, and publish within 180 days shared standards and methodologies for quality, use, licensing, and attribution of observation services and data.

Additionally, this section authorizes NOAA to enter into pilot contracts with private sector entities capable of providing observation services and data in a manner that allows NOAA to calibrate and evaluate such services and data for use in modeling and forecasting activities. This section specifies that if a pilot contract is assessed to be viable, accurate, and cost-effective, the Commercial Data Program shall enter into a contract to acquire such data or services.

This section authorizes appropriations for the Pilot Program at not less than 15% of the total amount appropriated to the Commercial Data Program each fiscal year.

Section 303: Contracting authority and avoidance of duplication

Authorizes NOAA to enter into year-long or multiyear contracts, partner or contract with multiple observation service or data providers simultaneously and utilize any other authorities like transaction agreements to enter innovative partnerships with the private sector.

Additionally, this section directs NOAA to avoid duplication with NASA and other Federal departments and agencies by coordinating all contracts and partnership with private sector data providers and, to the maximum extent possible, execute all contracts through the Commercial Data Program. This section directs NOAA to ensure that other Federal departments and agencies utilizing services or data through the Program fairly compensate NOAA or the private sector entity providing such service or data.

Section 304: Data assimilation, management, and sharing practices

Directs NOAA to consider the use of commercial cloud technologies to host and transmit data and metadata acquired by the Commercial Data Program. This section gives NOAA the authority to partner with other Federal departments or agencies to collocate data with joint utility. This section also directs NOAA to ensure that the long-term management, maintenance, and stewardship of acquired data is conducted by the National Centers for Environmental Information and made available to the U.S. weather enterprise in accordance with contract permissions and redistribution terms.

Additionally, this section establishes a program to test, advance, and implement data assimilation methods, including through the use of artificial intelligence, machine learning, and next-generation algorithms. This section also directs NOAA to establish a consortium of institutions of higher education to address critical research challenges for data assimilation and foster a growing data assimilation workforce while protecting data and models from foreign adversaries.

This section requires NOAA to enter into an agreement with a non-Federal entity to conduct a study on data practices and management needs at NOAA, including recommendations on data infrastructure.

Section 305: Clerical amendment

Updates the table of contents in the Weather Act of 2017 to reflect the addition of the new sections in this Title.

TITLE IV—COMMUNICATING WEATHER TO THE PUBLIC

Section 401: Definitions

Defines the terms “hazardous weather or water events,” “institution of higher education,” “NOAA weather radio,” “public cloud,” “watch,” and “warning.”

Section 402: Hazardous weather or water event risk communication

Requires NOAA maintain and improve a system by which risks of hazardous weather or water events are communicated to the public with the goal of informing response to prevent loss of life or property. Establishes a program to use social, behavioral, risk, communication, and economic sciences to simplify, improve, and develop metrics for the communication of hazardous events.

Section 403: Hazard communication research and engagement

Requires NOAA to maintain a program to modernize the development and communication of probabilistic hazard information. Requires the program to improve the social, behavioral, economic, risk, and communication sciences used to communicate hazardous events, including by voluntary collection of data.

Additionally, this section establishes a pilot program with one or more eligible institutions to test the effectiveness of implementing such research into operations with respect to tornado hazard communications. This section also inserts the text of Rep. Maxwell Frost’s & Rep. Daniel Webster’s H.R. 6080, which authorizes a pilot study and research activities on improving the communication of hurricanes forecasts and predictions, including to vulnerable populations.

Section 404: National weather service communications improvement

Inserts the text of Rep. Randy Feenstra’s H.R. 1496, which directs the National Weather Service to replace their instant messaging service, known as NWSChat, with a public cloud-based platform.

Section 405: NOAA Weather radio modernization

Inserts the text of Rep. Stephanie Bice’s H.R. 1482, which directs NOAA to maintain, expand, and modernize the NOAA Weather Radio (NWR) system that broadcasts weather information across 90% of the United States and its territories. This section directs NOAA to upgrade telecommunications infrastructure, accelerate software upgrades, develop backup options, and consult with relevant stakeholders in order to ensure NWR meets its maximum performance potential and coverage remains valuable to the public.

Section 406: Post-storm Surveys and Assessments

Directs NOAA to perform one or more post-storm surveys or assessments following every hazardous weather or water event determined to be of sufficient societal importance by the NOAA Administrator. Requires that post-storm surveys and assessments include under-observed, underserved, and highly vulnerable communities and are done in coordination with Federal, State, local, and Tribal governments, and the data obtained is made available to the public as soon as practicable.

Additionally, this section exempts post-storm surveys and assessments from the Paperwork Reduction Act, which will save NWS an estimated 9 months per each new survey it designs.

Section 407: GAO Report on alert dissemination for hazardous weather or water events

Requires the Government Accountability Office (GAO) to submit to Congress a report examining the information technology infrastructure of NOAA and the system for public notification regarding hazardous weather or water events. Specifically, this section requires the report to identify secondary and tertiary fail-safe measures, assess collaborations that could reduce delays in notification, and analyze the source and extent of public notification delays.

Section 408: Data collection management and protection

Authorizes NOAA to collect social, behavioral, and economic data, including through purchase or partnership collections, related to communications and public response to hazardous weather or water events. Requires that such data is collected and managed within all legal, regulatory, and contractual obligations and in accordance with all relevant laws. This section also directs NOAA to establish a central repository system for such data.

Additionally, this section directs NOAA to develop methods that reduce the likelihood of unauthorized tampering with online public notifications, such as digital watermarks.

TITLE V—IMPROVING WEATHER INFORMATION FOR AGRICULTURE AND WATER MANAGEMENT

Section 501: Weather and Climate Information in Agriculture and Water Management

Inserts the text of Rep. Jim Baird's H.R. 3802 and part of Rep. Mike Garcia's & Rep. Jay Obernolte's H.R. 3966, which direct NOAA to establish not fewer than 2 pilot projects to support improved subseasonal to seasonal precipitation forecasts for agriculture and water management. Specifically, these pilot projects are directed to improve operational model resolution and achieve measurable objectives for operational forecast improvement. This section also removes a completed report requirement on NOAA's plans and goals for subseasonal and seasonal forecasts.

Additionally, this section reauthorizes the National Weather Service's existing involvement in providing agricultural and silvicultural weather and climate information. This section authorizes the appropriation of \$45 million derived from amounts appropriated or otherwise made available to the National Weather Service for each fiscal year through 2028.

Section 502: National Integrated Drought Information System

Inserts part of Rep. Mike Collins' H.R. 4373, which reauthorizes and updates the National Integrated Drought Information System (NIDIS). Specifically, this section directs NIDIS to advance and deploy next generation drought monitoring technologies and transition existing drought products to probabilistic forecasts, as well as utilize observations from State or regional hydrological monitoring projects.

Section 503: National Mesonet Program

Inserts the text of Rep. Stephanie Bice's H.R. 2995, which codifies and authorizes the National Mesonet Program. Specifically, the National Mesonet Program is directed to obtain observations in all geographic environments and increase the quantities of boundary-layer data to improve numerical weather prediction performance.

Additionally, this section gives the National Mesonet Program the authority to provide financial and technical assistance to State, Tribal, private, and academic entities seeking to build, expand, or upgrade the equipment or capacity of a mesonet system. Before financial assistance is provided, the entity must enter into an agreement to provide data to the Program and allow the Program to verify the operational value and cost of such data.

This section also ensures that the Program has an active advisory committee of subject matter experts to make recommendations on the identification, implementation, procurement, and tracking of data needed to supplement the Program. The advisory committee is required to include expertise from one or more institutions of higher education and regularly report to Congress.

Section 504: National coordinated soil moisture monitoring network

Inserts part of Rep. Mike Collins' H.R. 4373, which requires the development, deployment, and maintenance of a soil moisture monitoring network within the National Integrated Drought Information System. Eliminates the requirement for a completed report on the strategy to develop such a network.

Section 505: National Water Center

Reauthorizes the activities of the National Water Center and designates the Center as NOAA's primary center in collaborating and coordinating water research and operational activities with other Federal centers and networks. Additionally, this section ensures that the National Water Center is a component of the National Centers for Environmental Prediction in line with all of NOAA's other centers.

Section 506: Satellite transfers report

Requires the Department of Commerce to report to Congress on the Department's authorities and policies, as well as government-wide policies, related to transferring any portion of weather satellite systems to another Federal agency or department. The report is required to include a summary of any plans the Department of Commerce has to transfer existing or future weather satellite systems.

Section 507: Precipitation forecast improvement program

Inserts modified text of Rep. Jeff Jackson's H.R. 3802, which establishes a program to improve precipitation forecasting across all timescales with the goal of providing more accurate, reliable, and timely precipitation forecasts and extremes.

RELATED COMMITTEE HEARINGS

Pursuant to clause 3(c)(6) of rule XIII, the following hearings were used to develop or consider H.R. 6093.

117TH CONGRESS
2D SESSION

H. R. 7792

To provide for a national water data framework, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2022

Ms. STANSBURY (for herself, Ms. LEGER FERNANDEZ, Mr. OWENS, Mrs. LEE of Nevada, Mr. CARSON, Ms. TITUS, Mrs. CHERFILUS-McCORMICK, Mr. NEGUSE, Ms. TLAIB, Mr. GALLEGO, Mr. O'HALLERAN, Ms. BLUNT ROCHESTER, Mr. BISHOP of Georgia, and Ms. HERRELL) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Transportation and Infrastructure, Agriculture, Energy and Commerce, Science, Space, and Technology, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for a national water data framework, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Water Data Act”.

5 **SEC. 2. DEFINITIONS.**

6 In this Act:

1 (1) ADVISORY COMMITTEE.—The term “Advi-
2 sory Committee” means the Advisory Committee on
3 Water Information established by section 5(a).

4 (2) COUNCIL.—The term “Council” means the
5 Water Data Council established under section 4(a).

6 (3) DATA STANDARDS.—The term “data stand-
7 ards” means standards relating to the manner in
8 which data are to be structured, populated, and en-
9 coded in machine-readable formats, and made inter-
10 operable for data exchange.

11 (4) DEPARTMENTS.—The term “Departments”
12 means each of the following:

13 (A) The Department of Agriculture.

14 (B) The Department of Commerce.

15 (C) The Department of Defense.

16 (D) The Department of Energy.

17 (E) The Department of Health and
18 Human Services.

19 (F) The Department of Homeland Secu-
20 rity.

21 (G) The Department of the Interior.

22 (H) The Environmental Protection Agency.

23 (I) The National Aeronautics and Space
24 Administration.

1 (5) INDIAN TRIBE.—The term “Indian Tribe”
2 has the meaning given the term in section 4 of the
3 Indian Self-Determination and Education Assistance
4 Act (25 U.S.C. 5304).

5 (6) NATIONAL WATER DATA FRAMEWORK.—
6 The term “National Water Data Framework” means
7 the national water data framework developed under
8 section 3.

9 (7) SECRETARY.—The term “Secretary” means
10 the Secretary of the Interior.

11 (8) WATER DATA.—The term “water data”
12 means measurements of basic properties relating to
13 the planning and management of water resources,
14 including streamflow, precipitation, groundwater,
15 soil moisture, snow, evaporation, water quality, and
16 water use in agriculture, industry, natural systems,
17 and municipal uses.

18 (9) WATER DATA GRANT PROGRAM.—The term
19 “Water Data Grant Program” means the water data
20 grant program established under section 6(a).

21 (10) WATER DATA INFRASTRUCTURE.—The
22 term “water data infrastructure” means an inte-
23 grated system of information technologies that in-
24 cludes common standards, formats, and tools to

1 make water data easy to find, access, and share on-
2 line.

3 **SEC. 3. NATIONAL WATER DATA FRAMEWORK.**

4 (a) IN GENERAL.—For the purpose of improving
5 water resources management and access across the United
6 States, including addressing drought, floods, and other
7 water management challenges, the heads of the Depart-
8 ments shall jointly develop and implement a national water
9 data framework for integrating, sharing, and using water
10 data.

11 (b) REQUIREMENTS.—In developing and imple-
12 menting the National Water Data Framework, the De-
13 partments shall—

14 (1) identify and prioritize key water data need-
15 ed to support water resources management and
16 planning, including—

17 (A) water data sets, types, and associated
18 metadata; and

19 (B) water data infrastructure, tech-
20 nologies, and tools;

21 (2) develop and adopt common national water
22 data standards for collecting, sharing, and inte-
23 grating water data, infrastructure, technologies, and
24 tools in consultation with States, Indian Tribes, local
25 governments, and relevant bodies;

1 (3) ensure that Federal water data are made
2 findable, accessible, interoperable, and reusable in
3 accordance with the standards developed and adopt-
4 ed pursuant to this Act;

5 (4) integrate water data and tools through com-
6 mon approaches to data infrastructure, platforms,
7 models, and tool development;

8 (5) establish a common, national geospatial
9 index for publishing and linking water data from
10 Federal, State, Tribal, and other non-Federal
11 sources for online discovery;

12 (6) harmonize and align policies, programs, pro-
13 tocols, budgets, and funding programs relating to
14 water data to achieve the purposes of this Act to the
15 maximum extent practicable;

16 (7) participate in and coordinate water data ac-
17 tivities with the Council; and

18 (8) support the adoption of new technologies
19 and the development of tools for water data collec-
20 tion, sharing, and standardization by Federal, State,
21 Tribal, local, and other entities.

22 **SEC. 4. WATER DATA COUNCIL.**

23 (a) IN GENERAL.—The heads of the Departments
24 shall establish an interagency Council, to be known as the

1 “Water Data Council”, to support the development and
2 implementation of the National Water Data Framework.

3 (b) MEMBERSHIP.—

4 (1) DUTIES OF SECRETARY.—The Secretary
5 shall—

6 (A) serve as the Chair of the Council;

7 (B) in collaboration with the Office of
8 Science and Technology Policy, convene the
9 Council not less frequently than 4 times each
10 year; and

11 (C) provide staff support for the Council
12 through the United States Geological Survey.

13 (2) MEMBERS.—Council Members shall include
14 the heads of the following entities:

15 (A) The Departments.

16 (B) Bureaus and offices of the Depart-
17 ments that have a significant role or interest in
18 water data, including—

19 (i) the Corps of Engineers;

20 (ii) the Bureau of Indian Affairs;

21 (iii) the Bureau of Reclamation;

22 (iv) the Federal Emergency Manage-
23 ment Agency;

24 (v) the Federal Energy Regulatory
25 Commission;

1 (vi) the United States Fish and Wild-
2 life Service;

3 (vii) the Indian Health Service;

4 (viii) the Forest Service;

5 (ix) the National Laboratories;

6 (x) the Natural Resources Conserva-
7 tion Service;

8 (xi) the National Oceanic and Atmos-
9 pheric Administration;

10 (xii) the Rural Development program
11 of the Department of Agriculture; and

12 (xiii) the United States Geological
13 Survey.

14 (C) Offices of the Executive Office of the
15 President, including—

16 (i) the Council on Environmental
17 Quality;

18 (ii) the Office of Management and
19 Budget; and

20 (iii) the Office of Science and Tech-
21 nology Policy.

22 (D) Other Federal entities that the Chair
23 and a majority of the members of the Council
24 described in subparagraphs (A) through (C) de-
25 termine to be appropriate.

1 (c) DUTIES.—The Council shall—

2 (1) support the development and implementa-
3 tion of the National Water Data Framework; and

4 (2) facilitate communication and collaboration
5 among members of the Council—

6 (A) to establish, adopt, and implement
7 common national water data standards;

8 (B) to promote water data sharing and in-
9 tegration across Federal departments and agen-
10 cies, including—

11 (i) water data collection, documenta-
12 tion, maintenance, distribution, and preser-
13 vation strategies; and

14 (ii) development and use of water data
15 infrastructure, tools, and technologies to
16 support water management and planning;

17 (C) to align the policies, programs, proto-
18 cols, budgets, and funding programs relating to
19 water data of the members of the Council; and

20 (D) to promote partnerships across Fed-
21 eral entities and non-Federal entities—

22 (i) to advance innovation and solu-
23 tions in water data, technology, tools, plan-
24 ning, and management; and

1 (ii) to develop guidelines for data
2 sharing and protecting data privacy.

3 (d) WATER DATA COUNCIL REPORTS.—Not later
4 than 180 days after the date of enactment of this Act,
5 and annually thereafter, in conjunction with the annual
6 budget submission of the President to Congress under sec-
7 tion 1105(a) of title 31, United States Code, the Sec-
8 retary, acting on behalf of the Council, shall submit to
9 members of the Council and the appropriate committees
10 of Congress and make available publicly online a report
11 that describes—

12 (1) the National Water Data Framework;

13 (2) the actions undertaken by the Departments
14 to implement this Act pursuant to section 3;

15 (3) key water data sets, types, and infrastruc-
16 ture needed to support water management and plan-
17 ning;

18 (4) goals, targets, and actions to carry out the
19 National Water Data Framework in the subsequent
20 fiscal year;

21 (5) a summary and evaluation of the progress
22 of the Departments in achieving any prior goals, tar-
23 gets, and actions to carry out the National Water
24 Data Framework;

1 (6) actions needed to align policies, programs,
2 and budgetary resources to carry out the National
3 Water Data Framework in the subsequent fiscal
4 year;

5 (7) grants and assistance provided to State,
6 Tribal, and local entities toward the development
7 and adoption of new technologies and tools;

8 (8) opportunities to develop and incentivize the
9 deployment of promising next-generation tech-
10 nologies, including new water data technologies and
11 tools, in partnership with the private sector and oth-
12 ers to accomplish the purposes of this Act; and

13 (9) metrics for achieving the National Water
14 Data Framework.

15 **SEC. 5. ADVISORY COMMITTEE ON WATER INFORMATION.**

16 (a) **ESTABLISHMENT.**—There is established within
17 the Department of the Interior an advisory committee, to
18 be known as the “Advisory Committee on Water Informa-
19 tion”, to advise the Secretary, Departments, and Council
20 on the development and implementation of the National
21 Water Data Framework.

22 (b) **MEMBERSHIP.**—

23 (1) **COMPOSITION.**—The Advisory Committee
24 shall be composed of members, to be appointed by
25 the Secretary in a manner that provides for—

1 (A) balanced representation among various
2 entities involved in water-related activities; and

3 (B) consideration for a geographic balance
4 of individuals representing localities across the
5 United States.

6 (2) SELECTION.—Members of the Advisory
7 Committee shall be selected by the Secretary from
8 among entities involved in water-related activities,
9 including—

10 (A) States;

11 (B) Indian Tribes;

12 (C) local governments;

13 (D) Federal entities;

14 (E) water agencies, utilities, conservation
15 districts, irrigation districts, acequias, and
16 other water user associations;

17 (F) organizations that facilitate collabora-
18 tion across States and multi-state instrumental-
19 ities;

20 (G) educational institutions;

21 (H) professional organizations;

22 (I) water data and technology-related ex-
23 perts, professionals, and industries;

24 (J) private sector entities; and

25 (K) nonprofit organizations.

1 (3) TERM.—Members of the Advisory Com-
2 mittee shall be appointed by the Secretary for a
3 term not to exceed 4 years.

4 (c) CHAIR.—The Secretary shall serve as the Chair
5 of the Advisory Committee.

6 (d) STAFF SUPPORT.—The United States Geological
7 Survey shall provide support services for the Advisory
8 Committee.

9 (e) MEETINGS.—The Advisory Committee shall meet
10 at the call of the Chair, but not less frequently than 4
11 times each year.

12 (f) DUTIES.—The duties of the Advisory Committee
13 are to advise the Secretary, Departments, and Council
14 on—

15 (1) the development and implementation of the
16 National Water Data Framework;

17 (2) efforts to operate a cost-effective national
18 network of water data collection and analysis that
19 meets the priority water information needs of the
20 Federal Government and, to the extent practicable
21 using available resources, the needs of the non-Fed-
22 eral community that are tied to national interests;

23 (3) efforts to develop uniform standards, guide-
24 lines, and procedures for the collection, analysis,
25 management, and dissemination of water informa-

1 tion to improve quality, consistency, and accessibility
2 nationwide; and

3 (4) the effectiveness of existing water informa-
4 tion programs and recommended modifications need-
5 ed to respond to changes in legislation, technology,
6 and other conditions.

7 (g) APPLICABILITY OF FACA.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), the Federal Advisory Committee Act (5
10 U.S.C. App.) shall apply to the Advisory Committee.

11 (2) NO TERMINATION.—Section 14(a)(2) of the
12 Federal Advisory Committee Act (5 U.S.C. App.)
13 shall not apply to the Advisory Committee.

14 **SEC. 6. WATER DATA GRANT PROGRAM.**

15 (a) IN GENERAL.—The Secretary shall establish a
16 water data grant program under which the Secretary shall
17 award grants—

18 (1) to support non-Federal entities in making
19 water data sets findable, accessible, interoperable,
20 and reusable in accordance with the water data
21 standards established under this Act;

22 (2) to advance the development of water data
23 infrastructure, tools, and technologies to facilitate
24 the sharing and use of water data;

1 (3) to support programs and projects that fa-
2 cilitate water data sharing and use in water re-
3 sources management and the implementation of the
4 National Water Data Framework; and

5 (4) to provide a prize for accelerating innova-
6 tion and developing next-generation water data tools
7 and technologies.

8 (b) COORDINATION WITH THE COUNCIL.—The Sec-
9 retary shall consult and coordinate with the Council in cre-
10 ating and implementing the Water Data Grant Program
11 to ensure that—

12 (1) the Water Data Grant Program is aligned
13 with and carries out the purposes of this Act; and

14 (2) grants and programs are harmonized across
15 the Departments and members of the Council to
16 achieve the purposes of this Act.

17 (c) ELIGIBLE ENTITIES.—An entity eligible for a
18 grant under the Water Data Grant Program—

19 (1) shall demonstrate significant needs or capa-
20 bilities for advancing water data sharing and tools
21 with a significant public benefit; and

22 (2) may include—

23 (A) a State, multistate instrumentality, In-
24 dian Tribe, or other unit of local government;

1 (B) a water agency, utility, conservation
2 district, irrigation district, acequia, mutual do-
3 mestic association, or other entity organized
4 pursuant to Federal, Tribal, or local laws for
5 the purpose of water-related activities;

6 (C) an educational institution or nonprofit
7 organization; and

8 (D) in the case of carrying out activities
9 described in subsection (a)(4)—

10 (i) an individual who is a citizen or
11 legal resident of the United States; or

12 (ii) an entity that is incorporated and
13 maintains the primary place of business of
14 the entity in the United States.

15 (d) REQUIREMENTS.—

16 (1) DATA SHARING AND STANDARDS.—Any
17 project funded through the Water Data Grant Pro-
18 gram shall be implemented in accordance with the
19 water data standards established under section 3.

20 (2) USE OF EXISTING WATER DATA INFRA-
21 STRUCTURE.—The recipient of a grant shall, to the
22 extent practicable, leverage existing water data and
23 water data infrastructure.

24 (e) REPORT.—Not later than 1 year after the date
25 of enactment of this Act, and annually thereafter, in con-

1 junction with the annual budget submission of the Presi-
2 dent to Congress under section 1105(a) of title 31, United
3 States Code, the Secretary shall submit to Congress a re-
4 port that describes the implementation of the Water Data
5 Grant Program, including—

6 (1) a description of the use and deployment of
7 amounts made available under the Water Data
8 Grant Program;

9 (2) an accounting of all grants awarded under
10 the Water Data Grant Program, including a descrip-
11 tion of—

12 (A) each grant recipient; and

13 (B) each project funded under the Water
14 Data Grant Program;

15 (3) an assessment of the success of the Water
16 Data Grant Program in advancing the purposes of
17 this Act; and

18 (4) a plan for the subsequent fiscal year to
19 achieve the purposes of this Act.

20 (f) AUTHORIZATION OF APPROPRIATIONS.—There is
21 authorized to be appropriated to the Secretary to carry
22 out the Water Data Grant Program \$25,000,000 for each
23 of fiscal years 2023 through 2027, to remain available
24 until expended.

1 (g) ADMINISTRATIVE COSTS.—Of the funds author-
2 ized to be appropriated under subsection (f), not more
3 than 3 percent may be used by the Secretary for adminis-
4 trative costs.

5 **SEC. 7. AUTHORIZATION OF APPROPRIATIONS.**

6 There is authorized to be appropriated to the Sec-
7 retary to carry out sections 3 through 5 \$15,000,000 for
8 each of fiscal years 2023 through 2027, to remain avail-
9 able until expended.

○

118TH CONGRESS
1ST SESSION

S. 1118

To establish the Open Access Evapotranspiration (OpenET) Data Program.

IN THE SENATE OF THE UNITED STATES

MARCH 30, 2023

Ms. CORTEZ MASTO (for herself and Mr. HICKENLOOPER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To establish the Open Access Evapotranspiration (OpenET)
Data Program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Open Access
5 Evapotranspiration Data Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **EVAPOTRANSPIRATION.**—The term
9 “evapotranspiration” or “ET” means the process by

1 which water is transferred from the land to the at-
2 mosphere by—

3 (A) evaporation from soil and other sur-
4 faces; and

5 (B) transpiration from plants.

6 (2) PROGRAM.—The term “Program” means
7 the Open Access Evapotranspiration (OpenET) Data
8 Program established under section 4(a).

9 (3) PROGRAM PARTNER.—The term “Program
10 partner” means—

11 (A) an institution of higher education;

12 (B) a State (including a State agency);

13 (C) an Indian Tribe as defined in section
14 4 of the Indian Self-Determination and Edu-
15 cation Assistance Act (25 U.S.C. 5304);

16 (D) a private sector entity;

17 (E) a nongovernmental organization; or

18 (F) any other entity determined to be ap-
19 propriate by the Secretary.

20 (4) SECRETARY.—The term “Secretary” means
21 the Secretary of the Interior, acting through the Di-
22 rector of the United States Geological Survey.

23 **SEC. 3. FINDINGS.**

24 Congress finds that—

1 (1) evapotranspiration is the second largest
2 component of the water budget, which is an account-
3 ing of the allocation of water resources to various
4 water uses;

5 (2) evapotranspiration is a measure of the
6 water that is consumed and lost from a water sys-
7 tem, removed from available supplies, and unavail-
8 able for other uses within a watershed;

9 (3) accurate information on evapotranspiration
10 is required to balance water supply and water de-
11 mand in a watershed and ensure that adequate
12 water supplies for beneficial uses are available over
13 time;

14 (4) water users and managers are impeded in
15 more efficient decision making by—

16 (A) the lack of consistent and comprehen-
17 sive water use data; and

18 (B) the fact that access to existing data is
19 often limited and cost-prohibitive; and

20 (5) evapotranspiration data may be applied for
21 the purposes of—

22 (A) assisting users and decisionmakers to
23 better manage resources and protect financial
24 viability of farm operations during drought;

1 (B) developing more accurate water budg-
2 ets and innovative management programs to
3 better promote conservation and sustainability
4 efforts; and

5 (C) employing greater groundwater man-
6 agement practices and understanding impacts
7 of consumptive water use.

8 **SEC. 4. OPEN ACCESS EVAPOTRANSPIRATION (OPENET)**
9 **DATA PROGRAM.**

10 (a) **ESTABLISHMENT.**—The Secretary shall establish
11 a program to be known as the “Open Access
12 Evapotranspiration (OpenET) Data Program” under
13 which the Secretary shall provide for the delivery of sat-
14 ellite-based evapotranspiration data, as available, sup-
15 ported by other ET methods—

16 (1) to advance the quantification of evaporation
17 and consumptive water use; and

18 (2) to provide data users with estimates of
19 evapotranspiration data across large landscapes over
20 certain periods of time, with a priority for Landsat
21 scale (30–100m) when available.

22 (b) **PURPOSE.**—The purpose of the Program is to
23 support the operational distribution of satellite-based
24 evapotranspiration data generated under the Program to
25 sustain and enhance water resources in the United States.

1 (c) DUTIES.—In carrying out the Program, the Sec-
2 retary shall—

3 (1) evaluate, use, and modify sources of sat-
4 ellite-based evapotranspiration data, supported by
5 other ET methods, based on best available science
6 and technologies; and

7 (2) coordinate and consult with—

8 (A) the heads of other relevant Federal
9 agencies, including—

10 (i) the Commissioner of Reclamation;

11 (ii) the Administrator of the National
12 Aeronautics and Space Administration;

13 (iii) the Administrator of the National
14 Oceanic and Atmospheric Administration;

15 (iv) the Administrator of the Agricul-
16 tural Research Service; and

17 (v) the Chief of the Natural Resources
18 Conservation Service; and

19 (B) Program partners.

20 (d) COMPONENTS.—In carrying out the Program, the
21 Secretary shall, in coordination with other relevant agen-
22 cies, carry out activities to develop, maintain, establish,
23 expand, or advance delivery of satellite-based
24 evapotranspiration data, supported by other ET methods,
25 to advance the quantification of evaporation and consump-

1 tive water use, with an emphasis on carrying out activities
2 that—

3 (1) support the development and maintenance
4 of evapotranspiration data and software systems and
5 associated research and development in a manner
6 that ensures that Program data are reflective of the
7 best available science, including by providing support
8 to Program partners, or coordinating activities with
9 other programs within the Department of the Inte-
10 rior, that have developed and are maintaining
11 evapotranspiration software systems and datasets;

12 (2) demonstrate or test new and existing
13 evapotranspiration measurement technology;

14 (3) improve evapotranspiration measurement
15 science and technology; and

16 (4) develop or refine the application of satellite-
17 based evapotranspiration data available to Federal
18 agencies, States, and Indian Tribes, including pro-
19 grams within both the Water Resources and Core
20 Science Systems divisions of the United States Geo-
21 logical Survey. These may include—

22 (A) the Water Availability and Use Science
23 Program, the National Water Census, and Inte-
24 grated Water Availability Assessments; and

1 (B) the National Land Imaging Program,
2 the Land Change Science Program, and the
3 Science Analytics and Synthesis Program.

4 (e) WATER USE AND AVAILABILITY OF PROGRAM
5 DATA.—The Secretary—

6 (1) shall incorporate, to the maximum extent
7 practicable, program information and data for pur-
8 poses of determining consumptive water use on irri-
9 gated or other vegetated landscapes for use by water
10 resource management agencies;

11 (2) may continue to coordinate data analyses,
12 use, and collection efforts with other Federal agen-
13 cies, States, and Tribal governments through exist-
14 ing coordinating organizations, such as—

15 (A) the Western States Water Council; and

16 (B) the Western States Federal Agency
17 Support Team; and

18 (3) may provide information collected and ana-
19 lyzed under the Program to Program partners
20 through appropriate mechanisms, including through
21 agreements with Federal agencies, States (including
22 State agencies), or Indian Tribes, leases, contracts,
23 cooperative agreements, grants, loans, and memo-
24 randa of understanding.

1 (f) COOPERATIVE AGREEMENTS.—The Secretary
2 shall—

3 (1) enter into cooperative agreements with Pro-
4 gram partners to provide for the efficient and cost-
5 effective administration of the Program, including
6 through cost sharing or by providing additional in-
7 kind resources necessary to carry out the Program;
8 and

9 (2) provide nonreimbursable matching funding,
10 as permissible, for programmatic and operational ac-
11 tivities under this section, in consultation with Pro-
12 gram partners.

13 (g) ENVIRONMENTAL LAWS.—Nothing in this Act
14 modifies any obligation of the Secretary to comply with
15 applicable Federal and State environmental laws in car-
16 rying out this Act.

17 **SEC. 5. REPORT.**

18 Not later than 5 years after the date of the enact-
19 ment of this Act, the Secretary shall submit to the Com-
20 mittees on Energy and Natural Resources, Agriculture,
21 Nutrition, and Forestry, and Appropriations of the Senate
22 and the Committees on Natural Resources, Agriculture,
23 and Appropriations of the House of Representatives a re-
24 port that includes—

1 (1) a status update on the operational incorpo-
2 ration of Program data into modeling, water plan-
3 ning, and reporting efforts of relevant Federal agen-
4 cies; and

5 (2) a list of Federal agencies and Program
6 partners that are applying Program data to bene-
7 ficial use, including a description of examples of ben-
8 eficial uses.

9 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

10 There is authorized to be appropriated to the Sec-
11 retary to carry out this Act \$23,000,000 for each of fiscal
12 years 2024 through 2028, to remain available until ex-
13 pended.

Tab L – WGA Policy Resolutions



Policy Resolution 2021-08

Water Resource Management in the West

A. **BACKGROUND**

1. Water is a crucial resource for communities, industries, habitats, farms, and western states. Clean, reliable water supplies are essential to maintain and improve quality of life. The scarce nature of water in much of the West makes it particularly important to our states.
2. States are the primary authority for allocating, administering, protecting, and developing water resources, and they are primarily responsible for water supply planning within their boundaries. States have the ultimate say in the management of their water resources and are best suited to speak to the unique nature of western water law and hydrology.
3. Many communities in the West anticipate challenges in meeting future water demands. Supplies are nearly fully allocated in many basins across the West, and increased demand from population growth, economic development, and intensifying extreme weather and fire events places added stress on those limited water resources. Sustainability of our natural resources, specifically water, is imperative to the foundations upon which the West was developed. Growth and development can only continue upon our recognition of continued state stewardship of our unique resources and corresponding responsibilities.
4. Strong state, regional and national economies require reliable deliveries of good-quality water, which in turn depend on adequate infrastructure for water and wastewater. Investments in water infrastructure also provide jobs and a foundation for long-term economic growth in communities throughout the West. Repairs to aging infrastructure are costly and often subject to postponement.
5. Western Governors recognize the essential role of partnership with federal agencies in western water management and hope to continue the tradition of collaboration between the states and federal agencies.
6. Tribal nations and western states also share common water resource management challenges. The Western Governors Association and Western States Water Council have had a long and productive partnership with tribal nations, working to resolve water rights claims.

B. **GOVERNORS' POLICY STATEMENT**

1. **State Primacy in Water Management:** As the preeminent authority on water management within their boundaries, states have the right to develop, use, control and distribute the surface water and groundwater resources, subject to international treaties and interstate agreements and judicial decrees.

- a. **Federal Recognition of State Authority:** The federal government has long recognized the right to use water as determined under the laws of the various states; Western Governors value their partnerships with federal agencies as they operate under this established legal framework.

While the Western Governors acknowledge the important role of federal laws such as the Clean Water Act (CWA), the Endangered Species Act (ESA), and the Safe Drinking Water Act (SDWA), nothing in any act of Congress or Executive Branch regulatory action should be construed as affecting, usurping, or intending to affect or usurp states' primacy over the allocation and administration of their water resources.

Authorization of federal water resources development legislation, proposed federal surplus water rulemakings, and/or storage reallocation studies should recognize natural flows and defer to the states' legal right to allocate, develop, use, control, and distribute such waters, including but not limited to state storage and use requirements.

- b. **Managing State Waters for Environmental Purposes:** States and federal agencies should coordinate efforts to avoid, to the extent possible, the listing of water-dependent species under the ESA. When ESA listings cannot be avoided, parties should promote the use of existing state tools, such as state conservation plans and in-stream flow protections, to conserve and recover species.

2. **Infrastructure Needs:** Aging infrastructure for existing water and wastewater facilities and the need for additional water projects cannot be ignored. Water delivery and wastewater infrastructure investments are essential to our nation's continued economic prosperity and environmental protection, and they assist states in meeting federally-mandated standards under the CWA, SDWA, and other federal statutes. Western Governors support efforts to make the most of existing infrastructure while seeking creative solutions to add more infrastructure with limited resources.

- a. **Federal Support for Infrastructure Investment:** Congress should provide adequate support for the CWA and SDWA State Revolving Funds. Further, Congress should support restoration and repair of aging water infrastructure, commit to aiding efforts to address the recurring drought conditions across the West, and fully utilize the receipts accruing to the Reclamation Fund for their intended purpose in the continuing conservation, development and wise use of western resources to meet western water-related needs, including the construction of Congressionally-authorized Bureau of Reclamation rural water projects and facilities that are part of Congressionally-authorized Indian water rights settlements.

Congress should authorize federal water resources development legislation on a regular schedule and appropriate sufficient funding so that all projects and studies authorized in such legislation can be completed in a timely manner.

The Bureau of Reclamation's WaterSMART Program provides valuable support to states, tribal nations, water and irrigation districts, and local entities to invest in water conservation projects and modern water delivery infrastructure.

The U.S. Army Corps of Engineers' Planning Assistance to the States (PAS or "Section 22") Program also funds critical work in western states as a program focused on comprehensive water resources planning.

Congress also should recognize the potential of greater private investment in water infrastructure, utilizing, where appropriate, such tools as loan guarantees, revolving funds, infrastructure banks and water trust funds.

Capital budgeting and asset management principles should be used to determine funding priorities based on long-term sustainability and not annual incremental spending choices. It should be accompanied by dedicated sources of funding with appropriate financing, cost-sharing, pricing and cost recovery policies.

- b. **Additional Investment Tools:** Federal and state policymakers should also consider additional tools to promote investment in water infrastructure and reduce financing costs, including: public-private partnerships, bond insurance, risk pooling, and credit enhancements.

Congress should remove the state volume caps for private activity bonds used for water and wastewater projects, provide guaranteed tax-exempt status for bonds issued by state or local agencies to finance water infrastructure, provide loan guarantees, and otherwise support and encourage the use of other financing tools.

- c. **Hydropower:** In consultation with affected states, Congress and the Administration should optimize federally-owned or licensed hydropower resources by increasing turbine efficiency and investing in conduit hydropower in irrigation canals and wastewater systems consistent with existing water diversions. Congress and the Administration should also authorize and implement federally-owned or licensed hydropower projects and programs through efficient permitting processes that: utilize new technology to improve renewable electric generation capacity, promote economic development, are consistent with the needs of native fisheries and riverine processes, and safeguard and solidify states' permitting and certification authority and indigenous peoples' rights.
- d. **Infrastructure Planning and Permitting:** Federal infrastructure planning and permitting guidelines, rules and regulations should be coordinated with state processes, and sufficiently flexible to: (1) allow for timely decision-making in the design, financing and construction of needed infrastructure; (2) account for regional differences; (3) balance economic and environmental considerations; and (4) minimize the cost of compliance.

- 3. **Western States Require Innovative and Integrated Water Management:** 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 financial, environmental and social values of water to citizens of western states today and in the future.

- a. **Water Transfers:** Western Governors recognize the potential benefits of market-based water transfers, meaning voluntary sales or leases of water rights. The Governors support water transfers that avoid or mitigate damages to agricultural economies and communities without causing injury to other water rights, water quality, and the environment.
- b. **Energy Development:** Western Governors recognize that energy development and electricity generation may create new opportunities for limited water resources. Western Governors recommend increased coordination across the energy and water management communities and support ongoing work to assess interactions between energy generation and water availability in the Western Interconnection.
- c. **Conservation and Efficiency:** Because of diminished water resources and declining and inconsistent snowpack, Western Governors encourage adoption of strategies to sustain water resources and extend existing water supplies further through water conservation, water reuse and recycling, desalination and reclamation of brackish waters, and reductions in per capita water use. The Governors encourage the use of and research into promising domestic, municipal, industrial, produced, and agricultural water conservation strategies and technologies.
- d. **Local Watershed Planning:** Western Governors encourage federal agencies and Congress to provide resources such as technical support to states and local watershed groups. States may empower these watershed groups to address local water issues associated with water quality, growth and land management to complement state water needs.
- e. **Forest Health and Soil Stewardship:** Better land management practices for forests and farmland may help improve water availability and soil moisture retention. Wildfires can cause sediment runoff in water systems, leading to problems for reservoir management and water quality. Governors support policies and practices that encourage healthy and resilient forests and soils in order to make the most of existing water supplies.
- f. **Intergovernmental Collaboration and Conflict Resolution:** Western Governors support the settlement of interstate water disputes, Indian and Native Hawaiian water rights claims, and other federal water needs and claims, the settlement of which are in the best interest of western states.
- g. **State-Federal Coordination:** Western Governors recognize the important role of federal agencies in water resource management in the western states. Governors appreciate the efforts of federal agencies to coordinate water-related activities, particularly through the Western States Water Council, and support the continuation of these key state-federal partnerships.

4. **Western States Need Reliable Water Resource Information:** Basic information on the status, trends and projections of water resource availability is essential to sound water management.
 - a. **Basic Water Data:** Western Governors support federal programs dedicated to the improvement of data on snowpack, streamflow, soil moisture, and forecasting, including the Natural Resources Conservation Service's Snow Survey and Water Supply Forecasting Program; the National Oceanic and Atmospheric Administration's weather and hydrology-related data collection, monitoring, and drought information programs, including the National Integrated Drought Information System; the U.S. Geological Survey's Groundwater and Streamflow Information Program; and the National Aeronautics and Space Administration's National Land Imaging (Landsat) Program. Western Governors further support federal efforts to coordinate water data gathering and information programs across multiple agencies.
 - b. **Extreme Weather Events Planning:** Western Governors recognize the significant effects posed by extreme weather events and variability in water supplies. Western Governors urge Congress and the Administration to work closely with states and other resource managers to improve predictive and adaptive capabilities for extreme weather variability and related impacts. We specifically urge the federal government to place a priority on improving the sub-seasonal and seasonal precipitation forecasting capabilities that could support water management decision-making.
 - c. **Water Data Exchange:** The Western Governors' Association and the Western States Water Council have worked together to create the Water Data Exchange, an online portal that will enable states to share their water data with each other, federal agencies, and the public via a common platform. The Governors encourage the use of state water data in planning for both the public and private sectors.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct WGA staff to work with Congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.
2. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

This resolution will expire in June 2024. Western Governors enact new policy resolutions and amend existing resolutions on a semiannual basis. Please consult <http://www.westgov.org/resolutions> for the most current copy of a resolution and a list of all current WGA policy resolutions.



Policy Resolution 2021-10

Water Quality in the West

A. **BACKGROUND**

1. Clean water is essential to strong economies and quality of life. In most of the West, water is a scarce resource that must be managed with sensitivity to social, environmental, and economic values and needs. Because of their unique understanding of these needs, states are in the best position to manage and protect their water resources.
2. Through the Clean Water Act (CWA), Congress has codified its policy “to recognize, preserve, and protect the primary responsibilities and rights of states to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources, and to consult with the [EPA] Administrator in the exercise of his authority under [the CWA].”
3. The CWA further expresses Congress’s policy that “the authority of each state to allocate quantities of water within its jurisdiction shall not be superseded, abrogated, or otherwise impaired by this chapter...Federal agencies shall co-operate with state and local agencies, including authorized tribes, to develop comprehensive solutions to prevent, reduce, and eliminate pollution in concert with programs for managing water resources.”
4. States and the Environmental Protection Agency (EPA) work together as co-regulators in the administration and implementation of the CWA and the Safe Drinking Water Act (SDWA). Congress has delegated to states, by statute, the authority to obtain approval to implement certain federal program responsibilities. When a state has been approved to implement a program and the state is meeting minimum program requirements, the role of federal agencies should be limited to funding, technical assistance, and research support. States should be free to develop, implement, and enforce statutory requirements using an approach that makes sense in their specific jurisdiction, subject to the minimum requirements of the federal acts.
5. The CWA was last reauthorized in 1987; attempts to reauthorize the Act since then have failed. Current federal regulations, guidance, and programs pertaining to the CWA do not always recognize the specific conditions and needs of most of the West, where water is scarce and even wastewater becomes a valuable resource to both humans and the environment. The West includes a variety of waters; small ephemeral washes, large perennial rivers, effluent-dependent streams, and wild and scenic rivers. In addition to natural rivers, streams and lakes, there are numerous man-made reservoirs, waterways and water conveyance structures. States need more flexibility to determine how to best manage these varying resources.

B. GOVERNORS' POLICY STATEMENT

Clean Water Act (CWA)

1. **State Authority and Implementation of CWA:** States have jurisdiction over water resource allocation decisions and are responsible for how to balance state water resource needs within CWA objectives. New regulations, rulemaking, and guidance should recognize this state authority.
 - a) **CWA Jurisdiction:** Western Governors urge EPA and the U.S. Army Corps of Engineers to engage the states as sovereigns and co-regulators in the development of any rule, regulation, policy, or guidance addressing the definition of “waters of the United States” as that term applies to the jurisdictional scope of the CWA. Specifically, federal agencies should engage with states – through Governors or their designees – with early, meaningful, substantive, and ongoing consultation that adequately supports state authority. Such consultation should begin in the initial stages of development before irreversible momentum precludes effective state participation.
 - b) **Total Maximum Daily Loads (TMDLs)/Adaptive Management:** States should have the flexibility to adopt water quality standards and set total maximum daily loads (TMDLs) that are tailored to the specific characteristics of western water bodies, including variances for unique state and local conditions.
 - c) **Anti-degradation:** CWA Section 303 gives states the primary responsibility to establish water quality standards (WQS) subject to EPA oversight. Given the states’ primary role in establishing WQS, EPA should directly involve the states in the rulemaking process for any proposed changes to its existing regulations. Before imposing new antidegradation policies or implementation requirements, EPA should document the need for new requirements and strive to ensure that new requirements do not interfere with sound existing practices.
 - d) **Groundwater:** States have primary authority over the protection of groundwater and exclusive authority over the management and allocation of groundwater resources within their borders. The regulatory reach of the CWA does not extend to the management and protection of groundwater resources unless the activity in question is the functional equivalent of a direct discharge from a point source. In addressing pollution to groundwater resources, the federal government must recognize and respect state authority, work in collaboration with states, and operate within the designated scope of federal statutory authorities. EPA should engage with states with early, meaningful, substantive, and ongoing consultation on any regulatory processes focused on groundwater resources or the development and application of the meaning of “functional equivalent.”
2. **Permitting:** Actions taken by EPA in its CWA permitting processes should not impinge upon state authority over water management or the states’ responsibility to implement CWA provisions.
 - a) **State Water Quality Certification:** Section 401 of the CWA requires applicants for a federal license to secure state certification that potential discharges from their activities

will not violate state water quality standards. Section 401 embodies cooperative federalism. States' mandatory conditioning authority should be retained in the CWA.

- b) **General Permits:** Reauthorization of the CWA must reconcile the continuing administrative need for general permits with their site-specific permitting requirements under the CWA. EPA should promulgate rules and guidance that better support the use of general permits where it is more effective to permit groups of dischargers rather than individual dischargers.
 - c) **Water Transfers Rule:** Western Governors support EPA's current Water Transfers Rule, which exempts water transfers between waters of the United States from the CWA National Pollutant Discharge Elimination System (NPDES) permitting requirements when such transfers do not involve the addition of any pollutants. States possess adequate authority to address the water quality issues associated with such transfers. Western Governors believe that transporting water through constructed conveyances to supply beneficial uses should not trigger duplicative NPDES permit requirements.
 - d) **Pesticides:** Western Governors generally support the primary role of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) in regulating agriculture and public health related pesticide applications to waters of the U.S. and will seek state-based solutions that complement rather than duplicate FIFRA in improving, where possible, environmental resources.
3. **Nonpoint Source Pollution:** Nonpoint source pollution requires state watershed-oriented water quality management plans; federal agencies should collaborate with states to carry out the objectives of these plans. The CWA should not supersede other ongoing federal, state, and local nonpoint source programs. Federal water policies must recognize that state programs enhanced by federal efforts could provide a firm foundation for a national nonpoint source policy that maintains the non-regulatory and voluntary nature of the program. In general, the use of point source solutions to control nonpoint source pollution is also ill-advised.
- a) **Forest Roads:** Stormwater runoff from forest roads has been managed as a nonpoint source of pollution under EPA regulation and state law since enactment of the CWA. Western Governors support solutions that are consistent with the long-established treatment of forest roads as nonpoint sources, provided that forest roads are treated equally across ownership within each state.
 - b) **Nutrient Pollution:** Nitrogen and phosphorus (nutrient) pollution is a significant cause of water quality impairment across the nation, and continued cooperation between states and EPA is needed. This impairment is a serious concern across western states and additional resources to make investments in wastewater treatment infrastructure are needed as part of a strategy to address it.

States should be allowed sufficient flexibility to utilize their own incentives and authorities to establish standards and control strategies to address nutrient pollution, rather than being forced to abide by one-size-fits-all federal numeric criteria. Successful tools currently in use by states include best management practices, nutrient trading, controlling other water quality parameters, and other innovative approaches.

4. **CWA Reauthorization:** Western Governors support reauthorization of the CWA, provided that it recognizes the unique hydrology and legal framework in western states. Further, any CWA reauthorization should include a new statement of purpose to encourage the reuse of treated wastewater to reduce water pollution and efficiently manage water resources.
5. **Good Samaritan Legislation:** Congress should enact a program to protect volunteering remediating parties who conduct authorized remediation of abandoned hardrock mines from becoming legally responsible under the CWA and/or the Comprehensive Environmental Response, Compensation, and Liability Act for any continuing discharges after completion of a remediation project, provided that the remediating party – or “Good Samaritan” – does not otherwise have liability for that abandoned mine or inactive mine site.
6. **Stormwater Pollution:** In the West, stormwater discharges to ephemeral streams in arid regions pose substantially different environmental risks than do the same discharges to perennial surface waters. Western Governors emphasize the importance of state expertise in water management, including management of ephemeral streams. The federal government must recognize and respect state authority and work in collaboration with state agencies to support tailored approaches that reflect the unique management needs of ephemeral streams.
7. **State-Tribal Coordination:** Western Governors endorse government-to-government cooperation among the states, tribal nations, and EPA in support of effective and consistent CWA implementation. While retaining the ability of the Governors to take a leadership role in coordination with the tribal nations, EPA should promote effective consultation, coordination, and dispute resolution among the governments, with emphasis on lands where tribal nations have treatment-as-state status under Section 518 of the CWA.

Safe Drinking Water Act (SDWA)

8. **Federal Assistance in Meeting SDWA Standards:** Western Governors believe that the SDWA and its standards for drinking water contaminants have been instrumental in ensuring safe drinking water supplies for the nation. It is essential that the federal government, through EPA, provide adequate support to the states and water systems to meet federal requirements. Assistance is particularly needed for small and rural systems, which often lack the resources needed to comply with federal treatment standards.
9. **Drinking Water Standards:** Contaminants such as arsenic, chromium, perchlorate, and fluoride often occur naturally in the West. Western Governors support EPA technical assistance and research to improve both the efficiency and affordability of treatment technologies for these contaminants. In any drinking water standards that the EPA may revise or propose for these and other contaminants, including disinfection byproducts, EPA should consider the disproportionate effect that such standards may have on western states and give special consideration to feasible technology based on the resources and needs of smaller water systems.
10. **Risk Assessments:** Analysis of the costs of treatment for drinking water contaminants should carefully determine the total costs of capital improvements, operation, and maintenance when determining feasible technology that can be applied by small systems.

These costs should be balanced against the anticipated human health benefits before implementing or revising drinking water standards.

11. **Emerging Contaminants/Pharmaceuticals:** The possible health and environmental effects of emerging contaminants, including per- and polyfluoroalkyl substances (PFAS) and cyanotoxins produced by harmful algal blooms, and pharmaceuticals are of concern to Western Governors. Although some states have existing authorities to address possible risks associated with emerging contaminants and pharmaceuticals, there is a need for continued investment in scientific research regarding human health effects of these contaminants.

Compliance with Federal Water Quality and Drinking Water Requirements

12. **State Revolving Funds:** Western Governors support EPA's Clean Water State Revolving Fund (SRF) and Drinking Water SRF as important tools that help states and local communities address related water infrastructure needs and comply with federal water quality and drinking water requirements. Western Governors also urge Congress and the Administration to ensure that the SRF Programs are adequately funded and provide greater flexibility and fewer restrictions on state SRF management.
13. **Restoring and Maintaining Lakes and Healthy Watersheds:** Historically, the Section 314 Clean Lakes Program and the Section 319 Nonpoint Source Management Program provided states with critical tools to restore and maintain water quality in lakes and watersheds. Western Governors urge the Administration and Congress to support these programs. Such support should not come at the expense of other federal watershed protection programs.
14. **EPA Support and Technical Assistance:** The federal government, through EPA, should provide states and local entities with adequate support and technical assistance to help them comply with federal water quality and drinking water requirements. EPA should also collaborate with and allow states to identify and establish priority areas, timelines, and focus on programs that provide the largest public health and environmental benefits.
15. **EPA Grant Funding for Primary Service – Rural Water Programs:** Some rural communities still lack basic water and sanitary services needed to assure safe, secure sources of water for drinking and other domestic needs. Adequate federal support, including but not limited to the Rural Utilities Service programs of the U.S. Department of Agriculture and SRFs through EPA, are necessary to supplement state resources.

Water Quality Monitoring and Data Collection

16. **Water Data Needs:** Western water management is highly dependent upon the availability of data regarding both the quality and quantity of surface and ground waters. Western Governors urge the federal government to support and develop programs that can be utilized by states for water resource management and protection and to provide assistance to states in developing innovative monitoring and assessment methods, including making use of biological assessments, sensors and remote sensing, as well as demonstrating the value to the states of the national probabilistic aquatic resource surveys.

C. GOVERNORS' MANAGEMENT DIRECTIVE

1. The Governors direct WGA staff to work with Congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.
2. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

This resolution will expire in June 2024. Western Governors enact new policy resolutions and amend existing resolutions on a semiannual basis. Please consult <http://www.westgov.org/resolutions> for the most current copy of a resolution and a list of all current WGA policy resolutions.

Tab M – Letters:

- a. Weather Act Reauthorization Act of 2023
- b. Coalition Support for USGS Streamgauge Networks & Modernization
- c. Council of Infrastructure Financing Authorities (CIFA)
- d. Good Samaritan Remediation of Abandoned Hardrock Mines Act



WESTERN STATES WATER COUNCIL

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

Web Page: www.westernstateswater.org

March 4, 2024

The Honorable Steve Scalise, Majority Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Hakeem Jeffries, Democratic Leader
U.S. House of Representatives
Washington, DC 20515

The Honorable Frank Lucas, Chair
Committee on Science, Space and Technology
U.S. House of Representatives
Washington, DC 20515

The Honorable Zoe Lofgren, Ranking Member
Committee on Science, Space and Technology
U.S. House of Representatives
Washington, DC 20515

RE: Weather Act Reauthorization Act of 2023 (H.R.6093) and provisions for NOAA's National Integrated Drought Information System (NIDIS)

Dear Majority Leader, Democratic Leader, Chair Lucas and Ranking Member Lofgren:

The Western States Water Council (WSWC) is a bi-partisan government entity created by Western Governors in 1965, and represents eighteen states. Our members are appointed by and serve at the pleasure of their respective Governors, advising them on water policy issues. Our mission is to ensure that the West has an adequate, secure, and sustainable supply of water of suitable quality to meet its diverse economic and environmental needs now and in the future.

We wish to express support for the Weather Act Reauthorization Act of 2023 (H.R. 6093) to improve the National Oceanic and Atmospheric Administration's weather research, and support improvements in weather forecasting and prediction. WSWC strongly believes all levels of government must prioritize the collection, analysis, and open sharing of reliable data regarding water availability, quality, and usage given its importance to research for sound science and data-driven decision making.

The WSWC supports data sharing between agencies and has long supported the National Integrated Drought Information System (NIDIS), and appreciates reauthorization of the program with the increased funding. This interagency partnership coordinates drought monitoring, forecasting, and research that assists states, tribes, and communities across the arid West to facilitate more proactive decision-making.

The WSWC also supports improvements to sub-seasonal to seasonal (S2S) forecasting. While the Climate Prediction Center (CPC) has been providing seasonal forecasts since the mid-1990s, the forecasting skill has shown little improvement in the past 30 years, and is still insufficient to support meaningful water management decisions at ideal lead-times. As noted in the attached WSWC Policy Position No. 491, WSWC supports authorizing federal action to: (1) improve precipitation forecasting at

S2S scales in the West; and (2) implement pilot programs to improve S2S forecasting in the Mountain West and Great Plains. Section 501 of H.R. 6093 directs the Undersecretary to establish such pilot programs.

WSWC appreciates NOAA's role in providing weather forecasting products. Continued and expanded reauthorization of the Weather Act is essential to enhance NOAA's weather prediction skill and improve the products that minimize loss of life, property, and economic resources.

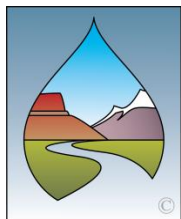
The attached WSWC Policy Position No. 500 acknowledges the critical importance of several NOAA line agencies and their research, forecasting, and data collection programs, such as the National Weather Service (NWS) Office of Atmospheric Research (OAR), National Environmental Satellite Data and Information Service (NESDIS), and National Centers for Environmental Information (NCEI). These programs support water management and state preparedness for weather extremes. H.R. 6093 reauthorizes, expands, and modernizes these programs, including establishing an atmospheric river forecast improvement program (Section 204), a NESDIS research-to-operational transition program (Section 207), and a precipitation forecast improvement program (Section 507).

WSWC urges full authorization of these measures, and encourages Congress to continue to place a high priority on NOAA research and weather modeling.

Respectfully,

A handwritten signature in cursive script, reading "Tony Willardson".

Tony Willardson
Executive Director



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
Urging Congress and the Administration to Support**

**SUBSEASONAL to SEASONAL
WEATHER RESEARCH, FORECASTING, and INNOVATION**

**Reno, Nevada
May 24, 2023**

WHEREAS, Western States experience great subseasonal, seasonal, and annual variability in precipitation, with serious impacts and consequences for water supply planning and management, drought and flood preparedness and response, water rights administration, operation of water projects, and aging water infrastructure; and

WHEREAS, sound decision-making to protect life and property by reducing flood risks and to inform decisions involving billions of dollars of economic activity for urban centers, agriculture, hydropower generation, and fisheries depends on our ability to observe, understand, model, predict, and adapt to precipitation variability on operational time scales ranging from a few weeks to a season or more; and

WHEREAS, investments in observations, modeling, high-performance computing capabilities, research, and operational forecasting of precipitation provide an opportunity to significantly improve planning and water project operations to reduce flood damages, mitigate economic and environmental damages, and maximize water storage and water use efficiency; and

WHEREAS, operating aging water infrastructure in the face of growing and often competing water supply and water management demands requires that state, federal, tribal, and local agencies optimize operations for maximum efficiency and seek innovations, such as improved subseasonal to seasonal forecasting (S2S), to support their decision-making; and

WHEREAS, the responsibility for operational weather forecasting rests with the National Weather Service (NWS), and currently NWS has minimal skill in making S2S outlooks; and

WHEREAS, there is a need to prioritize National Oceanic and Atmospheric Administration (NOAA) research and weather modeling to improve operational sub-seasonal and seasonal precipitation forecasts, with attention to Western needs; and

WHEREAS, NOAA submitted a report¹ to Congress pursuant to Section 201 of the Weather Research and Forecasting Innovation Act of 2017 (P.L. 115-25) recommending pilot projects to improve S2S forecasts for water management in the western U.S.; and

¹ <https://repository.library.noaa.gov/view/noaa/27408>

WHEREAS, the Flood Level Observation, Operations, and Decision Support (FLOODS) Act of 2022 (P.L. 117-316) directs NOAA to improve S2S forecasting to support flood management.

NOW, THEREFORE, BE IT RESOLVED that the Western States Water Council supports the reauthorization of the Weather Act and its implementation, together with the FLOODS Act, authorizing federal action to improve precipitation forecasting at S2S scales in the West, and urges NOAA to move forward with pilot projects for improving S2S winter precipitation forecasting in the mountain west and summer precipitation forecasting in the Great Plains.

BE IT FURTHER RESOLVED that the Western States Water Council supports adequate Congressional appropriations directed toward the improvement of S2S forecasting.

(See also Position #441, 3/6/20; and #399, 4/14/17)



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
supporting
NOAA DATA, FORECASTING, AND RESEARCH PROGRAMS**

**Reno, Nevada
May 24, 2023**

WHEREAS, federal agency data and research programs provide an important foundation for supporting water management decision-making by western federal, state, and local agencies and tribes; and

WHEREAS, the National Oceanic and Atmospheric Administration (NOAA) collects weather and climate data through in-situ and remotely sensed observations, issues forecasts and outlooks of precipitation and temperature and weather hazard warnings, and conducts research to improve forecasting and

WHEREAS, line agencies within NOAA – including the National Weather Service (NWS), Office of Atmospheric Research (OAR), National Environmental Satellite Data and Information Service (NESDIS), and National Centers for Environmental Information (NCEI) – manage the programs that collect data, issue forecasts, and conduct research; and

WHEREAS, the information obtained through these programs supports water management and preparing for and responding to the extremes of drought and flooding; and

WHEREAS, water management in the West is both defined by and challenged by high annual variability in precipitation and by the extremes of drought and flooding; and

WHEREAS, recent billion-dollar weather disasters in the West have included: recent western flooding and mudslides, severe weather and wildfires (2023); extensive West and Midwest drought, heatwave, and wildfires, as well as severe Central weather and North Central and South Central hail (2022); Western drought, heatwave and wildfires, with California flooding, as well as Central and South Central severe storms and cold wave (2021); continued drought, heatwave, wildfires, as well as severe storms and hail (2020); Missouri River and northern Great Plains flooding (2019); Colorado hail storms (multiple years), drought in the southern Great Plains (2018); California and Nevada flooding (2017); severe multi-year drought in California and much of the West (2012-16); Texas and Oklahoma flooding (2015); and flooding in Texas resulting from Hurricane Harvey (2017); drought across the southern Great Plains (2011); Missouri River and northern Great Plains flooding (2011); and

WHEREAS, the Colorado River Basin is experiencing a 20+year drought, one of the more severe in the tree-ring record, and tree ring data shows that there [have been numerous](#) multi-decadal or mega-droughts in the basin and some suggest drought may be the new normal for the region; and

WHEREAS, the NWS Cooperative Observer Program has provided the only long-record spatially dense precipitation observing system in rural areas and especially in mountain regions where precipitation is highly variable, but is not being supported and modernized in proportion to the high value it provides for measuring extreme precipitation; and

WHEREAS, NWS River Forecast Centers (RFCs) play an important role in using weather and climate data to produce streamflow forecasts, and in delivering forecast products to end users; and

WHEREAS, weather forecasts are operationally issued out to about two weeks but most of the forecast skill is in the first seven days; and

WHEREAS, research observing systems developed through OAR's Hydrometeorology Testbed program have demonstrated the potential for improving weather forecasts through innovative instrumentation; and

WHEREAS, the skill of precipitation forecasts at the sub-seasonal to seasonal (S2S) time scale (two weeks to two years) is minimal and is insufficient to support water management decision-making at these lead times important for flood and drought preparedness and response; and

WHEREAS, the Weather Research and Forecasting Innovation Act of 2017 (WRFIA) directed NOAA to improve its S2S forecasting ability and to submit a report to Congress on research and resources needed to improve forecasting; and

WHEREAS, a coordinated effort by the NWS Climate Prediction Center (CPC), NWS Office of Weather and Air Quality Research, and OAR and its Laboratories is needed to improve S2S precipitation forecasting; and

WHEREAS, improving S2S precipitation forecasting will require targeted observations, dedication of high-performance computing resources, focused research, and improvements to dynamical and statistical modeling; and

WHEREAS, the production of NWS' existing S2S precipitation outlooks began in the mid-1990s and has shown no significant increase in skill since that time, pointing to the need for new approaches and focused pilot projects to improve forecasting skill; and

WHEREAS, OAR's testbed programs (Climate Testbed, Hydrometeorology Testbed) have an important role in transitioning research to operational forecasting; and

WHEREAS, OAR's information delivery programs (Regional Integrated Services and Assessments, National Integrated Drought Information System) help translate research to end user communities; and

WHEREAS, improving drought prediction entails research supported through OAR on climate dynamics and process studies, developing and applying paleoclimate data sets, and regionally focused pilot research projects; and

WHEREAS, NCEI's Regional Climate Centers (RCCs) provide special-purpose, customized data products such as daily plots of mountain freezing elevations or precipitation anomalies for regional water and agricultural stakeholders; and

WHEREAS, the satellite data collected by NESDIS' Geostationary Operational Environmental Satellites (GOES) program is foundational to modern weather forecasting, with GOES-17 just having transitioned to operations as GOES-West in 2020; and

WHEREAS, OAR supports the collection and acquisition of tropical ocean temperature profiles and other data from sources such as the TAO/Triton array of moored buoys, data that are used for monitoring El Nino-Southern Oscillation status; and

NOW, THEREFORE, BE IT RESOLVED, that NWS should preserve and modernize the NWS Cooperative Observer Program.

BE IT FURTHER RESOLVED, that OAR should sustain and expand its Hydrometeorology Testbed – West program to build upon progress made in that program for developing and installing new technologies for precipitation observations, and should continue and expand ocean observations that are critical for weather and S2S forecasting.

BE IT FURTHER RESOLVED, that NOAA should place a priority on implementing the provisions of WRFIA regarding improving S2S precipitation forecasting skill, and should submit the report to Congress on S2S forecasting required by WRFIA.

BE IT FURTHER RESOLVED, that the Western States Water Council urges the NWS-OAR development of regional pilot projects to improve S2S precipitation forecasting, including a pilot on cool season precipitation forecasting in the mountain West and a pilot on summer precipitation forecasting in the Plains.

BE IT FURTHER RESOLVED, that the Western States Water Council supports the NWS CPC's efforts to improve the utility and skill of its S2S outlooks.

BE IT FURTHER RESOLVED, that the Western States Water Council supports the climate data products provided by the NCEI's RCCs, and urges NCEI to fully fund the RCCs.

BE IT FURTHER RESOLVED, that the Western States Water Council supports OAR programs to transition research to operations, and NWS and OAR programs to deliver information to end users.

BE IT FURTHER RESOLVED, that the Western States Water Council will work with NOAA in supporting efforts on improving weather and S2S forecasting.

(See also Position #450, 7/22/20; #407, 6/29/17; #366, 7/18/14; #332, 7/29/11)

Coalition Support for USGS Streamgage Networks and Modernization

Congressman Mike Simpson, Chair
Congresswoman Chellie Pingree, Ranking Member
House Appropriations Subcommittee on Interior, Environment & Related Agencies
2363 Rayburn House Office Building
Washington, D.C. 20515

February 23, 2024

RE: WATER DATA & SCIENCE PROGRAM FUNDING
Interior Department Appropriations for FY2025

Summary of Coalition's Requests for FY2025:
Federal Priorities Streamgages = \$33.0 M
Cooperative Matching Funds Program = \$68M
(includes \$33M streamgage support and studies)
NGWOS/data modernization = \$35M

Dear Chairman Simpson and Ranking Member Pingree:

Our coalition of 99 water management and use stakeholders requests your support to sufficiently fund the United States Geological Survey's (USGS) Federal Priorities Streamgage network and related programs for the upcoming Fiscal Year (FY) 2025 budget appropriation.

Our organizations rely heavily on these streamgages to make critical decisions about public safety, respond to extreme weather events, conservation and to support the nation's economy. The information they provide is extensive and invaluable for managing, protecting, and planning to support and improve the resilience of the nation's important water resource infrastructure. Funding for the network needs to keep pace with inflation so that the information from this network continues to be available for many different purposes.

Our coalition's funding request is summarized below. The final section of this letter explains in more detail why we as a nation need to adequately fund the network of streamgages.

Summary of funding request

Our broad coalition of state agencies, interstate commissions, associations, universities, non-governmental organizations, and private industry submit the FY 2025 USGS budget appropriation request as follows: **\$33M** dedicated to Federal Priorities Streamgages, **\$68M** for the Cooperative Matching Funds Program (including \$33M for streamgage support) and **\$35M** for Next Generation Water Observing System and data delivery modernization.

Supporting details

Federal Priority Streamgages (FPS) -- \$33M

Operational costs of the FPS network nationwide have grown by an average of approximately 5 percent per year since 2016, totaling \$3M. With further inflation expected, operational costs are estimated to increase at least another 5-7 percent. As a result, the increased costs associated with the operation and physical maintenance and data services and distribution have resulted in a \$1M per year shortfall since 2022. Our request for FY 2025 FPS funding of \$33M covers the costs of existing gages, precludes the loss of any streamgage sites, offsets the impact of inflation and allows for the installation of 30 new FPS sites to close the gap in streamflow data where they are crucially needed (see next section).

Cooperative Matching Funds (CMF) Program -- \$68M

The USGS works with more than 1,400 partners nationwide (federal, state, tribal, local and non-governmental organizations) using CMF to jointly support additional streamgages that cannot be funded through the FPS. This matching program began as a 50/50 cost share but has seen the federal contributions decrease to less than 30 percent over time. Our request of \$68 M for FY 2025 stands firm with last year's request.¹ These funds are needed to provide the required cooperative matching funds. Of that, \$33M is dedicated for the protection of the approximately 5,275 CMF-supported streamgages, already established and functioning nationwide.

Next Generation Water Observing System (NGWOS) - \$35M

Our coalition appreciates Congress' support of the Next Generation Water Observation System (NGWOS) at the same level as the past two years of \$35M to allow to continue the NGWOS program as intended. Funding at this level for FY2025 would allow USGS to continue development of Integrated Water Science (IWS) tools and science, applicable nationwide, in the fifth of ten planned demonstration water basins.

Why are USGS Streamgage network data especially important now?

It is more important than ever for Congress to ensure adequate funding for the USGS Streamgage Program. Short duration high intensity precipitation events are increasing in occurrence and volume creating flooding issues across the country and adding unpredictability to communities' abilities to plan for and fund water infrastructure investments. Extreme events such as flooding, drought and sea level rise in coastal regions

¹ See USGS FY2024 Streamgage Support Letter dated February 28, 2023: https://icwp.org/wp-content/uploads/2023/04/USGS-Streamgage-Letter-FY2024_Senate-Approps_2.28.23.pdf

are reasons why a robust streamgage network is an essential resource for water managers to plan and act under pressing conditions.

Without increased funding to maintain the current network of USGS streamgage sites, we are less equipped to make informed decisions pertaining to navigation, flood and hurricane risk predictions, drought determinations, and water supply forecasts. Streamgage data are crucial for use in decision making tools to provide critical life and property saving information. They augment research management decisions, maintain water dependent infrastructure, and provide essential public health and environmental condition information. Insufficient funding seriously compromises our national ability to address federal, state, tribal, local socioeconomic issues, including international treaty obligations.

The 2022 USGS Streamflow Monitoring Network analysis determined priority areas to maintain or improve coverage, resolution, and representation throughout the United States.² This analysis identified gaps in network coverage that, if further built out by establishing new streamgage sites, would enhance resilience to extreme weather events. These areas include coastal watersheds to reduce flood risk, regions in 39 states that lack streamflow information to assess how local climate is affecting floods and droughts, and areas of the U.S. where water supply is vulnerable due to reduced snowpack conditions.

Conclusion

With your help and continued support, Congress can enable the USGS to fulfill its Water Resources Mission Area goals by adequately funding the Federal Priority Streamgages network, Cooperative Matching Funds program, and NGWOS to move water science into the 21st century.

We are happy to answer your questions. For more background information about funding and the utility of the national streamflow information program from stakeholders' perspectives, visit ICWP's website: <https://icwp.org/streamgage-support/>.

Please contact any of us or Beth Callaway at the Interstate Council on Water Policy at: beth@icwp.org or (307) 772-1999.

CC:

Appropriations Subcommittee Members
Secretary of the Interior
Director, Office of Management and Budget
Director, US Geological Survey

² Konrad, C.P., Anderson, S.W., Restivo, D.E., and David, J.E., 2022, Network Analysis of USGS Streamflow Gages: U.S. Geological Survey data release, <https://doi.org/10.5066/P9C8NYTO>.

Organizations Signing on to FY 2025 Streamgauge Support Letter (February 23, 2024)

Organization	Name
Alabama Office of Water Resources	Tom Littlepage
America's Watershed Initiative	Kimberly A. Lutz
American Fisheries Society	Douglas Austen
American Rivers	Ted Illston
American Society of Civil Engineers	Thomas W Smith
American Water Resources Assn.	Dresden Farrand
American Water Works Assn.	G. Tracy Mehan, III ED
American Whitewater	Mark Singleton, ED
Appalachian Mountain Club	Susan Arnold
Assoc of American State Geologists	James Faulds
Assoc of Calif Water Agencies	Ian Lyle
Assoc of Clean Water Administrators	Mary Anne Nelson
Assoc of Fish & Wildlife Agencies	Kurt Thiede
Association of Metropolitan Water Agencies	Tom Dobbins
Assoc of State Dam Safety Officials	Lori Spragens
Assoc of State Flood Plain Managers	Chad Berginnis
Bear River Commission	Don Barnett
Big Hole Watershed Committee	Pedro Marques
Big Horn River Alliance	Anne Marie Emery
Calif Sportfishing Protection Alliance	Bill Jennings
Cascade Water Alliance	Ray Hoffman
CDM Smith	Timothy Feather
Cobb County Marietta Water Authority	Cole Blackwell
Colo Riv Basin Salinity Control Forum	Don Barnett
Colorado Lake & Reservoir Management Assn.	Suresh Niraula
Delaware River Basin Commission	Steve Tambini
Environmental Defense Fund	Steve Cochran
Fly Fishers International	Patrick Berry
Freshwater Mollusk Conservation Society	Steve McMurray
Great Lakes Commission	Erika Jensen
Great Lakes Observing System	Kelli Paige
Hawaii Commission on Water Resource Management	Kaleo Manuel
Henry's Fork Foundation	Brandon Hoffner
Hoopa Tribal Land Management/Environmental Protection Agency	Ken Norton

Hydrological Services America	Peter Ward
Idaho Rivers United/Hydropower Reform Coalition	Nic Nelson
Idaho Water Users Assoc	Paul Arrington
Interstate Comm Potomac River Basin	Michael Nardolilli
Interstate Council on Water Policy	Matt Unruh
Kansas Water Office	Connie Owen
Kansas-Oklahoma Arkansas River Compact Commission	Earnie Gilder
KISTERS No. America	Becca Emery
Madison River Foundation	Johnathan Malovich
Metropolitan North Georgia Water Planning District	Katherine Zitsch
Mile High Flood District	Colin Haggerty
Minnesota DNR	Katie Smith
Missouri DNR	Erin Fanning
Montana Department of Environmental Quality	Lindsey Krywaruchka
Montana Department of Natural Resources and Conservation	Anna Pakenham-Stevenson
Montana Fish, Wildlife & Parks	Bill Schenk
Montana Trout Unlimited	David Brooks
Montana Watershed Coordination Council	Ethan Kunard
National Assoc of Flood & Stormwater Mgm't Agencies	Sunny Simpkins
National Assoc State Boating Law Admin	John Fetterman
National Audubon Society	Julie Hill-Gabriel
National Drought Mitigation Center	Mark Svoboda
National Ground Water Association	Terry Morse
National Hydrologic Warning Council	Bruce Rindahl
National Hydropower Association	Malcolm Woolf
National Society of Professional Surveyors	Tim Burch
National Water Resources Association	Dale Nellor
National Water Supply Alliance	Dave Mitamura
National Wildlife Federation	Abby Tinsley
Nebraska Department of Natural Resources	Thomas Riley
NEIWPCC	Susan J. Sullivan
North American Lake Management Society	Kellie Merrell

North Dakota Department of Water Resources	Andrea Travnicek
Ohio Riv Valley Water Sanitation Comm	Richard Harrison
Oklahoma Water Resources Board	Julie Cunningham
Oregon Water Resources Congress	April Snell
Phycological Society of America	Eric Linton
Red River Compact Administration	Sue Lowry
Republican Riv Compact Administration	Thomas Riley
Rivers Alliance of Connecticut	Alicea Charamut
Society of Wetland Scientists	Loretta Battaglia
Southest Kansas Groundwater Management Dist 3	Mark Rude
Southwest Tribal Fisheries Commission	Adam Ringia
Susquehanna River Basin Commission	Andrew Dehoff
Tacoma Water	Scott Dewhirst
The Nature Conservancy	Jimmy Hague
Three Rivers QUEST	Melissa O'Neal
Tri-State Water Resource Coalition	Gail Melgren
Trout Unlimited	Kate Miller
University of Georgia River Basin Center	Sechindra Vallury/ Seth Wenger
Upper Colo River Commission	Chuck Collum
Upper Miss River Basin Assoc	Kirsten Wallace
Upper Missouri Watershed Alliance	Sherry Meador
Virginia Dept. of Environmental Quality, Office of Water Supply	William Cloe
Washington St Water Resource Assoc	Tom Myrum
Water Environment Federation	Walter Marlowe
West Virginia Rivers Coalition	Angie Rosser
West Virginia Water Research Institute	Paul Ziemkiewicz
Western Landowners Alliance	Leslie Allison
Western States Water Council	Tony Willardson
Wild Salmon Center	Jessica Helsley
Wyoming State Engineer's Office	Brandon Gebhart
Wyoming Water Association	Andrew Strike
Wyoming Water Development Office	Jason Mead
Xylem Analytics North America	Randy Hadland
Yellowstone River Commission	Brandon Gebhart



December 12, 2023

The Honorable Joseph R. Biden
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C. 20500

Re: Fiscal Year 2025 Budget for the Clean Water and Drinking Water State Revolving Funds

Dear President Biden:

The undersigned organizations urge you to fully fund the Clean Water and Drinking Water State Revolving Funds (SRFs) at \$3.25 billion, each, in your Fiscal Year 2025 Budget.

Clean water is foundational to protecting public health.

Fully funding the SRFs will expand access to affordable financing for water infrastructure that protects public health. SRF subsidized loans fund infrastructure that provides safe drinking water, recycled water, wastewater services, stormwater management and environmental protection in thousands of communities around the nation every year. Without increased federal funding for this critical public health infrastructure, the risk of exposure to preventable diseases from poor water quality and water scarcity will increase for millions of Americans.

The demand for affordable SRF financing has increased exponentially in recent years.

Increased federal funding is needed to meet the growing demand for SRF subsidized loans, which has skyrocketed due to the increased cost of planning, design, construction and financing.

- Budgets for water infrastructure projects have increased by as much as 40% in just the last five years. While historic inflation has ebbed, the cost of planning, design and construction remains well above pre-pandemic levels, particularly in rural communities that can least afford it.
- In addition to repairing and replacing aging infrastructure, complying with more stringent water quality standards requires new investments in sophisticated and often expensive treatment technologies.
- Higher construction costs are compounded by higher financing costs from rising interest rates on the municipal market. The cost of borrowing has become a barrier to needed investment in water infrastructure.

Additionally, reliable annual federal appropriations are directly linked to an SRF's ability to:

- Maintain low interest rates on SRF subsidized loans to keep financing affordable.
- Provide principal forgiveness and grants to communities that couldn't otherwise afford to build the water infrastructure needed to protect public health.
- Issue bonds to leverage their programs to meet higher demand for financing.
- Supplement state and local water quality programs that protect the sources of drinking water and train staff at local water utilities.
- Provide technical assistance to help small and rural communities comply with water quality standards, build physical, financial and operational resiliency, and develop water infrastructure projects.
- Build a permanent pool of loan repayments that can provide affordable financing for water infrastructure projects in the future.

Congressional reauthorization of the SRFs reaffirmed the need for increased federal funding for water infrastructure.

The bipartisan Infrastructure Investment and Jobs Act of 2021 (IIJA) reauthorized the SRFs at increased annual appropriations from 2022 to 2025. However, Congress has maintained annual funding for the SRFs at pre-IIJA levels – \$1,638,826,000 for the Clean Water SRFs and \$1,126,088,000 for the Drinking Water SRFs – for the last three years.

Moreover, over the last two years, Congress has diverted more than \$2.3 billion in annual federal funding from SRF state priority projects to pay for congressional earmarks. SRFs have been forced to use short-term supplemental funding in the IIJA to backfill these cuts, significantly undermining the transformational power of this landmark legislation.

America needs leadership to protect public health.

Mr. President, fully funding the Clean Water and Drinking Water SRFs in your 2025 budget request is the first step to keeping the promise of providing clean water and safe drinking water to the American people. Please set an example for Congress to follow.

Thank you for your consideration.

Sincerely,

- American Council of Engineering Companies ([ACEC](#)), Lynn Schloesser, lschloesser@acec.org
- American Public Works Association ([APWA](#)), Ryan McManus, rmcmanus@apwa.net
- American Water Works Association ([AWWA](#)), Tracy Mehan, tmehan@awwa.org
- Association of Clean Water Administrators ([ACWA](#)), Julia Anastasio, janastasio@acwa-us.org
- Association of Metropolitan Water Agencies ([AMWA](#)), Dan Hartnett, hartnett@amwa.net

- Association of State Drinking Water Administrators ([ASDWA](#)), Alan Roberson, aroberson@asdwa.org
- Council of Infrastructure Financing Authorities ([CIFA](#)), Deirdre Finn, dfinn@cifanet.org
- Environmental Council of the States ([ECOS](#)), Ben Grumbles, bgrumbles@ecos.org
- Environmental Policy Innovation Center ([EPIC](#)), Janet Meissner Pritchard, janet@policyinnovation.org
- Government Finance Officers Association ([GFOA](#)), Emily Brock ebroock@gfoa.org
- National Association of Clean Water Agencies ([NACWA](#)), Adam Krantz, AKrantz@nacwa.org
- National Municipal Stormwater Alliance ([NMSA](#)), Seth Brown, seth.brown@nationalstormwateralliance.org
- Rural Community Assistance Partnership ([RCAP](#)), Olga Morales-Pate, Omorales-pate@rcap.org
- The Water Research Foundation ([WRF](#)), Peter Grevatt, PGrevatt@waterrf.org
- US Water Alliance ([uswateralliance.org](#)), Mami Hara, mhara@uswateralliance.org
- Water Environment Federation ([WEF](#)), Pat Nichols, pnichols@wef.org
- Water and Wastewater Equipment Manufacturers Association ([WWEMA](#)), Claudio Ternieden CTernieden@WWEMA.org
- WaterReuse Association ([WRA](#)), Patricia Sinicropi, psinicropi@watereuse.org
- WaterNow Alliance ([waternow.org](#)), Cynthia Koehler, ck@waternow.org
- Western States Water Council ([WSWC](#)), Tony Willardson, twillardson@wswc.utah.gov

CC: Shalanda Young, Director, Office of Management and Budget, The White House
 Laura Haynes Gillam, Associate Director for Climate, Energy, Environment, and Science,
 Office of Management and Budget, The White House
 Brenda Mallory, Chair, Council on Environmental Quality
 Michael S. Regan, Administrator, U.S. Environmental Protection Agency
 Radhika Fox, Assistant Administrator for the Office Water, U.S. Environmental Protection
 Agency



December 14, 2023

The Honorable Kay Granger
U.S. House Committee on Appropriations
H-307 The Capitol
Washington, D.C. 20515

The Honorable Patty Murray, Chair
U.S. Senate Appropriations Committee
Room S-128, The Capitol
Washington, D.C. 20510

The Honorable Rosa L. DeLauro, Chair
U.S. House Committee on Appropriations
H-307 The Capitol
Washington, D.C. 20515

The Honorable Susan Collins, Vice Chair
U.S. Senate Appropriations Committee
Room S-128, The Capitol
Washington, D.C. 20510

Re: 2025 Fiscal Year Appropriations for the Clean Water and Drinking Water State Revolving Funds.

Dear Chairs Granger and Murray, Ranking Member DeLauro and Vice Chair Collins:

As you finalize appropriations for the Clean Water and Drinking Water State Revolving Funds (SRFs) for fiscal year 2025, please consider these recommendations from the Council of Infrastructure Financing Authorities, a national not-for-profit organization of the SRFs.

Recommendation: Fund the Clean Water and Drinking Water SRFs at congressional authorizations, \$3 billion each.

The demand for SRF subsidized loans has increased exponentially over the last five years as the cost of water infrastructure continues to skyrocket, increasing by as much as 40% or more between budgeting and bidding. Higher costs for planning, design and construction are compounded by higher costs for financing from rising interest rates in the municipal market.

Fully funding the SRFs will provide more communities with access to affordable financing for water infrastructure that protects public health. Draconian cuts to annual funding for the SRFs will delay investment in water infrastructure, which increases the risk of preventable diseases from contaminated water, poor water quality and water scarcity. Lack of low-cost financing for water infrastructure also exacerbates the affordability of water bills, which disproportionately impacts households in small, rural communities and pockets of poverty in urban centers.

Recommendation: Fund Community Funded Projects / Congressionally Directed Spending in addition to, instead of in lieu of, the SRFs.

Over the last two years, Congress has diverted more than \$2.3 billion in annual federal funding for the SRFs to pay for congressional earmarks. Cuts to annual funding directly impact an SRFs ability to:

- Maintain low interest rates on SRF subsidized loans to ensure financing remains affordable.
- Provide principal forgiveness and grants to communities that can't otherwise afford to build the water infrastructure needed to protect public health.
- Issue bonds to leverage their programs to meet a higher demand for financing.
- Supplement state and local water quality programs that protect water quality and train staff at local water utilities.
- Provide technical assistance to help small and rural communities comply with water quality standards, build physical and operational resiliency, and develop water infrastructure projects.
- Build a permanent pool of loan repayments that can provide affordable financing for water infrastructure projects in the future.

Recommendation: Require recipients of congressional earmarks to apply for federal funding within six months of the appropriation and release any untapped federal funding back to the SRFs after the deadline.

As of October, the U.S. Environmental Protection Agency (EPA) had only awarded 134 of nearly 1200 congressional earmarks appropriated in fiscal years 2022 and 2023. The slow pace of applications and awards means more than \$2 billion in federal funding for water infrastructure has been sitting in the U.S. Treasury for as long as two years. Adopting measures to accelerate the disbursement of federal funding into communities is essential for protecting public health.

Recommendation: Waive domestic procurement requirements for construction materials and manufactured products in Build America, Buy America Act (BABAA) for all federally funded water infrastructure projects that initiated design planning before the effective date of the law.

Providing safe harbor for water infrastructure projects during the early years of implementation is essential for the long-term success of BABAA. While EPA initially waived BABAA requirements for construction materials and manufactured products for water infrastructure projects that initiated design planning before the effective date of the law, the agency recently revoked the waiver for water infrastructure projects that receive federal funding after fiscal year 2024.

Without relief from these new domestic procurement requirements, communities that have engineering or construction underway may be forced to return to the planning phase or abandon federal funding, including congressional earmarks and low-cost SRF financing. Changing engineering plans or securing new financing will likely delay construction and add

costs to these water infrastructure projects, which ultimately increases the risk to public health and the affordability of water bills.

Fully funding the SRFs and implementing common sense reforms will increase protection for public health. Thank you for your consideration. Please contact Deirdre Finn, dfeinn@cifanet.org, with questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeff Walker', with a stylized flourish at the end.

Jeff Walker
CIFA President

About CIFA

CIFA is a national not-for-profit organization that represents the Clean Water and Drinking Water State Revolving Funds (SRFs), the nation's premier programs for funding water infrastructure that protects public health and the environment.

Board of Directors, Officers:

- President: Jeff Walker, Texas Water Development Board
- Vice President: Angela Knecht, Florida Department of Environmental Protection
- Treasurer: William Carr, Kansas Department of Health and the Environment
- Secretary: Lori Johnson, Oklahoma Water Resources Board
- Immediate Past President: James P McGoff, Indiana Financing Authority

Board of Directors:

- EPA Region 2: Maureen Coleman, New York State Environmental Facilities Corporation
- EPA Region 3: Shawn Crumlish, Virginia Resources Authority
- EPA Region 4: Sandy Williams, Kentucky Infrastructure Authority
- EPA Region 5: Gary Bingenheimer, Illinois Environmental Protection Agency
- EPA Region 6: Debra Dickson, Arkansas Department of Agriculture
- EPA Region 7: Aaron Smith, Iowa Finance Authority
- EPA Region 8: Keith McLaughlin, Colorado Water Resources and Power Development Authority
- EPA Region 10: MaryAnna Peavey, Idaho Department of Environmental Quality
- Finance Community: Rob Mellinger, Citigroup



WESTERN STATES WATER COUNCIL

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

Web Page: www.westernstateswater.org

January 10, 2024

The Honorable Charles Schumer
Senate Majority Leader
United States Senate
322 Hart Senate Office Building
Washington, DC 20510

The Honorable Mitch McConnell
Senate Minority Leader
United States Senate
317 Russell Senate Office Building
Washington, DC 20510

The Honorable Tom Carper, Chair
Environment and Public Works Committee
United States Senate
410 Dirksen Senate Office Building
Washington, DC 20510

The Honorable Shelley Moore Capito, Ranking Member
Environment and Public Works Committee
United States Senate
410 Dirksen Senate Office Building
Washington, DC 20510

RE: Good Samaritan Remediation of Abandoned Hardrock Mines Act (S. 2781)

Dear Senators,

Abandoned mines in the West pose various challenges, including adverse impacts to water quality, affecting our drinking water supplies, aquatic life, recreational uses, agriculture, and livestock. Despite efforts from federal and state agencies, and private partners, progress on this issue has been slow and expensive. The Western States Water Council (WSWC) supports your efforts to advance the Good Samaritan Remediation of Abandoned Hardrock Mines Act (S. 2781). This bill builds on previous legislation introduced over the past couple of decades.

The WSWC is a bi-partisan government entity created by Western Governors in 1965, and represents eighteen states. Our members are appointed by and serve at the pleasure of their respective Governors, advising them on water policy issues. Our mission is to ensure that the West has an adequate, secure, and sustainable supply of water of suitable quality to meet its diverse economic and environmental needs now and in the future.

As noted in the attached WSWC Policy Position No. 477, Abandoned Hardrock Mine Cleanup, our member states are supportive of authorizing legislation and appropriations to address the various factors that hinder the ability of states, tribes, and federal agencies to address the monumental task of cleaning up abandoned hardrock mines including: (1) the absence of solvent responsible parties; (2) inadequate funding and resources at all levels of government; (3) the inability of interested third parties to act as voluntary Good Samaritans without incurring the risk of severe liability penalties; and (4) the backlog of inventory efforts to identify the location of and environmental hazards related to abandoned mines and properly prioritize the sites to maximize the benefits of remediation projects.

We appreciate the direction included in S. 2781 for EPA to consult with states and tribes in the development of remediation plan regulations, to coordinate with states and tribes on NEPA compliance, and

to provide notice to states and tribes of any permit applications and any unplanned releases of historic mine residue. States play a critical role in identifying appropriate sites and sponsors for Good Samaritan clean-ups and evaluating proposed remediation plans. Abandoned mine remediation efforts must comply with both federal and state laws (e.g. ground water quality requirements, and state-specific hardrock mining regulations) and state agencies are best placed to oversee and ensure project compliance with all requirements. Western states are eager to partner with federal agencies to ensure the success of the Good Samaritan program and to maximize the anticipated benefits.

WSWC recommends that a formal consultation process with states be established as part of the EPA pilot program that ensures that state agencies have an opportunity to shape the program selection criteria and process for permit issuance and oversight. As co-regulators, consultation with states, and in some cases adjacent states, should not occur only at the end of the process.

States should also be protected from liability alongside federal agencies as noted in Section 3. Many western states are interested in leading the clean-up of abandoned mine sites, but need clear Good Samaritan liability protection to move forward with these projects. While EPA has provided helpful guiding principles and tools to reduce risks between prospective Good Samaritans and EPA, those tools do not bind third parties under the CERCLA statute.

Upon successful implementation of the pilot program, WSWC encourages Congress to include additional elements in a permanent Good Samaritan program. First, we suggest that Congress consider providing states that have existing Clean Water Act authority with the ability to administer Good Samaritan permits under a permanent program structure. A state-led permitting program, with oversight from EPA, follows the same model as other delegated federal environmental programs, and provides the best opportunity to achieve optimal environmental outcomes. Second, WSWC suggests that Congress consider allowing more flexibility with respect to maintenance commitments under a permanent program. Although WSWC appreciates the efforts to ensure that Good Samaritan permittees have the financial resources for the operation and maintenance of remediation activities, we caution that requiring applicants to commit to perpetual, long-term maintenance and operation could discourage projects that may otherwise have a measurable benefit and are supported or led by states. Flexibility could be appropriate for some projects and should be allowed subject to approval by the permitting authority. Third, we recommend a program that provides flexibility for states, when acting as a Good Samaritan, to implement creative approaches to finance remediation such as the use of Supplemental Environmental Project funds obtained through settlements of Clean Water Act violations.

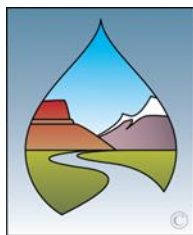
Thank you for your leadership and dedicated work on this issue.

Sincerely,

A handwritten signature in cursive script, reading "Tony Willardson".

Tony Willardson
Executive Director

cc: Senate Environment and Public Works - Western Committee Members



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding
Abandoned Hardrock Mine Cleanup**

**Deadwood, South Dakota
September 16, 2021**

WHEREAS, the General Mining Act of 1872 allowed individuals to obtain exclusive rights to valuable hardrock mineral deposits on land belonging to the United States without requirements to reclaim the land until the 1970s; and

WHEREAS, hardrock mining has a long history in the West, which is rich in hardrock minerals like gold, silver, and copper; and

WHEREAS, as part of this past, the West contains historically mined and abandoned hardrock mines on public and private land, which were abandoned prior to present day regulation and have no responsible or solvent party to perform the needed cleanup and reclamation; and

WHEREAS, a recent report from the Government Accountability Office (GAO-20-238) found that the United States has at least 140,000 abandoned hardrock mine features on federal land of which 22,500 pose or may pose environmental hazards, including adverse effects to water quality; and

WHEREAS, most of these sites are in many western states with a significant portion located wholly or partially on public land managed by the U.S. Forest Service or the U.S. Bureau of Land Management; and

WHEREAS, significant hardrock mining has also occurred on tribal lands; and

WHEREAS, there could be more than 390,000 additional abandoned hardrock mine features on federal land that have not yet been characterized; and

WHEREAS, many of the abandoned hardrock mines are co-located on public and private land; therefore, consideration should be given to the private land component as well when assessing full mine site cleanup; and

WHEREAS, many states have agencies that administer the CWA, regulate and require financial assurance for reclamation of hardrock mines, remediate impacted waters, and implement abandoned mine programs that are used to identify state-specific priorities with respect to abandoned hardrock mining issues; and

WHEREAS, there are numerous economic, environmental, and social benefits from remediating and reclaiming lands and waters impaired by abandoned hardrock mines; and

WHEREAS, water quality impacts can be severe, with water quality conditions resulting in impacts to drinking water supplies, aquatic life, recreational uses, agriculture and livestock; and

WHEREAS, the U.S. Environmental Protection Agency (EPA) has identified developing alternative industrial development projects that are bonded for future cleanup on abandoned hardrock mine sites as an innovative solution to generate benefits and return abandoned mine lands to productivity while considering economic, environmental and social effects; and

WHEREAS, establishing a productive post-mining land use is an important safety and quality of life issue for states, especially where abandoned hardrock mine sites exist with encroaching development, have an increased prevalence of outdoor recreation opportunities such as off highway vehicle usage, or where the sites can meet the growing demand for renewable energy development and storage; and

WHEREAS, the cleanup of abandoned hardrock mines is hampered by two issues – (1) insufficient state and federal resources and (2) concerns about liability, compounded by complex land and mineral ownership patterns in mining districts and the operational histories associated with a given site; and

WHEREAS, Bureau of Land Management officials estimated that with the agency's current abandoned mine budget and staff resources, it could take up to 500 years just to confirm the presence of physical or environmental hazards present at the approximately 66,000 hardrock mines identified and the estimated 380,000 features not yet captured in its database (GAO-20-238); and

WHEREAS, states, tribes, municipalities, federal agencies, volunteer citizen groups, and private parties that have no liability or responsibility for the sites (referred to as Good Samaritans in this resolution) have engaged in or are interested in voluntary restoration work at abandoned hardrock mines; and

WHEREAS, Good Samaritans currently have potential liability for their voluntary cleanup under the Clean Water Act (CWA), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA) despite the fact that they did not previously operate or own the mine. Such Good Samaritans have expressed interest in voluntarily bearing the costs of the cleanup, and they could provide numerous benefits if they were able to remediate the abandoned mine, but are dissuaded by liability concerns; and

WHEREAS, liability concerns also prevent other active modern mining companies from re-mining or voluntarily cleaning up abandoned mines; and

WHEREAS, "Good Samaritan" bills have been introduced in Congress over the years to protect non-labile entities that are willing to voluntarily clean up these sites from legal liability under CERCLA and CWA; and

WHEREAS, in 2020 the EPA created a new office, the Office of Mountains, Deserts, and Plains, to promote Good Samaritan cleanup efforts and foster partnerships with states, tribes, local communities and other stakeholders to ensure more efficient cleanup of both Superfund and non-Superfund sites in the West, including abandoned mines; and

WHEREAS, in many western states, abandoned hardrock mine cleanup projects on public and private lands can be led by state agency project managers in states with established abandoned hardrock mine lands programs if sufficient funding were available, and allowing deferral of project leads to states on pilot programs can facilitate improved cleanup response times.

NOW, THEREFORE, BE IT RESOLVED, that the Western States Water Council (WSWC) supports increased federal funding and workforce resources dedicated to addressing the backlog of abandoned hardrock mine inventory through both federal and state programs, with a priority on those sites that are contributing to CWA 303(d) impaired waters or have been otherwise prioritized by states.

BE IT FURTHER RESOLVED, that increased federal funding appropriated by Congress should not be used to offset or otherwise reduce existing resources allocated to states to work on abandoned hardrock mine issues and should be delivered to state and federal agencies through a clear, transparent, and efficient manner that maximizes project implementation work at sites prioritized by states.

BE IT FURTHER RESOLVED that the WSWC supports a rapid and extensive inventory and characterization of environmental hazards and impacts, including water quality, caused by abandoned hardrock mines on federal, state, tribal, and private land across western states and working collaboratively with states and tribes, relying on their expertise to prioritize sites for cleanup.

BE IT FURTHER RESOLVED that the WSWC supports efforts by the EPA Office of Mountains, Deserts, and Plains to advance and resolve states' priority abandoned mine issues by helping states to leverage federal programs and enhance collaboration across federal agencies, states, regional, local, non-profit, and private partnerships to create an "all-hands" approach to finding creative solutions, including mining actions identified in EO 14017, for the cleanup of abandoned hardrock mine sites and to accelerate remedial efforts using the most advanced technology solutions.

BE IT FURTHER RESOLVED that the WSWC supports exploration of new ideas for moving projects forward, such as using Brownfields' Bona Fide Prospective Purchaser protections or other methods of promoting liability protections until such time that a Good Samaritan program can be established.

BE IT FURTHER RESOLVED that the WSWC supports legislation to amend the Clean Water Act to protect Good Samaritans and States from inheriting perpetual liability for the site and to include flexibility and mechanisms for States to implement creative approaches to remediation (e.g., use of Supplemental Environmental Projects obtained through settlements).

BE IT FURTHER RESOLVED, the WSWC supports legislation establishing pilot projects, including pilot projects under state-led programs, to address liability issues for Good Samaritans at individual sites to help pave the way for comprehensive legislation, if comprehensive legislation addressing these issues is not possible in the short term.

BE IT FURTHER RESOLVED, the WSWC calls on Congress and federal agencies to develop legislative and administrative remedies to address potential CERCLA, CWA and RCRA liabilities for Good Samaritans, while the federal government should also develop remedies for liabilities associated with re-mining, which deter those best-equipped with technology and expertise (i.e., state and local governments, non-governmental entities, and the mining industry) from improving conditions at abandoned mines.

Tab N – Discussion: Nutrients



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF WATER

April 5, 2022

MEMORANDUM

SUBJECT: Accelerating Nutrient Pollution Reductions in the Nation's Waters

FROM: Radhika Fox
Assistant Administrator

A handwritten signature in black ink, appearing to be "R. Fox", is placed to the right of the "FROM:" line.

TO: State Environmental Secretaries, Commissioners, and Directors
State Agriculture Secretaries, Commissioners, and Directors
Tribal Environmental and Natural Resource Directors

CONTEXT

Nutrient pollution is a continuing and growing challenge with profound implications for public health, water quality, and the economy.¹ In a changing climate, the complexity and severity of the problem is increasing. Nutrients are the most widespread stressor impacting rivers and streams.² Fifty-eight percent of the nation's rivers and streams and 45 percent of our lakes have excess levels of phosphorus.³ About two-thirds of the nation's coastal areas and more than one-third of the nation's estuaries are impaired by nutrients.⁴ Excess nutrients contribute to harmful algal blooms, areas of low oxygen known as "dead zones," and high levels of nitrates that contaminate waters used for recreation, drinking water, wildlife, pets and livestock, and aquatic life—while also damaging the economy in many communities.

At the same time, promising innovations, creative partnerships, holistic One Water⁵ solutions, and unprecedented opportunities to invest in clean and safe water through the Bipartisan Infrastructure Law (the Law) have the potential to rapidly accelerate progress on nutrient pollution. More effective strategies are particularly important as we see acute impacts of nutrient pollution fall on communities lacking the capacity to address them.

¹ See: A Compilation of Cost Data Associated with the Impacts and Control of Nutrient Pollution at <https://www.epa.gov/sites/production/files/2015-04/documents/nutrient-economics-report-2015.pdf>.

² See: EPA Rivers & Streams Assessment 2013-4 at <https://riverstreamassessment.epa.gov/dashboard/?&view=indicator&studypop=rs&subpop=national&label=none&condition=poor>.

³ See: EPA National Aquatic Resource Surveys at <https://www.epa.gov/national-aquatic-resource-surveys>.

⁴ See: EPA Nutrient Pollution – Where This Occurs: Coasts and Bays at <https://www.epa.gov/nutrientpollution/where-occurs-coasts-and-bays>.

⁵ One Water approaches integrate holistic planning and management of water resources across the landscape and build environment to protect public health, water-based economies, ecological health, and habitat. For examples of One Water approaches to address nutrients, see: Yahara WINS: A Groundbreaking Initiative to Achieve Clean Water Goals at <https://yaharawins.org/> and Middle Cedar Partnership Project at http://www.cedar-rapids.org/residents/utilities/middle_cedar_partnership_project.php.

As the U.S. Environmental Protection Agency's (EPA) Office of Water looks forward to celebrating the 50th Anniversary of the Clean Water Act (CWA) this year, we are mindful of both our progress and how much further we need to go as a nation to ensure that every community in the United States has access to clean, safe water. It will take all of us to meet this goal. State co-regulators, territories, and tribes play a primary role in managing nutrients, with strong support from federal partners and the involvement of all stakeholders. Office of Water is committed to reenergizing our partnerships with all levels of government, tribes, agriculture, community organizations, research institutions, and the public to make sustained progress. There has never been a more important time for partnership, innovation, and a determination to do more.

EPA affirms the foundational principles and approaches that are described in previous Office of Water nutrient policy memos. In the coming years, a key area of focus for the Office of Water is to accelerate progress in controlling excess nutrients entering our nation's waters by scaling up existing approaches and more broadly deploying new data assessments, tools, financing approaches, and implementation strategies. The cost and magnitude of the challenges require us to work across our programs to integrate the objectives of both the Safe Drinking Water Act and Clean Water Act in a One Water approach to find durable solutions. The realities of climate change, a growing population, aging infrastructure, increasing nonpoint source pollution, and issues of affordability, equity, and environmental justice add complexity and urgency to our work.

EPA's Office of Water will invest in, and pursue, science-based and data-driven strategies to reduce flows of excess nutrients into our nation's waters. We will deepen and expand our partnerships with the U.S. Department of Agriculture (USDA), states, tribes, territories, agriculture, industry, and the broader water sector to identify, highlight, and scale effective nutrient reduction approaches. We will use the Clean Water Act framework to make progress and to provide an incentive and backstop for collaborative approaches. We are committed to taking bold action to tackle the nutrient pollution challenge.

GOVERNING PRINCIPLES

Five governing principles will guide the Office of Water's strategies to work with states, tribes, and local partners to drive reductions in nutrient pollution.

- **Advance equity and environmental justice.** Nutrient runoff too often contaminates drinking water sources and compromises the health of waterways in rural, tribal, and low-income communities. EPA's Office of Water will prioritize nutrient pollution reduction, treatment, recovery, and mitigation activities that help protect public health and reduce pollution in communities that lack the resources to address these issues on their own.
- **Build and foster partnerships.** Many of the most successful and lasting efforts to significantly reduce nutrient pollution have resulted from partnerships between farmers, ranchers, local water utilities, municipalities, industry, and conservation organizations. These partnerships succeed because they benefit from the diverse knowledge and perspectives of their participants. We will seek opportunities to highlight successful partnerships, and to create the enabling conditions for their continued success.
- **Follow the science and invest in data-driven solutions.** Our focus areas and priorities will be based on the best available science and data. We will continue to build new tools and platforms that allow us to manage and analyze information to more efficiently target funding to identify and address sources of pollution and enhance tracking of progress in watersheds.

- **Support innovation.** New ideas and forward-thinking strategies are critical to meet the urgency of the nutrient pollution challenge. While we will continue to pursue the agency’s tried and true work with states, tribes, and territories, we also plan to invest in and elevate new models, technologies, tools, and policies. The Office of Water is particularly interested in identifying and helping to scale programs that employ “outcomes-based” approaches that can maximize the delivery of water quality improvements and other benefits. EPA’s Office of Water will identify and recommend financial innovations that can underwrite incentives for market-based investment.
- **Scale successful initiatives.** We will provide technical assistance and other support to help ensure that states, tribes, and territories have the knowledge, skills, and resources to scale effective nutrient reduction strategies.

STRATEGIES

To drive continued reductions in nutrient pollution, we will pursue three primary strategies:

- **Deepen collaborative partnerships with agriculture.**
- **Redouble our efforts to support states, tribes, and territories to achieve nutrient pollution reductions from all sources.**
- **Utilize EPA’s Clean Water Act authorities to drive progress, innovation, and collaboration.**

Deepen collaborative partnerships with agriculture.

Deeper and more extensive partnerships with agriculture will be critical to reduce the nutrient loads that impair our nation’s waters. Given the opportunity for nutrient reduction through conservation efforts on agricultural lands, working collaboratively with USDA and the agricultural community will be a central focus of EPA’s nutrient agenda.

1. **EPA will actively collaborate with USDA leadership to build and maintain connections and momentum.** A primary goal of this partnership is to continue to target funds whenever feasible to the locations and practices that will generate the most significant reductions in nutrient loads. Areas for collaboration include:
 - Fulfilling Farm Bill requirements to devote significant resources to source water protection. We will support USDA efforts to reduce agricultural impacts on waterways and drinking water sources to protect public health and to document investments in source water areas.
 - Assisting USDA, utilities, and local partners in targeting conservation investments to improve water quality in waters suffering from nutrient pollution and measure their impact. Our goal is to expand our joint capacity to evaluate the water quality impacts of USDA investments.
 - Promoting and facilitating broader use of watershed assessments in USDA programs. In collaboration with EPA and states, USDA is expanding reliance on watershed planning to maximize the effectiveness of conservation investments. We will continue to work with states to support USDA in documenting water quality outcomes from its investments. Our

goal is to increase the proportion of USDA resources that are tied to watershed plans or other prioritization mechanisms, such as the National Water Quality Initiative (NWQI).⁶

- Expanding the strong collaboration between USDA and EPA's programs for drinking water and wastewater infrastructure in rural and tribal communities. Our goal is to help underserved communities and households improve their capacity to secure funds, comply with requirements, and sustainably operate and maintain their infrastructure.
- 2. EPA will expand engagements with agricultural stakeholders and highlight their successes.** We will pursue additional opportunities to learn from and support agricultural leaders and innovators working to address nutrient loads. Our priorities include:
- Initiating new partnerships and deepening our existing collaborations.
 - Identifying and elevating examples of producer innovation. To keep abreast of innovation, Office of Water will pursue opportunities to participate in agriculture convenings.
 - Maximizing engagement with agricultural stakeholder groups, including new quarterly roundtables and continuation of existing fora, including the Office of Wastewater Management's Animal Agriculture Discussion Group.⁷
- 3. EPA will deepen on-the-ground collaboration with USDA, states, territories, tribes, and stakeholders in key geographic areas.** Although we recognize that water quality improvements will take years to achieve, we are committed to sustaining partnerships over time to make progress. To leverage our current activities and identify other opportunities, our efforts will include:
- Intensifying our engagement in geographies such as the Chesapeake Bay, Mississippi River Basin, Puget Sound, and National Estuary Program watersheds across the country, where structures for collaboration have been established and new resources in the Bipartisan Infrastructure Law can accelerate progress. The Law will deliver \$132 million to support the National Estuary Program and more than \$1.7 billion for Geographic Programs.
 - Building on regional collaborations such as the Hypoxia Task Force to leverage federal, state, local, and tribal resources and engage university, industry, and nonprofit partnerships to help advance state- and regionally-driven actions. The Law will be a key lever for scaling progress, with \$60 million in new resources to implement the Gulf Hypoxia Action Plan.⁸
 - Supporting partnerships in areas where agriculture is the predominant land use and nutrient loss contributes significantly to water quality concerns. We will look for opportunities where EPA membership, research, technical assistance, or grant and loan programs can help amplify existing efforts.
 - Further broaden collaborations among USDA, EPA, and the agricultural community to enhance, encourage, and promote conservation cropping systems that minimize soil disturbance and maximize plant cover that preserves soil organic matter content, enhance farm profitability, promote sustainability, and improve water quality.

Redouble our efforts to support states, tribes, and territories to achieve nutrient pollution reductions from all sources.

⁶ For information on how the NWQI has led to significant improvements, see USDA National Water Quality Initiative at <https://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/water/?cid=stelprdb1047761>.

⁷ For information about the Animal Agriculture Discussion Group, see: Factsheet on the Animal Agriculture Discussion Group at <https://www.epa.gov/npdes/factsheet-animal-agriculture-discussion-group>.

⁸ See: Mississippi River/Gulf of Mexico Hypoxia Task Force at <https://www.epa.gov/ms-htf>.

EPA aims to address the diversity of point and nonpoint sources of nutrient pollution, including municipal and industrial wastewaters, stormwater, and decentralized systems. We will work to ensure that rural, environmental justice, low income, and tribal communities benefit from these efforts. EPA will use the urgently needed funding through the Bipartisan Infrastructure Law to expand our support for the work of our partners. Our priorities include:

1. **Strongly encouraging states and tribes to use a One Water approach to deliver a range of water quality benefits including protection of sources of drinking water.** The Office of Water will seek to support holistic water resource management efforts that protect public health, water-based economies, ecological health, and habitat. Expected activities include:
 - Encouraging states to incorporate a One Water approach in their overarching nutrient strategies. State nutrient strategies provide an opportunity to bridge existing planning to reduce nutrient loads from point and nonpoint sources with source water protection. We will continue to encourage states to establish and broaden these strategies to protect drinking water sources, as well as ecosystem health and other water quality benefits.
 - Working with EPA's Regional Offices to memorialize, in Performance Partnership Agreements or appropriate grants, state commitments to evaluate, update, and submit for EPA review State Nutrient Loss Reduction Strategies. These strategies should align with existing statutory and regulatory frameworks and target resources to the most important opportunities for progress. States with existing strategies will be able to use them as a basis for revisions. For states without Nutrient Reduction Strategies, Regional Offices will document state commitments to nutrient reduction actions. After consulting with state partners, the Office of Water will provide a memo to Regional Administrators outlining suggested review criteria later in 2022.
 - Deploying advanced watershed planning tools to identify critical source areas, track practice adoption, and quantify progress over a broad landscape, large watershed, or state or tribal areas. EPA has developed and will promote powerful tools such as Watershed Index Online,⁹ DWMAPS¹⁰ and Recovery Potential Screening¹¹ that can help evaluate key watershed attributes. These tools allow states to display Clean Water Act and Safe Drinking Water Act data alongside land use and other relevant spatial information to identify potential sources of contamination to drinking water sources.
 - Publishing a web-based tool to help states and tribes identify federal funding sources to protect drinking water sources and encourage cross-program coordination for shared water quality benefits.
 - Identifying and highlighting effective nutrient reduction approaches and projects that deliver a range of water quality benefits that could be useful in a variety of settings.¹²
 - Supporting state collaboration with USDA to improve the health of waters including source water protection through the NWQI and other targeted investments through USDA conservation programs. Through the NWQI, USDA, state water quality agencies and source water protection programs can jointly identify priority areas for conservation, use traditional

⁹ See: EPA Watershed Index Online at <https://www.epa.gov/waterdata/watershed-index-online>.

¹⁰ See: EPA Drinking Water Mapping Application to Protect Source Waters at <https://www.epa.gov/sourcewaterprotection/drinking-water-mapping-application-protect-source-waters-dwmaps>.

¹¹ See: EPA Recovery Potential Screening at <https://www.epa.gov/rps>.

¹² For example, the use of Clean Water State Revolving Loan Funds to finance forest management to reduce the risk of devastating wildfires and post-fire flooding. That risk reduction helps prevent contamination of drinking water sources, damage to infrastructure, and increases in sediment runoff and associated nutrient pollution. EPA, USDA, and the Water Infrastructure Finance Authority of Arizona created a Measurable Benefits Tool that quantifies the environmental, financial, and social benefits associated with undertaking forest thinning projects.

CWA Section 319 project funding, and technical assistance to support planning and fund plan implementation.¹³

- Helping states, territories, and authorized tribes use the CWA Section 319 grant program for projects that help to protect and restore drinking water sources. Currently there are more than 300 active projects across the country that address source water concerns.¹⁴ We will also promote innovative approaches including new outreach strategies to reach non-operator landowners and new funding mechanisms to address barriers to conservation practices such as procurement of shared agricultural equipment.
- Exploring opportunities to help states track and account for the adoption of agricultural conservation practices, conservation planning, and technical assistance, including through USDA conservation programs, as they implement nutrient strategies, total maximum daily loads, and watershed-based plans.

2. Championing innovative financing and using the flexibility of the Clean Water Act regulatory framework to spur development of more effective technologies, drive market-based approaches, including water quality trading, third-party credit aggregation and banking, and stronger agriculture-water sector partnerships. Our activities will include:

- Promoting state use of the Clean Water State Revolving Loan Fund for nonpoint sources, including expanded use of innovative approaches like pay-for-success models.¹⁵
- Strengthening relationships between states, tribes, and territories with our federal partners, like USDA and its U.S. Forest Service, as well as non-profits, community organizations, foundations, and private sector stakeholders. These partnerships can leverage existing resources to effectively facilitate and fund nutrient management projects on a broad scale.
- Finalizing a policy statement on flexibilities for implementing market-based approaches within the National Pollutant Discharge Elimination System (NPDES) permit program.
- Initiating a rulemaking to explicitly state that NPDES permits may include conditions allowing market-based approaches, including trading, to meet applicable effluent limits.
- Hosting web-based training for permit writers to increase the number of permits with nutrient limits that improve water quality and incentivize purchase of nutrient credits and agriculture-water sector collaboration.
- Building connections between the state programs and market-based environmental services providers that can combine water quality outcomes with other commodities such as carbon sequestration credits. EPA will provide technical assistance as needed to support states' use of CWA Section 319 funds to purchase water quality credits generated by such projects.
- Supporting development and evaluation of more effective technologies and approaches using funding from geographically targeted and nonpoint source management programs.

3. Prioritizing strategies to support small, rural, and disadvantaged communities. Our activities will include:

- Providing clear guidance for the State Revolving Funds to outline Office of Water's expectations for using new authority in the Bipartisan Infrastructure Law to make grants and

¹³ For example, Iowa Department of Natural Resources has used small investments from EPA technical assistance to develop source water protection plans which garnered substantial on-the-ground investment from the NWQI.

¹⁴ For example, Virginia DEQ worked with local partners to implement best management and conservation practices in the Muddy Creek watershed that brought nitrogen levels into compliance with state water quality standards for surface waters that are used as sources of drinking water.

¹⁵ For examples of successful approaches see: Clean Water State Revolving Funds Best Practices Guide for Financing Nonpoint Source Solutions at <https://www.epa.gov/system/files/documents/2021-12/cwsrf-nps-best-practices-guide.pdf>.

provide additional subsidization to address and mitigate the impacts of nutrient pollution in these communities.

- Engaging with states on an EPA memorandum that outlines near term actions to support environmental justice and other disadvantaged communities through their nonpoint source pollution programs.¹⁶
- Releasing a Lagoon Action Plan to help small, rural, and tribal communities protect public health and meet Clean Water Act requirements for ammonia and nutrients.
- Taking action to address decentralized systems, including promoting financing via the State Revolving Funds, conducting an Advanced Septic System Nitrogen Sensor Challenge, and supporting research pilots and demonstration projects for innovative/alternative septic systems.
- Working with entities that can help support state adoption and implementation of strategies to better support disadvantaged communities, including the Environmental Council of the States, the Association of Clean Water Administrators, and the Association of State Drinking Water Administrators.

Utilize EPA's Clean Water Act authorities to drive progress, innovation, and collaboration.

EPA will continue to evolve and implement the Clean Water Act regulatory framework. Technology-based controls for point sources, development and implementation of strong water quality standards, and strategies for addressing nutrients at a watershed scale remain critical. The Clean Water Act regulatory authorities are the foundation for much of the nation's progress to date on nutrient pollution and can provide both an incentive and backstop for collaborative approaches. We will prioritize:

1. Urging more robust adoption of numeric nutrient criteria into Water Quality Standards.

EPA has strongly advocated for states, territories, and authorized tribes to adopt numeric nutrient criteria into their water quality standards since the publication of the *National Strategy for the Development of Regional Nutrient Criteria* in 1998, but many states have not yet done so. To accelerate progress, our priorities include:

- Promoting EPA's newly published stressor-response based numeric criteria recommendations to address nutrient pollution in lakes and reservoirs.¹⁷ Office of Water recommends states apply the criteria to protect drinking water, recreational and aquatic life uses and expects states to consider the new criteria during their next triennial water quality standards review. EPA regions are encouraged to negotiate commitments to establish numeric nutrient criteria in performance partnership agreements.
- Supporting and strongly encouraging states to rely on numeric targets for water quality assessment, CWA Section 303(d) assessment and lists, TMDL targets, and NPDES permitting. Office of Water expects that states will either adopt numeric nutrient criteria into their water quality standards or commit to use numeric targets to implement applicable narrative criteria statements. For lakes and reservoirs that have previously been assessed using a state's nutrient-related narrative criterion, we expect states to consider the new criteria recommendations to determine whether more can be done to ensure the protection and restoration of those waters.

¹⁶ See: EPA Near-term Actions to Support Environmental Justice in the Nonpoint Source Program at <https://www.epa.gov/system/files/documents/2021-10/equity-in-the-nps-program-section-319-policy-memo-signed.pdf>.

¹⁷ See: EPA Ambient Water Quality Criteria to Address Nutrient Pollution in Lakes and Reservoirs at <https://www.epa.gov/nutrient-policy-data/ambient-water-quality-criteria-address-nutrient-pollution-lakes-and-reservoirs>.

2. **More Fully Using the Clean Water Act Assessment and Listing Process and Supporting Development of TMDLs for Nutrient Pollution.** There are more than 26,000 water bodies with nutrient-related impairments still on state lists of impaired waters that do not yet have a TMDL. Many completed TMDLs have not been fully implemented. To continue progress, our activities will include:
 - Expecting and assisting states to develop robust, ready-for-implementation TMDLs, and other restoration plans.
 - Supporting targeted water quality monitoring and developing scientifically robust assessment methods for identifying nutrient-related impairments.
 - Exploring ways to account for climate change in watershed protection and restoration plans, TMDLs, and best management practices so they will continue to be effective in the future.
3. **Further Reducing Nutrient Loads from Point Sources.** EPA strongly supports innovative permitting approaches that can drive deeper, sustained nutrient reductions. Our activities will include:
 - Supporting states by providing information on innovative treatment technologies analysis of performance, and management approaches such as water reuse.
 - Continuing training and technical assistance to wastewater treatment plants operators with secondary treatment to help optimize nutrient reductions. Optimization techniques are particularly valuable for small and medium-sized systems where system upgrades may not be affordable.
 - Supporting states to employ a variety of permitting approaches, including watershed-based permitting, integrated planning, adaptive management, and various market-based approaches including trading and offsets. We will encourage states to consider permitting approaches that strengthen upstream/downstream partnerships.
 - Issuing a compendium of state approaches for nutrient permitting to highlight the varied approaches states are using to make progress.
 - Promulgating revised effluent limitation guidelines for industries with significant nutrient loads that cause or contribute to water quality problems.
 - Working with states and EPA regional permitting authorities as they write water quality-based permit limits to meet water quality standards, including those that implement TMDLs. We will ensure that both EPA and state-issued permits: analyze whether nutrients have a reasonable potential to cause or contribute to a WQS exceedance in all permits; incorporate technically sound nutrient limits when necessary; and include permit limits that reflect the loads contained in the approved TMDLs.
 - Assisting states in using water quality standard variances, targeted designated use changes, compliance schedules in NPDES permits, and other flexibilities to make progress. The Office of Water will encourage mechanisms to facilitate a balance of appropriate point source and nonpoint source actions that makes best attainable progress toward water quality goals.

CONCLUSION

Nutrient pollution continues to present a daunting and costly set of challenges, despite considerable prioritization and investment. Our best hope for more effectively addressing our nutrient management challenges is to continue building partnerships. EPA is committed to working across federal agencies, with states, territories, tribes, and with farmers, ranchers, local water utilities, municipalities, and industry to make progress. Acting together, using foundational approaches, innovative new tools and programs, and an unprecedented level of investment in the work of our partners, we can do more to address nutrient pollution and protect water quality and public health.

cc: Regional Administrators
Regional Water Division Directors
Office of Water Office Directors
ECOS Executive Director
ACWA Executive Director
Chair, National Tribal Water Council
Chair, National Tribal Caucus

Tab O – Discussion: Maui Guidance

On December 27, the public comment period closed for the Environmental Protection Agency's (EPA) proposed guidance (88 FR 82891) on applying the U.S. Supreme Court's *County of Maui v. Hawaii Wildlife Fund* (140 S. Ct. 1462) decision. In Maui, the Supreme Court held that point source discharges into waters of the United States through groundwater require a National Pollutant Discharge Elimination System (NPDES) permit if the discharge is the "functional equivalent" of a direct discharge to the waters of the United States. EPA issued the draft guidance to describe the functional equivalent analysis and explain the types of information that should be used to determine which discharges through groundwater may require a NPDES permit. Western state agencies that submitted comments included the Alaska Department of Environmental Conservation (ADEC), the Kansas Department of Health and Environment (KDHE), the Oregon Department of Environmental Quality (ODEQ), the South Dakota Department of Agriculture and Natural Resources (SD DANR), and the Wyoming Department of Environmental Quality (WDEQ).

Burden on Facilities/Operators

The commenting states shared their concern over the expectation that potential permittees—rather than the permitting authority, usually state agencies with delegated Clean Water Act (CWA) authority—should be required to evaluate whether any discharge to groundwater reaches waters of the United States, or may meet the functional equivalent standard. ODEQ said: "The focus on operators greatly limits the utility of this guidance as a whole. In our current experience, it is not the operators who are identifying whether their discharge is a functional equivalent, but [ODEQ's] permitting staff. In these situations, the permittee already has a state issued Water Pollution Control Facility permit to protect groundwater resources, or even already has an NPDES permit for a different discharge than the one in question. It is uncommon for the state to receive a request to permit a functional equivalent discharge as part of a new application. The state is often identifying potential functional equivalent discharges as part of a permit renewal. As a result, our staff are often dealing with situations where we have relatively little data and a short time window in which the permit should be renewed."

KDHE agreed: "We do believe that the expectation of a permittee to self-declare they could be subject to Maui is illusory. In Kansas, it will be more likely that KDHE staff will flag projects intended to be non-discharging as potential Maui candidates. Staff would require subsequent information from the project sponsor to address several of the factors identified by the Supreme Court in the consideration of identifying a functional equivalent of a direct discharge to the waters of the state."

SD DANR said: "This draft guidance would place an unprecedented burden on permittees to determine if they need to conduct costly, technically subjective evaluations to determine if they have a 'functional equivalent' discharge to Waters of the U.S."

ADEC agreed, noting that the technical language appears to require an expert: "It 'recommend[s]' that potential permittees provide the permitting authority with information like 'site-specific hydraulic conductivity, hydraulic gradient, groundwater flow velocity, soil type, and effective porosity, considered along the trajectory of groundwater flow from the point source to the surface water body' and descriptions of 'in-situ processes such as sorption, biological uptake, or microbial transformation.'" ADEC added that, similar to the concerns raised in Sackett, "When a person needs a scientific expert to determine whether an act applies, the due process flag is raised."

Discharge Presumptions

Several states emphasized that it is inappropriate to assume that all discharges touching groundwater—which falls under state jurisdiction and may already be subject to state groundwater protection programs—will require a functional equivalent evaluation. ADEC said that under this proposed guidance: "Regardless of the likelihood that a pollutant will reach WOTUS, a facility with a groundwater discharge is now expected to produce an evaluation of the likelihood or the lack thereof. In other words, functional equivalency appears to be the beginning premise." ADEC added that the guidance "should expressly state that a preliminary evaluation is not a necessary component of a permit application." They recommended that the guidance "explain that not all discharges are functionally equivalent to a direct discharge."

WDEQ does "not agree that all groundwater discharges need to be analyzed for communication with the waters of the United States. Only in cases where there is a reasonable potential for groundwater discharges to reach waters of the United States would [WDEQ] require an analysis for functional equivalency." They recommended using a distance qualifier, such as "operators of facilities with discharges to groundwater in close proximity to waters of the United States...." They noted that the "purpose of a functional equivalency test is to determine whether or not an NPDES permit is required for certain discharges to groundwater. Thus, an operator of a groundwater discharge facility should only submit an NPDES application

if the functional equivalency test determines an NPDES permit is needed; an NPDES application should not be required if a discharge to the surface is only assumed or is only a potential.” WDEQ recommended deleting section four entirely.

SD DANR said the guidance needed to “recognize that groundwater is not a point source under the Clean Water Act...” They also provided examples of wastewater lagoons, holding ponds, concentrated animal feeding operations, and green stormwater infrastructure where it would be inappropriate to require a costly technical evaluation without some existing evidence that seepage, leaks, or water moving through a soil nutrient profile are a functional equivalent of a direct discharge to waters of the U.S. “The draft guidance places an unnecessary burden on existing permitted entities and entities potentially needing permits. Prior to requiring substantial and potentially expensive study to determine if a groundwater conduit is a functional equivalent of a direct discharge, a tiered approach may be more pragmatic. This approach could be used to methodically expand the degree of burden of proof based on site specific conditions.”

KDHE requested “clarity on EPA’s perspective of situations where historically non-permitted pollutants may be discharged to surface water via groundwater.” Examples included individual onsite septic systems, non-discharging lagoons that seep to a small degree, groundwater remediation projects that involve contamination plumes that intersect with surface waters, and wetlands that serve as the final stage of effluent treatment systems that may—under dry conditions—seep toward an adjoining surface water. Some of these situations KDHE would not want to permit, due to the (1) regulatory burden on individual homeowners, (2) the elongated time of travel and volume/mass attenuation before discharge, (3) the state’s protective measures already in place, or (4) the uncertainty in how to monitor for permit compliance.

ODEQ said: “To prevent confusion, [ODEQ] recommends that EPA clarify that facilities with point source discharges to groundwater should be evaluated for the presence of a functional equivalent discharge. The current language gives the impression that any type of discharge or infiltration to groundwater could be considered for an NPDES permit if the discharge reaches a water of the United States. [ODEQ] also recommends that EPA clarify the definition of point source discharge, or to direct the reader to other previously established definition to make this determination. Based on the language in [section two] it is unclear whether [ODEQ] would have to evaluate every potential discharge to groundwater that is anywhere near a water of the United States.”

Oregon noted that there are unintentional discharges that should not require an NPDES permit. “While intent is not a factor in determining whether a discharge is a functional equivalent, EPA should include guidance as to whether an NPDES permit is the only available mechanism to deal with a functional equivalent discharge. For example, if a facility had a state issued permit that contained a clause requiring proper operation and maintenance of the facility [ODEQ] does not think that an NPDES permit would be an appropriate solution if a burst pipe or failed lagoon liner caused a functional equivalent discharge. The facility likely did not intend for the pipe to burst or the liner to crack, but the current guidance implies that a viable option is to grant an NPDES permit. In this situation, an appropriate action would be to require the facility to fix the pipe or the lagoon liner in accordance with the clause of the state permit and cease the discharge, not apply for an NPDES permit. The state recommends that EPA acknowledge these types of scenarios in the guidance.”

Role of States

Several states expressed consternation that the guidance didn’t move to acknowledge the role of states in protecting groundwater under their jurisdiction, the role of state agencies in issuing NPDES permits for surface water discharges, and the valuable role in assisting with determinations about whether a functional equivalent evaluation is needed.

SD DANR said: “South Dakota has a well-established regulatory framework to allocate groundwater rights. South Dakota’s responsibility under state law for groundwater quality protection should be recognized by EPA.”

ODEQ said that overall, it believes “this guidance fails to properly address the important role of state regulatory agencies. By focusing on the permittee/operator as the main audience, the guidance does not adequately acknowledge the state’s role, nor does it address key topics that are essential to the work state permitting programs perform in order to apply the Maui decision.” ODEQ recommended that “EPA make substantive revisions to add information supporting state regulatory authorities in their critical role carrying out these requirements.”

ADEC expressed concerns that the guidance failed to adequately acknowledge the role of states as critical partners in evaluating discharges to groundwater, and the importance of state groundwater protection programs. “The guidance should include language that explains that states have traditional authority over groundwater and that engaging with state groundwater protection programs should be utilized early to improve information and support for any analysis. Similarly, engagement with state groundwater protection programs may inform applicants of applicable state requirements regardless of if a federal permit is issued or not. A discharge which crosses multiple jurisdictions should encourage engagement of all jurisdictions.” Alaska said the guidance also diminishes state programs. “Section 5b informs permittees that the

existence or lack of existence of state groundwater protection programs are not relevant to analysis of a discharge. [The guidance] spends several paragraphs explaining how these programs do not obviate the need for a NPDES permit but spends no time advising permittees that these programs may be an excellent source of local information to assist permittees in conducting the analysis. This final section of the guidance drives the point home that when evaluating a potential impact resulting from discharge to groundwater (which is uncontested State jurisdiction), the State has no role and is irrelevant.” ADEC said the EPA guidance “should instruct facilities to engage with states to consider whether a preliminary evaluation is prudent,” and should “identify states as potentially critical partners in making these evaluations.”

Kansas and Oregon expressed the concern that EPA allow states with delegated authority to make the final determinations regarding whether a permit is needed. KDHE said: “Our chief concern regarding the guidance will be the amount of discretion EPA will allow state agencies...in discerning Maui situations while issuing state and NPDES permits. We would hope that relative professional judgment can be exercised to not issue NPDES permits on the premise that few molecules of wastewater might reach surface water. We intend to utilize Maui factors to protect state ground and surface water from impacting pollutants, not unduly expand the universe of NPDES permitted facilities.... While the text supports a robust evaluation undertaken by the state agency and the permittee, we hope that EPA staff will grant the primacy agency adequate discretion to mitigate significant pollutant impacts while not absolutely requiring no discharge of pollutants into waters of the state to avoid issuing NPDES permit. Some allowance for a situation of de minimus discharge needs to be retained by the state agency charged with administering the Clean Water Act within its boundaries.”

Oregon’s perspective was similar: “Additionally, [ODEQ] believes that it would be beneficial to remind operators that states, with few exceptions, are the authority that implements the federal NPDES permitting programs with oversight from EPA. Therefore, the state’s permitting program will make the final decision as to whether the facility requires an NPDES permit, and it is well within the permitting program’s authority to request additional information in order to make the final determination as to whether a functional equivalent discharge is present.” Oregon acknowledged that groundwater regulations vary from one state to another. “While it is understood that there are many situations where a state level groundwater protection permit may not be protective of surface water quality, there may be scenarios where groundwater regulations are more stringent than surface water regulations. The state recommends that when a groundwater permit (or other state issued permit) would contain more restrictive limits compared with an NPDES permit, that the state issued permit be given priority as vehicle for the protection of water quality. For example, when a state permit requires a discharge to meet background water concentrations that are more stringent than state water quality standards a functionally equivalent analysis would not be required.”

Clarity

Several states requested clarification of vague terms, more accurate information in the technical details, and more thorough guidance for states as well as operators.

Alaska noted that the implementation guidance is vague in section three, repeating the factors in Maui while providing “no practical utility for applicants unfamiliar with permitting and hydrogeology.” The guidance should “provide factors to consider and scenarios that clearly will not demonstrate functional equivalence,” and should “include a clear statement that hydraulic connectivity is a factor to consider but is not the same as functional equivalency.” It should also “aim to generate a test that an ordinary person can employ.”

South Dakota said: “...EPA needs to explain how this guidance is consistent with current NPDES regulations that have gone through formal rulemaking, the existing NPDES permit writer’s manual, and other guidance, forms, and instructions.” The guidance lacks sufficient information for the permittee or the regulatory authority to “determine an outfall location, design pollutant treatment, and establish the compliance sampling location.” They pointed out the need for EPA to better define terms such as “clearly ascertainable” and “fairly traceable” to demonstrate consistency with the intent of the Maui decision and the stated policy. While time and distance will be the most important factors in most cases, that is not necessarily true in all cases. The guidance definition of hydraulic conductivity is too simplified, and ignores that groundwater can be the source of the hydraulic gradient, not the pollutant source.

SD DANR also noted that groundwater data analysis is extremely complex. “The draft guidance needs to provide more information and specific examples on how to address the comingling of plumes/pollutants from multiple point and nonpoint sources.... In some instances, clearly determining the source of contaminants in groundwater with any certainty is nearly impossible. Language in the draft guidance indicates that measuring a plume, a relatively higher mass of pollutants, or a relatively higher concentration of pollutants when leaving the point source can support a finding of a ‘functional equivalent’ discharge. This information alone cannot support this finding.”

Oregon pointed out that the guidance does not address many issues that are important to regulators. “This guidance needs to address at a minimum how to evaluate mixing zones or dilution when permitting a functionally equivalent discharge, identifying compliance locations, performing reasonable potential analysis, and accounting for the presence of naturally occurring compounds and chemical interactions with substrate and groundwater.”

ODEQ noted that the “overall idea of using one pollutant as a reasonable indicator for other constituent pollutants may be controversial, and further guidance as to what can be considered a ‘reasonable indicator,’ complete with examples, should also be considered. EPA should also reinforce that the permitting authority has the discretion to ask for information on additional pollutants aside from the indicator pollutant.”

Oregon requested additional guidance to support states in determining functionally equivalent discharges when it is not expected. ODEQ said: “This guidance relies heavily on the time and distance factors of Maui, grouping the other five factors into one section. While this may be more straightforward for the facility operator, the guidance is ambiguous as to whether a regulatory agency can also make a determination based solely on distance and time traveled in a situation where an operator is reluctant to apply for an NPDES permit and has not provided the necessary information. Coupled with a lack of a bright line test, this can lead to situations where an operator may believe that they are not a functional equivalent based on time and distance while regulatory staff make the opposite determination. To prevent confusion and combative circumstances, [ODEQ] recommends that EPA provide further clarifying language reminding the operator that the regulatory agency makes the final determination as to the presence of a functional equivalent discharge....”

Federalism

ADEC noted that the guidance risks unauthorized federal intrusion into states’ traditional authority to regulate groundwater, and that the presumptions laid out in the guidance risk placing groundwater under federal control. SD DANR expressed similar concerns: “While EPA’s draft guidance states that it is not meant to bind parties in any way, the tenor of the draft guidance as written reads like a regulation. [It] attempts to greatly expand the authority of EPA while increasing the burden on delegated state staff and those applying for permits. EPA should not use guidance to establish or expand its authority.”

ODEQ thanked EPA for “clarifying the differences in applicability between state waters and waters of the United States [in footnote 2]. This issue has already come up for us and the additional guidance is appreciated.”

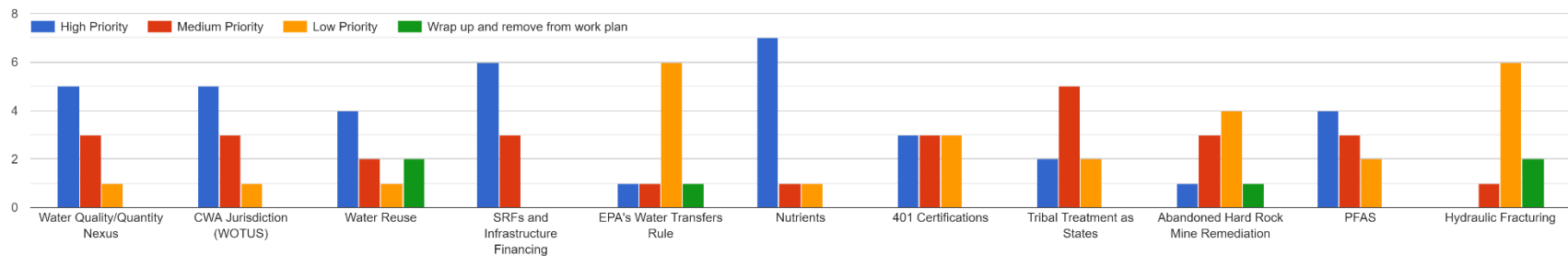
Tab P – Water Quality Committee Survey

WSWC WATER QUALITY COMMITTEE WORKPLAN SURVEY RESULTS

2/29/24

- **9 states responded**
 - SD, CO, KS, TX, AK, NE, AZ, WA, WY
- **Priorities (based on a weighted score)**
 - Nutrients (33)
 - SRF and Infrastructure Financing (33)
 - Water Quality/Quantity Nexus (31)
 - CWA Jurisdiction-WOTUS (31)
 - PFAS (29)
 - 401 Certifications (27)
 - Tribal Treatment as States (27)
 - Water Reuse (26)
 - Abandoned Hard Rock Mine Remediation (22)
 - EPA's Water Transfers Rule (20)
 - Hydraulic Fracturing (17)

Priorities: For each row, please indicate whether you think the work plan item is high, medium, or low priority, or whether you think it's time to wrap up that item and remove it from the work plan.



WSWC WATER QUALITY COMMITTEE WORKPLAN SURVEY RESULTS

2/29/24

- **New topics**

Are there any new topics you'd like to propose be included in the work plan?

3 responses

No, the Highs and Mediums will be more than enough

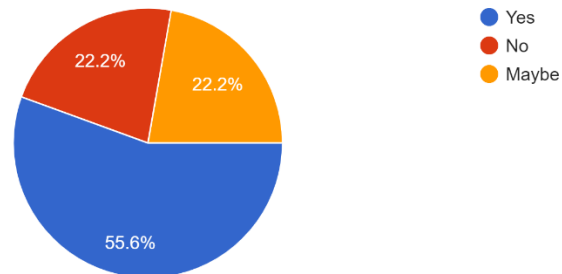
No.

Human Health Criteria, if other states are being pressured by EPA to update. Sub-WOTUS topics, including state dredge-and-fill programs, if any; sharing information on how the Corps is implementing Sackett in our different states, and any enforcement actions EPA is taking; discussing implementation difficulties states are having post-Sackett; has Sackett changed how states are administering their 402 programs?

- **New resolution for Nutrients**

Would you be interested in the committee considering a new resolution specific to Nutrients? This has been suggested in light of the recent Fox memo ... does not have a resolution specific to Nutrients.

9 responses



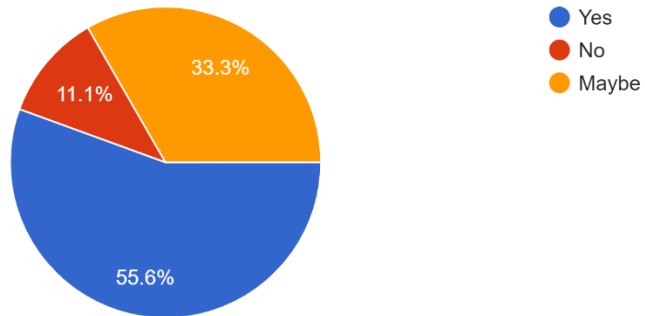
WSWC WATER QUALITY COMMITTEE WORKPLAN SURVEY RESULTS

2/29/24

- New resolution for Maui guidance

Would you be interested in the committee considering a new resolution on Maui guidance?

9 responses



- Other topics for new resolutions

Are there any other topics you'd propose the committee consider new resolutions for?

2 responses

Wait and see what the PFAS MCLs look like

None

WSWC WATER QUALITY COMMITTEE WORKPLAN SURVEY RESULTS

2/29/24

- Other suggestions

Please provide any other suggestions for the work plan below.

3 responses

There is a new final 401 certification rule that became effective November 2023. The work plan should be updated to include this new rule.

Do we want to evaluate the impact of earmarks on SRF or leave that to CIFA?

None

Tab Q – Stream Restoration Webinar Series

Stream Restoration and Water Rights

WSWC-WestFAST Webinar Series

Background

The Western States Federal Agency Support Team (WestFAST) has been working in partnership with Western States Water Council and CK Blueshift to develop a series of informational webinars on aquatic ecosystem restoration. The series is intended to bring together state water managers, regulators, federal agencies, and stakeholders to share knowledge and collaboratively develop solutions to advance aquatic ecosystem restoration, comply with state and federal laws, and deploy federal funding efficiently. The webinars are focused on permitting processes, water laws in Western States, and the role of water rights to facilitate better cooperation on future projects.

These webinars were motivated by questions emerging from the unprecedented funding made available through the Bipartisan Infrastructure Investment and Jobs Act (IIJA) and Inflation Reduction Act (IRA) for federal agencies to implement valley floor restoration projects. Stream restoration projects aim to slow the flow of water, increase floodplain aquifer recharge, and restore natural processes to maintain healthy aquatic ecosystems. However, there remains uncertainty around the effects of these projects on downstream water availability.

Webinars

Webinar 1: Introduction to Stream Restoration & Water Rights (July 12, 2023) This webinar provided an overview of river-focused nature-based solutions and watershed restoration tactics, discuss the motivation for new initiatives and funding, highlight the environmental and management challenges faced, and explore how these projects intersect with western water management and water rights. The webinar also highlighted the challenges and opportunities faced by state and federal agencies in funding, regulating, and implementing these projects with the goal of developing shared language and understanding.

Presenters: Caroline Nash, CK Blueshift; Alden Shallcross, Bureau of Land Management; and Michelle Bushman, Western States Water Council

Webinar 2: The Science of Stream Restoration (August 31, 2023) This webinar provided an overview of river-focused nature-based solutions and watershed restoration tactics, discuss the motivation for new initiatives and funding, highlight the environmental and management challenges faced, and explore how these projects intersect with western water management and water rights. The webinar also highlighted the challenges and opportunities faced by state and federal agencies in funding, regulating, and implementing these projects with the goal of developing shared language and understanding.

Presenter: Dr. Caroline Nash, CK Blueshift

Webinar 3: Stream Restoration and Water Rights in Utah and Colorado (October 18, 2023) In this webinar we heard from experts in the states of Utah and Colorado. Our speakers covered a

range of topics, including relevant state statutes and policies, permitting processes, state priorities, current projects, challenges, and lessons learned.

Presenters: Kelly Romero-Heaney, Assistant Director of Water for Colorado's Department of Natural Resources & Water Policy Advisor to Governor Polis; and Chuck Williamson, P.G., Stream Alteration Specialist for the Utah Division of Water Rights

Resources: To learn more, visit waterrights.utah.gov and [Colorado Senate Bill 23-270](#)

Webinar 4: Stream Restoration and Water Rights in Nebraska and California (December 12, 2023) In this webinar we heard from experts in the states of Nebraska and California. Our speakers covered a range of topics, including relevant state statutes, policies, and programs, permitting processes, state priorities, challenges, and lessons learned.

Presenters: Tom Riley, Director of the Nebraska Department of Natural Resources; and Eric Oppenheimer, Chief Deputy Director of the California State Water Resources Control Board

Past webinar recordings are available:

<https://westernstateswater.org/topical-resources/stream-restoration-and-water-rights/>

Up Next

Webinar 5: Landowner Perspectives

- Real-world impacts of stream restoration projects on local water use and water rights
- Collaborative experiences, lessons learned, recommendations, effective communication, uncertainties
- Benefits-detriments of stream restoration projects in the local communities

Webinar 6: Lessons Learned and Where We're Going

- Wrap-up of what we have learned so far; best practices; challenges; etc.
- Looking forward: what research is needed; monitoring restoration effectiveness; etc.
- Tools and practices for success

Webinar 7: Additional Western State Presentations

Tab R – Legislation and Litigation Update

**Legislation Update
203rd WSWC Meeting
Washington, DC**

Complied By:
Michelle Bushman, WSWC Deputy Director and General Counsel
Elysse Ostland Campbell, WSWC Policy Analyst

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 118th 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 S.3778 Bill Title No Title Passed (S/H) Bill Sponsor Sen. Shaheen, Jeanne [D-NH]	Date Introduced 02/08/24 Assigned Committee(s) Senate - Environment and Public Works Hearing(s) Co-sponsors 3 bi-partisan co-sponsors including 1 Democrat from AZ	WSWC Keywords SDWA Congress.gov Link	Summary of Bill A bill to amend the Safe Drinking Water Act to modify eligibility for the State response to contaminants program, and for other purposes.
Bill Number H.R.7241 Bill Title Watershed Protection and Forest Recovery Act of 2024 Passed (S/H) Bill Sponsor Rep. Neguse, Joe [D-CO-2]	Date Introduced 02/07/24 Assigned Committee(s) House - Agriculture Hearing(s) Co-sponsors 3 Democrats including CA, CO, WA 2 Republicans including UT	WSWC Keywords Wildfire, watershed recovery Congress.gov Link https://www.congress.gov/bills/118th-congress/house-bills/7241/	Summary of Bill The bill would create the Emergency Forest Watershed Program and authorize watershed recovery protection measures to protect downstream private property and water resources following natural disasters on USFS lands; Allow Tribes, States, local governments, and water providers to enter into agreements with USFS to implement watershed recovery protection measures; Speed up project timelines and require recovery project to be completed within two years after the conclusion of a natural disaster; and fully fund projects on federal lands by waiving matching requirements.
Bill Number H.R. 7240 Bill Title Fort Belknap Indian Community Water Rights Settlement Act of 2024 Passed (S/H) Bill Sponsor Rep. Rosendale Sr., Matthew M. [R-MT-2]	Date Introduced 02/05/24 Assigned Committee(s) House - Natural Resources Hearing(s) Co-sponsors	WSWC Keywords Indian water rights Congress.gov Link https://www.congress.gov/bills/118th-congress/house-bills/7240/	Summary of Bill To achieve a fair, equitable, and final settlement of claims to water rights in the State of Montana for the Fort Belknap Indian Community of the Fort Belknap Reservation of Montana, and for other purposes. This bill modifies and ratifies a specified water rights settlement agreement entered into by the United States, Montana, and the Fort Belknap Indian Community (i.e., the Gros Ventre and Assiniboine Tribes). The bill requires the community's water rights to be held in trust for the benefit of the community and its allottees. The community must enact a tribal water code to regulate its water rights. Additionally, the bill authorizes the Department of the Interior and the Department of Agriculture (as applicable) to enter negotiations with Montana to exchange certain state lands for federal lands to be held in trust for the benefit of the community. The bill also establishes the Aaniiih Nakoda Settlement Trust Fund (and specified accounts) for purposes of carrying out this bill, establishes the Fort Belknap Indian Community Water Settlement Implementation Fund (and specified accounts) for purposes of carrying out this bill, and provides funding for specified accounts established by the bill.
Bill Number H.R.7241/ S. 2917 Bill Title	Date Introduced 02/05/24 Assigned Committee(s)	WSWC Keywords USDA rural water Congress.gov Link	Summary of Bill The bill would establish an emergency preparedness and response technical assistance program within the U.S. Department of Agriculture to provide grants to assist associations that operate rural water or wastewater systems in preparing for and responding to natural or man-made disasters

Rural Water System Disaster Preparedness and Assistance Act Passed (S/H) Bill Sponsor Rep. Stauber, Pete [R-MN-8]; Sen. Cortez Masto, Catherine [D-NV]	House - Agriculture Senate - Agriculture, Nutrition, and Forestry Hearing(s) Co-sponsors House: 2 Republicans Senate: 1 Republican, 1 Democrat		preparing for and responding to natural or man-made disasters.
Bill Number H.R.7023 Bill Title Creating Confidence in Clean Water Permitting Act Passed (S/H) Bill Sponsor Rep. Rouzer, David [R-NC-7]	Date Introduced 01/31/24 Assigned Committee(s) House - Transportation and Infrastructure Hearing(s) House - 02/06/2024 Placed on the Union Calendar, Calendar No. 306 Co-sponsors	WSWC Keywords CWA, WOTUS Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/7023/	Summary of Bill This bill modifies CWA water quality criteria, the NPDES program, the 404 dredged or fill program, and the meaning of WOTUS. It includes provisions to shield NPDES permit holders from liability under certain circumstances. It also provides statutory authority for the EPA to issue general permits under the program. The EPA must also provide written notification two years before the expiration of a general permit. If notice is not provided by that deadline, then discharges under the expired permit may continue until a new permit is issued. The bill limits EPA's veto authority. The bill also modifies requirements for general permits to discharge dredge or fill material that are issued on a nationwide, regional, or state basis for particular categories of activities, including by extending the maximum term for a general permit from a period of 5 years to 10 years. It also exempts the Corps from certain consultation and environmental review requirements when reissuing nationwide general permits. It directs EPA and the Corps to issue guidance on the implementation of the 2023 WOTUS rule.
Bill Number H.R 7178 Bill Title Water Conservation Economic Adjustment Act Passed (S/H) Bill Sponsor Rep. Titus, Dina [D-NV-1]	Date Introduced 01/31/24 Assigned Committee(s) House Transportation and Infrastructure House Financial Services Hearing(s) Co-sponsors 1 Republican, CA	WSWC Keywords Water supply Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/7178/	Summary of Bill The bill would amend Section 209 of the Public Works and Economic Development Act (PWEDA) of 1965 to include assistance for limiting industrial consumptive water use as an eligible use.
Bill Number H.R. 7065 Bill Title Priority for Water Supply and Conservation Act of 2024 Passed (S/H) Bill Sponsor Rep. Napolitano, Grace F. [D-CA-31]	Date Introduced 01/22/24 Assigned Committee(s) House - Transportation and Infrastructure; Energy and Commerce Hearing(s) Co-sponsors 2 Republicans including CA	WSWC Keywords Water supply Congress.gov Link #REF!	Summary of Bill To include water supply and water conservation as a primary mission of the Corps of Engineers in planning, designing, constructing, modifying, operating, and maintaining water resources development projects, and for other purposes.
Bill Number H.R.7066 Bill Title Defending Against Manipulative Negotiators Act (DAMN) Passed (S/H)	Date Introduced 01/22/24 Assigned Committee(s) House - Natural Resources Hearing(s)	WSWC Keywords Columbia River Basin Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/7065/	Summary of Bill The bill would prohibit the use of federal funds from being used in breaching or altering the Lower Snake River Dams and to prohibit the implementation of the Columbia Basin Restoration Initiative.

Bill Sponsor Rep. Newhouse, Dan [R-WA-4]	Co-sponsors 4 Republicans from OR, WA, ID		
Bill Number H.R.7021 Bill Title Water Quality Criteria Development and Transparency Act Passed (S/H) Bill Sponsor Rep. Owens, Burgess [R-UT-4]	Date Introduced 01/17/24 Assigned Committee(s) House - Transportation and Infrastructure Hearing(s) Co-sponsors 1 Republican	WSWC Keywords CWA water quality criteria Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/7066/	Summary of Bill The bill would amend the CWA to require any new or revised water quality criteria issued by EPA to be expressly subject to Administrative Procedures Act notice and comment rulemaking requirements.
Bill Number H.R.6821 Bill Title Healthy Farms Healthy Watersheds Act of 2023 Passed (S/H) Bill Sponsor Rep. Kaptur, Marcy [D-OH-9]	Date Introduced 12/14/23 Assigned Committee(s) House - Agriculture Hearing(s) Co-sponsors 1 Republican	WSWC Keywords USDA Conservation Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/6821/	Summary of Bill To amend the Food Security Act of 1985 to establish a pilot program that focuses Department of Agriculture conservation funding on reducing the most problematic nutrients in the highest-impact areas, and for other purposes. The bill aims to streamline planning and administration processes under the P.L.566 program the enable more projects, shift decision-making to local NRCS staff, expand program eligibility, and allow federal funding to count toward state and local match requirements. The bill prioritizes projects with multiple conservation and public benefits.
Bill Number H.R. 6093 Bill Title Weather Act Reauthorization Act of 2023 Passed (S/H) Bill Sponsor Rep. Lucas, Frank D. [R-OK-3]	Date Introduced 12/11/23 Assigned Committee(s) House Science, Space, and Technology Hearing(s) House - 12/11/2023 Placed on the Union Calendar, Calendar No. 247 Co-sponsors 16 Republicans including TX, CA, and OK. 13 Democrats including CA, OR, CO	WSWC Keywords Forecasting and S2S Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/6093/	Summary of Bill To improve NOAA's weather research, support improvements in weather forecasting and prediction, expand commercial opportunities for the provision of weather data, and for other purposes. The bill would modernize research programs authorized by the 2017 Weather Act including the National Weather Service (NWS), National Environmental Satellite Data and Information Service (NESDIS), National Centers for Environmental Information (NCEI), and the National Integrated Drought Information System (NIDIS). The bill directs the establishment of new research and development programs related to radar, atmospheric rivers, and coastal flooding. The bill would also authorize the National Oceanic Atmospheric Administration (NOAA) to contract with the private sector to acquire commercial weather data and codify the Commercial Data Program to manage commercial contracting. It also aims to improve emergency weather communication. The bill directs the establishment of pilot programs to improve subseasonal to seasonal research and forecasting and authorizes the National Mesonet Program, and the National Coordinated Soil Moisture Monitoring Network.
Bill Number H.R.6621 Bill Title Rural Uplift and Revitalization Assistance Act Passed (S/H) Bill Sponsor Rep. Davis, Donald G. [D-NC-1]	Date Introduced 12/06/23 Assigned Committee(s) House - Agriculture Hearing(s) Co-sponsors 1 Republican, TX	WSWC Keywords Rural technical assistance Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/6621/	Summary of Bill The bill would authorize USDA to provide technical assistance to strengthen local capacity and improve access to rural development programs for geographically underserved and distressed rural areas directly or through cooperative agreements.
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill

H.R.6599/S.3406 Bill Title No Title Passed (S/H) Bill Sponsor Rep. Leger Fernandez, Teresa [D-NM-3]; Sen. Lujan, Ben Ray [D-NM]	12/05/23 Assigned Committee(s) House - Natural Resources Senate - Indian Affairs Hearing(s) Co-sponsors House: 1 Democrat, NM Senate: 1 Democrat, NM	Indian water rights Congress.gov Link	Technical Corrections to the Northwestern New Mexico Rural Water Projects Act, Taos Pueblo Indian Water Rights Settlement Act, and Aamodt Litigation Settlement Act. The bill would authorize the appropriation of \$6.3 million for the Navajo Nation Water Resources Development Fund; \$7.8 million for the Taos Pueblo Water Development Fund; and \$4.3 million for the Aamodt Settlement Pueblos' Fund, which covers Nambé, Pojoaque, San Ildefonso, and Tesuque Pueblos.
Bill Number S.3366 Bill Title Farmers Freedom Act of 2023 Passed (S/H) Bill Sponsor Sen. Tester, Jon [D-MT]	Date Introduced 11/30/23 Assigned Committee(s) Senate - Energy and Natural Resources Hearing(s) Co-sponsors	WSWC Keywords WOTUS and prior converted cropland Congress.gov Link	Summary of Bill The bill would require EPA to revert to the definition of prior converted cropland (PCC) from the Trump administration's Waters of the United States (WOTUS) rule.
Bill Number H.R.6525/S. 2650 Bill Title Wildfire Resilient Communities Act Passed (S/H) Bill Sponsor Rep. Hoyle, Val T. [D-OR-4]; Sen. Merkley, Jeff [D-OR]	Date Introduced 11/30/23 Assigned Committee(s) Senate - Energy and Natural Resources House - Natural Resources; Agriculture; House Agriculture Subcommittee on Forestry Hearing(s) Co-sponsors House: 7 Democrats from CA, CO, OR, NM Senate: 3 Democrats from CA, OR	WSWC Keywords Wildfires Congress.gov Link	Summary of Bill This bill provides funding to address wildland fire management in certain at-risk communities that are within the vicinity of federal lands that are at high risk from wildfire, to carry out hazardous fuels reduction projects, prioritizing projects that (1) are conducted in areas that are within or adjacent to at-risk communities or high value watersheds, have very high wildfire hazard potential, or are in fire regime I, II, or III; or (2) are designed to integrate and advance two or more of the goals established in a specified wildland fire management report to create fire-adapted communities, to restore and maintain resilient landscapes, and to achieve safe, effective fire response. USDA and DOI shall furnish financial and technical assistance to at-risk communities that are adjacent to federal land, including through states, to assist such communities in planning and preparing for wildfire. The bill makes permanent the Collaborative Forest Landscape Restoration Program. It removes the limits on the number of proposals that may be funded for ecological restoration treatments for priority forest landscapes under the program. The Forest Service may continue to select the number of proposals that are determined likely to receive adequate funding. The bill establishes the County Stewardship Fund for making payments to counties that have a contract for a stewardship contracting project on federal land within their boundaries.
Bill Number H.Res.683/ S.Res.379 Bill Title No Title Passed (S/H) Agreed to in House Bill Sponsor Rep. De La Cruz, Monica [R-TX-15]; Sen. Cruz, Ted [R-TX]	Date Introduced 11/28/23 Assigned Committee(s) House - Foreign Affairs; Senate - Foreign Relations Hearing(s) Co-sponsors House: 47 Republicans including TX, CA, OK, OR, UT, WA; 5 Democrats including TX Senate: 1 Republican from TX	WSWC Keywords Rio Grande, Mexico water deliveries Congress.gov Link	Summary of Bill Expressing support for the diplomatic relations required to encourage the Government of Mexico to fulfill its water deliveries on an annual basis to the United States under the treaty between the United States and Mexico regarding the utilization of the Colorado and Tijuana Rivers and of the Rio Grande.
Bill Number S.3346 Bill Title	Date Introduced 11/27/23 Assigned Committee(s)	WSWC Keywords Wild and Scenic Rivers Congress.gov Link	Summary of Bill The bill would designate stretches of the Gallatin, Madison, and Smith Rivers as Wild and Scenic Rivers, a total of 384 miles of Montana Rivers.

Montana Headwaters Legacy Act Passed (S/H) Bill Sponsor Sen. Tester, Jon [D-MT]	Senate Energy and Natural Resources Hearing(s) Co-sponsors		
Bill Number H.R.6442 Bill Title Fill the Lake Act Passed (S/H) Bill Sponsor Rep. Zinke, Ryan K. [R-MT-1]	Date Introduced 11/15/23 Assigned Committee(s) House Natural Resources Hearing(s) Co-sponsors	WSWC Keywords Water resources Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/6442/	Summary of Bill The legislation would require the Department of Interior to maintain a minimum pool level on Flathead Lake of 2892' MSL (mean sea level) and a maximum of 2893' MSL from June 15th to September 15th of each calendar year
Bill Number S.3292/H.R. 6411 Bill Title IMAGINE Act of 2023 Passed (S/H) Bill Sponsor Sen. Whitehouse, Sheldon [D-RI]; Rep. Magaziner, Seth [D-RI-2]	Date Introduced 11/14/23 Assigned Committee(s) Senate Environment and Public Works; House Transportation and Infrastructure Subcommittee on Water Resources and Environment; House Science, Space, and Technology; House Energy and Commerce Subcommittee on Environment, Manufacturing, and Critical Materials Hearing(s) Co-sponsors	WSWC Keywords Infrastructure Congress.gov Link	Summary of Bill The bill aims to promote research in construction materials and techniques to extend the life of transportation and water infrastructure. The bill would establish the Interagency Innovative Materials Task Force. The National Institute of Standards and Technology (NIST) would chair the Task Force and bring together the Federal Highway Administration (FHWA), the Army Corps of Engineers (Corps), the Environmental Protection Agency (EPA), and other relevant agencies organizations. Along with other transportation infrastructure programs, the bill would authorize \$65M (FY24-FY28) for a grant program at the EPA for the use of innovative materials in the design and installation of wastewater transport and treatment systems, and drinking water treatment and distribution systems in small to medium-sized communities.
Bill Number H.R. 6235/S.3348 Bill Title Harmful Algal Bloom and Hypoxia Research and Control Amendments Act of 2023 Passed (S/H) Bill Sponsor	Date Introduced 11/06/23 Assigned Committee(s) Senate Commerce, Science, and Transportation; House Science, Space, and Technology; House Natural Resources, Subcommittee on Water, Wildlife, and Fisheries Hearing(s) House - 01/18/2024 Subcommittee Hearings Held Co-sponsors	WSWC Keywords HABs Congress.gov Link	Summary of Bill The bill would reauthorize the Harmful Algal Bloom and Hypoxia Research and Control Amendments Act (HABHRCA) of 1998 and aims to improve monitoring, forecasting, prevention, and mitigation of harmful algal blooms and hypoxia by requiring better coordination among task force agencies and state and local entities.

Rep. Bonamici, Suzanne [D-OR-1]; Sen. Sullivan, Dan [R-AK]	House: 2 Democrats including CA; 1 Republican Senate: 4 Democrats including OR; 2 Republicans including AK; 1 Independent		
Bill Number H.R. 6209/S. 2042 Bill Title Sloan Canyon Conservation and Lateral Pipeline Act Passed (S/H) Bill Sponsor Rep. Titus, Dina [D-NV-1]; Sen. Cortez Masto, Catherine [D-NV]	Date Introduced 11/02/23 Assigned Committee(s) Senate Energy and Natural Resources Hearing(s) 12/20/2023: Placed on Senate Legislative Calendar under General Orders. Calendar No. 299. Co-sponsors	WSWC Keywords Infrastructure Congress.gov Link	Summary of Bill The bill would allow a portion of the Southern Nevada Water Authority's (SNWA) Horizon Lateral water pipeline project to tunnel underneath Sloan Canyon National Conservation Area (NCA). The bill would also expand the Sloan Canyon NCA by 9,290 acres.
Bill Number H.R. 5903 Bill Title No Title Passed (S/H) Bill Sponsor Rep. Napolitano, Grace F. [D-CA-31]	Date Introduced 10/25/23 Assigned Committee(s) House - Transportation and Infrastructure Hearing(s) 11/15/2023: Ordered to be Reported in the Nature of a Substitute by Voice Vote. Co-sponsors 2 Democrats, CA 2 Republicans, CA	WSWC Keywords Infrastructure Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/5903/	Summary of Bill To authorize the International Boundary and Water Commission to accept funds for activities relating to wastewater treatment and flood control works, and for other purposes. The bill would authorize the Commission to accept funds from a federal or non-federal entity, including through a grant or funding agreement, to study, design, construct, operate, and maintain wastewater treatment and flood control works and related structures, consistent with the functions of the Commission.
Bill Number H.R. 5983 Bill Title Clean Water Act of 2023 Passed (S/H) Bill Sponsor Rep. Larsen, Rick [D-WA-2]	Date Introduced 10/25/23 Assigned Committee(s) House - Transportation and Infrastructure Hearing(s) Co-sponsors 130 Democrats	WSWC Keywords WOTUS Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/5983/	Summary of Bill To amend the CWA to restore a national minimum standard of protection for the water resources of the United States while providing certainty to regulated entities. The bill would amend the CWA (33 U.S.C. 1251) to change the terms and definition for waters controlled under the CWA. Regulated waters of the United States would be termed "Protected Water Resources" and be defined as: "All waters subject to the ebb and flow of the tide, the territorial seas, and all interstate and intrastate waters (and their tributaries), including lakes, rivers, streams (including intermittent and ephemeral streams), wetlands, and all impoundments of the foregoing, to the fullest extent that these waters are subject to the legislative power of Congress under the Constitution." It would also amend the definition of "wetlands" to mean "those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions."
Bill Number S. 3082 Bill Title Water Quality Certification Improvement Act of 2023 Passed (S/H) Bill Sponsor	Date Introduced 10/19/23 Assigned Committee(s) Senate - Environment and Public Works Hearing(s) Co-sponsors	WSWC Keywords CWA 401 Congress.gov Link	Summary of Bill The bill would establish the scope of section 401 review as limited to water quality impacts only, direct states to only consider discharges from the licensed activity itself, require states to publish clear requirements for water quality certification requests, require states to make final decisions based solely on water quality reasons, and require states to inform a project applicant within 90 days.

Sen. Barrasso, John [R-WY]	4 Republicans including MT, WY, ND, NE		
Bill Number H.R. 5874 Bill Title Transboundary Aquifer Assessment Program Act (TAAP) Passed (S/H) Bill Sponsor Rep. Ciscomani, Juan [R-AZ-6]	Date Introduced 10/03/23 Assigned Committee(s) House - Natural Resources Hearing(s) 01/17/2024: Ordered to be Reported (Amended) by Unanimous Consent. Co-sponsors 1 Democrat, NM 1 Republican	WSWC Keywords Groundwater Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/5874/	Summary of Bill The bill would reauthorize the Transboundary Aquifer Assessment Program (TAAP), a federal program that supports binational research on groundwater security, quantity, and quality in border communities.
Bill Number S. 2994/H.R. 6653 Bill Title Maintaining and Enhancing Hydroelectricity and River Restoration Act of 2023 Passed (S/H) Bill Sponsor Sen. Cantwell, Maria [D-WA]; Rep. Smith, Adrian [R-NE-3]	Date Introduced 09/28/23 Assigned Committee(s) Senate - Finance House - Ways and Means Hearing(s) Co-sponsors Senate: 4 Democrats; 4 Republicans including AK House: 3 Democrats including WA; 2 Republicans	WSWC Keywords Water quality Congress.gov Link	Summary of Bill The bill would establish a 30 percent federal Investment Tax Credit for projects relating to dam safety, fish passage, environmental upgrades, and water quality. The bill also creates a new federal cost-share to incentivize the removal of obsolete river obstructions that harm river ecosystems and impede outdoor recreation. These investments will help restore river health, enhance public safety, and support the benefits of hydroelectricity.
Bill Number H.R. 5756 Bill Title Protect Families from Toxic Algal Blooms Act Passed (S/H) Bill Sponsor Rep. Harder, Josh [D-CA-9]	Date Introduced 09/27/23 Assigned Committee(s) House - Science, Space, and Technology Hearing(s) Co-sponsors 4 Democrats including CA 1 Republican	WSWC Keywords HABs Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/5756/	Summary of Bill To amend the Water Resources Development Act of 2020 to permit the sale of technologies to certain water and irrigation districts to expedite the removal of harmful algal blooms, and for other purposes. The bill would permit the Secretary to enter agreements with water and irrigation districts located in focus areas for the use or sale of technologies to expedite the removal of harmful algal blooms.
Bill Number H.R. 5764 Bill Title Support Water-Efficient Strategies and Technologies Act of 2023 Passed (S/H) Bill Sponsor	Date Introduced 09/27/23 Assigned Committee(s) House - Agriculture, Subcommittee on Conservation, Research, and Biotechnology Hearing(s) Co-sponsors	WSWC Keywords USDA Conservation Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/5764/	Summary of Bill To amend the Food Security Act of 1985 to increase payments for drought-resilient or water-saving practices and to provide additional payments for perennial production systems, and for other purposes. The bill would allow the USDA Secretary to increase cost shares to 85 percent for Environmental Quality Incentives Programs (EQIP) practices that support water-conserving and drought-resilient programs. The bill would also make perennial production systems eligible for supplemental payments within the Conservation Stewardship Program (CSP). It would also allow the Secretary to conduct outreach on the program and offer payments for soil testing.

Rep. Leger Fernandez, Teresa [D-NM-3]	1 Republican, CA 1 Democrat		
Bill Number S. 2928 Bill Title Water Infrastructure Subcontractor and Taxpayer Protection Act of 2023 Passed (S/H) Bill Sponsor Sen. Kelly, Mark [D-AZ]	Date Introduced 09/26/23 Assigned Committee(s) enate - Environment and Public Works Hearing(s) Co-sponsors 1 Republican, ND 1 Democrat	WSWC Keywords WIFIA Congress.gov Link	Summary of Bill To amend the Water Infrastructure Finance and Innovation Act of 2014 to establish payment and performance security requirements for projects, and for other purposes. The bill would require any primary contractor working on water infrastructure projects financed by federally guaranteed loans to hold a surety bond.
Bill Number S.Res.355 Bill Title No Title Passed (S/H) Bill Sponsor Sen. Bennet, Michael F. [D-CO]	Date Introduced 09/21/23 Assigned Committee(s) Senate - Indian Affairs Hearing(s) Co-sponsors 14 Democrats including NM, OR, WA, AZ, CA, CO, MT 1 Independent	WSWC Keywords Clean Water Access for Tribes Congress.gov Link	Summary of Bill Recognizing the critical importance of access to reliable, clean drinking water for Native Americans and affirming the responsibility of the Federal Government to ensure such water access.
Bill Number H.R. 5664 Bill Title Water Infrastructure Finance and Innovation Act Amendments of 2023 Passed (S/H) Bill Sponsor Rep. Schrier, Kim [D-WA-8]	Date Introduced 09/21/23 Assigned Committee(s) House - Transportation and Infrastructure; Energy and Commerce Hearing(s) Co-sponsors 4 Democrats including CA 3 Republicans including WA, CA, OR	WSWC Keywords WIFIA Congress.gov Link https://www.congress.gov/bills/118th-congress/house-bills/5664/	Summary of Bill To reauthorize the Water Infrastructure Finance and Innovation Act of 2014, and for other purposes. The bill would reauthorize the USACE WIFIA program through FY 2027. It would broaden WIFIA funding and extend financing eligibility to state entities, as well as non-federal cost shares in federally involved projects. The bill would authorize the use of collaborative project delivery methods for WIFIA projects, including the construction management at-risk method and design-build methods. It would also allow certain federal water infrastructure loans to have maturity dates of up to 55 years.
Bill Number H.R 5483 Bill Title Securing Access for the central Valley and Enhancing (SAVE) Water Resources Act Passed (S/H) Bill Sponsor Rep. Harder, Josh [D-CA-9]	Date Introduced 09/14/23 Assigned Committee(s) House - Natural Resources Hearing(s) Co-sponsors 4 Democrats from CA	WSWC Keywords Water resources Congress.gov Link https://www.congress.gov/bills/118th-congress/house-bills/5483/	Summary of Bill To promote water supply reliability and improved water management for rural communities, the State of California, and the Nation, and for other purposes. The bill would provide \$250M in water storage funding and expedite a record of decision to move forward on the Los Vaqueros Reservoir Expansion Phase II Project. It would establish a water infrastructure and drought solutions fund to provide \$750 million for water surface and groundwater storage, water reclamation and reuse, and WaterSMART program projects. The bill would also reauthorize the Rural Water Supply Act. Finally, the bill would create a financing program to provide low-interest loans to fund water infrastructure projects, fund WaterSMART programs from \$50M to \$500M and extend the program's authorization. It would also expedite a request from Stockton East Water District to provide water to unserved rural communities in their Central Valley Project service area.
Bill Number S.2781 Bill Title	Date Introduced 09/13/23 Assigned Committee(s)	WSWC Keywords Good Sam Congress.gov Link	Summary of Bill This bill promotes the remediation of abandoned hardrock mine sites by Good Samaritans. A Good Samaritan means a person that is (1) not a past or current owner or operator of the abandoned site; (2) had no role in the creation of the historic mine residue; and (3) is not potentially liable under any law for the remediation, treatment, or control of

Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024 Passed (S/H) Bill Sponsor Sen. Heinrich, Martin [D-NM]	Senate - Environment and Public Works Hearing(s) 01/15/24: Placed on Senate Legislative Calendar under General Orders. Calendar No. 312 Co-sponsors 31 bi-partisan co-sponsors including AK, AZ, CO, ID, MT, NE, ND, OR, SD, WY, CA, NM, OK, UT		the historic mine residue; and (3) is not potentially liable under any law for the remediation, treatment, or control of the historic mine residue. The bill requires the Environmental Protection Agency (EPA) to establish a Good Samaritan pilot program. Under the program, the EPA may issue certain permits to allow Good Samaritans to remediate historic mine residue at abandoned hardrock mine sites without being subject to enforcement or liability under specified environmental laws for past, present, or future releases, threats of releases, or discharges of hazardous substances or other contaminants at or from the abandoned mine site. In addition, the bill establishes a Good Samaritan Mine Remediation Fund for land management agencies that authorize Good Samaritans to conduct remediation projects on federal land.
Bill Number H.Res.683 Bill Title No Title Passed (S/H) House - 11/28/2023: Motion to reconsider laid on the table Agreed to without objection. Bill Sponsor Rep. De La Cruz, Monica [R-TX-15]	Date Introduced 09/13/23 Assigned Committee(s) House - Foreign Affairs Hearing(s) Co-sponsors 47 Republicans including TX, CA, OK, OR, UT, WA 5 Democrats including TX	WSWC Keywords Rio Grande, Mexico water deliveries Congress.gov Link	Summary of Bill This resolution expresses support for the diplomatic relations required to encourage the government of Mexico to make annual water deliveries to the United States under a 1944 treaty between the two countries. The resolution also acknowledges that farmers in south Texas are experiencing water shortages.
Bill Number H.R. 5325 Bill Title Domestic Water Protection Act of 2023 Passed (S/H) Bill Sponsor Rep. GAllego, Ruben [D-AZ-3]	Date Introduced 09/01/23 Assigned Committee(s) House - Ways and Means; Natural Resources Hearing(s) Co-sponsors 1 Democrat, AZ	WSWC Keywords Ag water Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/5325	Summary of Bill The bill would excise a tax on growth of certain water-intensive crops in an area experiencing prolonged drought.
Bill Number H.R.5304 Bill Title Safeguarding Our Levees Act Passed (S/H) Bill Sponsor Rep. Davis, Donald G. [D-NC-1]	Date Introduced 08/29/23 Assigned Committee(s) House Committee on Agriculture, Subcommittee on Conservation, Research, and Biotechnology Hearing(s) Co-sponsors 5 Democrats including CA; 5 Republicans	WSWC Keywords Levees Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/5304/	Summary of Bill The bill would amend the Flood Control Act of 1941 to require the Army Corps of Engineers to rehabilitate broken levees within 180 days, and adjust cost share to 75% federal/25% non-federal for levee improvements.
Bill Number H.R.5250/S.3147 Bill Title	Date Introduced 08/22/23 Assigned Committee(s)	WSWC Keywords Watersheds Congress.gov Link	Summary of Bill To amend the Agricultural Credit Act of 1978 with respect to the emergency watershed program, and for other purposes. The bill would allow project sponsors to use federal funds to improve flood protection above the level that existed at the time of disaster. It would also direct USDA to conduct a national agriculture flood vulnerability study to

Flooding Prevention, Assessment, and Restoration Act of 2023 Passed (S/H) Bill Sponsor Rep. Davis, Donald G. [D-NC-1] ; Sen. Ricketts, Pete [R-NE]	House: Subcommittee on Conservation, Research, and Biotechnology. Senate: Committee on Agriculture, Nutrition, and Forestry. Hearing(s) Co-sponsors House: 5 Democrats including CA; 5 Republicans Senate: 1 Democrat	https://www.congress.gov/bill/118th-congress/house-bill/5250/	existed at the time of disaster. It would also direct USDA to conduct a national agriculture flood vulnerability study to assess flood risk in farmland and rural communities. It also would increase the federal cost share for the Watershed Rehabilitation Program, from 65% to up to 90% for limited-resource areas.
Bill Number H.R. 5243 Bill Title Less Talk More Action Water Modernization Act of 2023 Passed (S/H) Bill Sponsor Rep. Santos, George [R-NY-3]	Date Introduced 08/18/23 Assigned Committee(s) Ways and Means; Appropriations; Energy and Commerce; Transportation and Infrastructure; Natural Resources Hearing(s) Co-sponsors	WSWC Keywords Water projects Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/5243/	Summary of Bill The bill would rescind funds for IRS enforcement and COVID-19 relief and redirect them toward water-related projects
Bill Number H.R. 5104/S.3111 Bill Title National Dam Safety Program Reauthorization Act of 2023 Passed (S/H) Bill Sponsor Rep. Edwards, Chuck [R-NC-11]; Sen. Padilla, Alex [D-CA]	Date Introduced 08/01/23 Assigned Committee(s) Transportation and Infrastructure Hearing(s) Co-sponsors House: 4 Democrats including WA, CA; 4 Republicans including WA Senate: 7 Democrats including CO, OR; 6 Republicans including ND, AK, NE	WSWC Keywords Dam safety Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/5104/	Summary of Bill The bill would reauthorize the National Dam Safety Program Act
Bill Number H.R. 5089 Bill Title Reducing Regulatory Burdens Act of 2023 Passed (S/H) Bill Sponsor Rep. Rouzer, David [R-NC-7]	Date Introduced 07/28/23 Assigned Committee(s) Transportation and Infrastructure; Agriculture Hearing(s) 1/31/24 Ordered to be Reported Co-sponsors 2 Republicans including CA, TX	WSWC Keywords Pesticides Congress.gov Link	Summary of Bill The bill would amend FIFRA and CWA to clarify Congressional intent in the use of pesticides in or near navigable waters
Bill Number H.R. 5088/S. 1987 Bill Title	Date Introduced 07/28/23 Assigned Committee(s)	WSWC Keywords Indian water rights Congress.gov Link	Summary of Bill Ratifies the settlement of the reserved water rights claims of the Fort Belknap Indian Community in Montana. It allocates 20,000 acre-feet per year of Reclamation water stored in Lake Elwell for the Community for any beneficial use on or off the reservation. It provides for mitigation of the Milk River Project in cooperation with Montana and the

H.R.7240	Natural Resources; Indian Affairs	https://www.congress.gov/bill/118th-congress/house-bill/5088/	use on or off the reservation. It provides for mitigation of the Milk River Project in cooperation with Montana and the Blackfeet Tribe with \$300M in funding. It provides for BIA rehabilitation and modernization of the Fort Belknap Indian Irrigation Project in consultation with the Community, with funding of \$415M (228M mandatory). It establishes the Aaniiih Nakoda Settlement Trust Fund with three accounts for (1) irrigation and water resources development (\$89M, \$29M mandatory), (2) administration, operation, and maintenance of water resources and water rights (\$66M mandatory), and (3) clean and safe domestic water and sewer systems (\$157M, \$110M mandatory). The bill acknowledges Montana's contribution of \$5M toward the irrigation and water resources development account after approval of the final decree in the Montana Water Court.
Passed (S/H)	Hearing(s) 7/19/23: SIA hearing; ordered reported with an amendment 07/28/23: Referred to the House Committee on Natural Resources		
Bill Sponsor Rep. Rosendale Sr., Matthew M. [R-MT-2]; Sen. Tester, Jon [D-MT]	Co-sponsors		
Bill Number H.R. 5016/S. 2654	Date Introduced 07/27/23	WSWC Keywords Water efficiency incentive programs	Summary of Bill Directs EPA to establish a grant program for eligible entities with water efficiency incentive programs, with half the grant funds for entities in areas of severe drought and where the Governor has declared a drought emergency. Grants would be up to \$250,000 with at least 40% cost share, with waivers for significant hardship. Authorizes \$50M each for FY24-28. Also directs EPA to establish a technical assistance grant program to support annual audits of public water systems and to implement sustainable water loss control, with \$40M each for FY24-28. Also directs EPA to establish a grant program to assist states, tribes, and local governments to adopt higher standard plumbing codes and implement a plan to comply, including workforce training and enforcement and compliance programs
Bill Title Water Efficiency, Conservation, and Sustainability Act	Assigned Committee(s) Energy and Commerce; Environment and Public Works	Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/5016/	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Levin, Mike [D-CA-49]; Sen. Padilla, Alex [D-CA]	Co-sponsors		
Bill Number H.R. 4959	Date Introduced 07/27/23	WSWC Keywords Dam safety	Summary of Bill Directs the Comptroller General to prepare a report for Congress on the status of dams in the USDA Watershed Program
Bill Title No Title	Assigned Committee(s) Transportation and Infrastructure; Agriculture; Natural Resources	Congress.gov Link	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Van Orden, Derrick [R-WI-3]	Co-sponsors 2 Democrats		
Bill Number S. 2697	Date Introduced 07/27/23	WSWC Keywords Rural drinking water	Summary of Bill Amends the definition of "rural" in the Consolidated Farm and Rural Development Act to populations of less than 20,000 inhabitants to improve access to grants and loans for compliance with drinking water standards.
Bill Title Clean Drinking Water for Rural Communities Act	Assigned Committee(s) Agriculture, Nutrition, and Forestry	Congress.gov Link	
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Feinstein, Dianne [D-CA]	Co-sponsors 1 Democrat, CA		
Bill Number S. 2696	Date Introduced 07/27/23	WSWC Keywords Water efficiency incentive programs	Summary of Bill The bill would amend the Food Security Act to modify a waiver authority for water conservation or irrigation efficiency practice
Bill Title EQIP Water Conservation Act	Assigned Committee(s) Agriculture, Nutrition, and Forestry	Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/2696/	
Passed (S/H)	Hearing(s)		

Bill Sponsor Sen. Feinstein, Dianne [D-CA]	Co-sponsors Democrat, Independent, and Republican co-sponsors from AZ, CA, CO, KS, NM		
Bill Number S. 2636/H.R.6497 Bill Title Healthy Watersheds, Healthy Communities Act Passed (S/H) Bill Sponsor Sen. Bennet, Michael F. [D-CO]; Rep. Ciscomani, Juan [R-AZ-6]	Date Introduced 07/27/23 Assigned Committee(s) Agriculture, Nutrition, and Forestry Hearing(s) 01/24/24: Referred to the Subcommittee on Conservation, Research, and Biotechnology Co-sponsors Senate: 2 Democrats and 1 Republican co-sponsors including NE, OR House: 3 Democrats including CO and 3 Republicans including WY, NE	WSWC Keywords Watersheds Congress.gov Link	Summary of Bill The bill would amend the Watershed Protection and Flood Prevention Act to (1) include drought as a natural resource concern; (2) allow consolidated planning for large or connected watersheds; (3) define irrigation efficiency and water conservation; (4) include irrigation districts as local organizations (making them eligible for assistance); (5) shift project assistance and oversight from national office to local NRCS State Conservationists; (6) give the Secretary the ability to waive financial estimate requirements for natural infrastructure project components; (7) require USDA to make public notifications on project benefits and funding; (8) require USDA to prioritize projects with multiple benefits; and (9) raise the allowable federal contribution to \$50M.
Bill Number S. 2611 Bill Title Snow Survey Northeast Expansion Act Passed (S/H) Bill Sponsor Sen. Shaheen, Jeanne [D-NH]	Date Introduced 07/27/23 Assigned Committee(s) Agriculture, Nutrition, and Forestry Hearing(s) 11/01/23: Committee on Small Business and Entrepreneurship. Hearings held. Co-sponsors 1 Independent, 1 Republican	WSWC Keywords NRCS Snow Survey Congress.gov Link	Summary of Bill Directs NRCS to expand the snow survey and water supply forecasting program to serve the northeastern US
Bill Number S.2226 Bill Title S.Amdt.1084 to S.Amdt.935 Passed (S/H) 7/27/2023 Amendment SA 1084 agreed to in Senate by Voice Vote. Bill Sponsor Sen. Daines, Steve [R-MT]	Date Introduced 07/27/23 Assigned Committee(s) Hearing(s) Co-sponsors 1 Democrat, MT	WSWC Keywords Indian water rights Congress.gov Link	Summary of Bill To provide for the settlement of the water rights claims of the Fort Belknap Indian Community. See H.R.7240
Bill Number H.R. 4913 Bill Title No Title Passed (S/H) Bill Sponsor	Date Introduced 07/26/23 Assigned Committee(s) Science, Space, and Technology Hearing(s) Co-sponsors	WSWC Keywords NOAA forecasting and S2S Congress.gov Link	Summary of Bill The bill would establish a NOAA program to improve precipitation forecasts across all timescales, including modeling for S2S and S2D

Rep. Jackson, Jeff [D-NC-14]			
Bill Number H.R. 4902/S. 2250 Bill Title Voluntary Groundwater Conservation Act Passed (S/H) Bill Sponsor Rep. Caraveo, Yadira [D-CO-8]; Sen. Bennet, Michael F. [D-CO]	Date Introduced 07/26/23 Assigned Committee(s) Agriculture; Agriculture, Nutrition, and Forestry Hearing(s) Co-sponsors House: 2 Democrats from CO, NM; 2 Republicans Senate: 2 Democrats, NM; 1 Republican	WSWC Keywords Congress.gov Link	Summary of Bill The bill would amend the ACEP in the Food Security Act to establish a groundwater conservation easement program to support landowners with groundwater rights to adapt to and reduce reliance on declining groundwater resources, to recharge aquifers, and allow for continued ag production
Bill Number S. 2514 Bill Title Colorado River Salinity Control Fix Act Passed (S/H) Bill Sponsor Sen. Bennet, Michael F. [D-CO]	Date Introduced 07/26/23 Assigned Committee(s) Agriculture, Nutrition, and Forestry Hearing(s) Co-sponsors 5 Democrats including CA, CO, AZ; 3 Republicans including WY, UT; 1 Independent, AZ	WSWC Keywords Congress.gov Link	Summary of Bill The bill modifies the allocation of reimbursible costs for salinity control units on the Colorado River
Bill Number H.R. 4811 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 07/20/23 Assigned Committee(s) Energy and Commerce Hearing(s) Co-sponsors 22 Democrats including CO, CA, OR, WA	WSWC Keywords Congress.gov Link	Summary of Bill Amends the SDWA (42 USC 300h) to require state underground injection programs to include regular testing and reporting of groundwater quality for drinking water sources located within a mile of hydraulic fracturing operations
Bill Number H.R. 4785 Bill Title Fracturing Responsibility and Awareness of Chemicals Act Passed (S/H) Bill Sponsor Rep. DeGette, Diana [D-CO-1]	Date Introduced 07/20/23 Assigned Committee(s) Energy and Commerce Hearing(s) Co-sponsors 24 Democrats including CA, WA, OR	WSWC Keywords Congress.gov Link	Summary of Bill Amends the SDWA (42 USC 300h) to repeal the exemption for hydraulic fracturing, requiring disclosure of fracking chemicals to the State or EPA Administrator
Bill Number H.R. 4778 Bill Title	Date Introduced 07/20/23 Assigned Committee(s)	WSWC Keywords Congress.gov Link	Summary of Bill Amends the CWA (33 USC 1342 and 1362) to eliminate stormwater permit exemptions for oil, gas, and mining operations, and directs DOI to study stormwater impacts associated with oil and gas operations, including impacts to groundwater

Focused Reduction of Effluence and Stormwater runoff through Hydrofracking Environmental Regulation (FRESHER) Act Passed (S/H) Bill Sponsor Rep. Cartwright, Matt [D-PA-8]	T&I Hearing(s) Co-sponsors 27 Democrats including CA, OR, CO, AZ, WA		groundwater
Bill Number H.R. 4746/S. 2385 Bill Title Tribal Access to Clean Water Act Passed (S/H) Bill Sponsor Rep. Neguse, Joe [D-CO-2]; Bennet, Michael F. [D-CO]	Date Introduced 07/19/23 Assigned Committee(s) Natural Resources; Energy and Commerce; Agriculture; Indian Affairs Hearing(s) 09/19/23 Referred to the Subcommittee on Commodity Markets, Digital Assets, and Rural Development Co-sponsors House: 14 Democrats including NM, CA, NV, CO, OR Senate: 6 Democrats including NM, CO, OR, CA 2 Independents	WSWC Keywords Congress.gov Link	Summary of Bill Authorizes funding and extends authorizations for existing USDA, Reclamation, and Indian Health Services programs to provide access to reliable, clean, and drinkable water on tribal lands
Bill Number S. 2388/H.R. 3809 Bill Title Cybersecurity for Rural Water Systems Act Passed (S/H) Bill Sponsor Sen. Cortez Masto, Catherine [D-NV]; Rep. Davis, Donald G. [D-NC-1]	Date Introduced 07/19/23 Assigned Committee(s) Agriculture, Nutrition, and Forestry; House Agriculture Hearing(s) Co-sponsors House: 4 Republican sponsors, and 3 Democrat sponsors including CA Senate: 1 Independent and 1 Republican including SD	WSWC Keywords Congress.gov Link	Summary of Bill Would amend the Consolidated Farm and Rural Development Act to establish a cybersecurity circuit rider program to provide cybersecurity-related technical assistance to certain entities that operate rural water or wastewater systems
Bill Number H.R. 4643 Bill Title Nogales Wastewater Improvement Act Passed (S/H)	Date Introduced 07/14/23 Assigned Committee(s) Transportation and Infrastructure Hearing(s)	WSWC Keywords Congress.gov Link	Summary of Bill To provide for the assumption of full ownership and control of the International Outfall Interceptor in Nogales, Arizona, by the International Boundary and Water Commission

Bill Sponsor Rep. Grijalva, Raúl M. [D-AZ-7]	Co-sponsors 1 Democrat and 1 Republican, AZ		
Bill Number H.R. 4629/H.R. 4596/S. 2247/H.R. 3918 Bill Title Upper Colorado and San Juan River Basins Endangered Fish Recovery Programs Reauthorization Act Passed (S/H) Bill Sponsor Rep. Neguse, Joe [D-CO-2]; Rep. Boebert, Lauren [R-CO-3] ; Sen. Hickenlooper, John W. [D-CO]	Date Introduced 07/13/23 Assigned Committee(s) Natural Resources; Energy and Natural Resources Hearing(s) 09/20/23: H.R.4596 Ordered to be Reported by Unanimous Consent Co-sponsors House: 8 Republicans from WY, CO, CA, AZ, TX, WA Senate: 3 Democrats including NM, CO; 1 Republican, UT	WSWC Keywords Congress.gov Link	Summary of Bill To reauthorize the Bureau of Reclamation to provide cost-shared funding to implement the endangered and threatened fish recovery programs for the Upper Colorado and San Juan River Basins.
Bill Number H.R. 4540 Bill Title Water Infrastructure Enhancement Act Passed (S/H) Bill Sponsor Rep. Cuellar, Henry [D-TX-28]	Date Introduced 07/11/23 Assigned Committee(s) Energy and Commerce Hearing(s) 7/14/23: Referred to the Subcommittee on Environment, Manufacturing, and Critical Materials Co-sponsors 3 Democrats including NM 3 Republicans including TX	WSWC Keywords Congress.gov Link	Summary of Bill Amends the SDWA to establish a grant program for water suppliers to make infrastructure improvements to public water systems, and authorizes \$800M for each of FY24-29
Bill Number H.R. 4356/S. 2927 Bill Title WaterSMART Access for Tribes Act Passed (S/H) Bill Sponsor Rep. Stansbury, Melanie Ann [D-NM-1], Sen. Lujan, Ben Ray [D-NM]	Date Introduced 06/23/23 Assigned Committee(s) Natural Resources Hearing(s) Co-sponsors House: 6 Democrats including NM, CA Senate: 2 Democrats including NV, CO	WSWC Keywords Congress.gov Link	Summary of Bill Amends the WaterSMART program to authorize DOI to waive the non-Federal share of infrastructure improvements for Indian tribes if the cost share would cause financial hardship
Bill Number H.R. 4297/S. 2156 Bill Title Bolts Ditch Act Passed (S/H) Bill Sponsor	Date Introduced 06/22/23 Assigned Committee(s) Natural Resources; Energy and Natural Resources Hearing(s) Co-sponsors	WSWC Keywords Congress.gov Link	Summary of Bill To amend the John D. Dingell, Jr. Conservation, Management, and Recreation Act to allow for additional entities to be eligible to complete the maintenance work on Bolts Ditch and the Bolts Ditch Headgate within the Holy Cross Wilderness, Colorado.

Rep. Neguse, Joe [D-CO-2]; Bennet, Michael F. [D-CO]	Sen.	House: 1 Republican, CO Senate: 1 Democrat, CO		
Bill Number H.R. 4290/S. 2077 Bill Title Acequia Communities Empowered by Qualifying Upgrades for Infrastructure Act Passed (S/H) Bill Sponsor Rep. Leger Fernandez, Teresa [D-NM-3]; Sen. Lujan, Ben Ray [D-NM]	Date Introduced 06/22/23 Assigned Committee(s) Agriculture; Natural Resources; Agriculture, Nutrition, and Forestry Hearing(s) Co-sponsors House: 2 Democrats, NM Senate: 1 Republican, TX	WSWC Keywords Congress.gov Link	Summary of Bill To amend the Federal Agriculture Improvement and Reform Act of 1996 to ensure that producers who rely on acequia systems have access to drought protections	
Bill Number S.2202 Bill Title Restore Aging Infrastructure Now (RAIN) Act Passed (S/H) Bill Sponsor Sen. Feinstein, Dianne [D-CA]	Date Introduced 06/22/23 Assigned Committee(s) Energy and Natural Resources Hearing(s) 7/19/23: Committee on Energy and Natural Resources Subcommittee on Water and Power. Hearings Held. Co-sponsors Senate: 1 Democrat, CA	WSWC Keywords Congress.gov Link	Summary of Bill The bill would authorize the modification of transferred works to improve water quality for drinking water, to increase the reliability or quantity of the drinking water supply of disadvantaged communities, and other project benefits as part of extraordinary operation and maintenance work	
Bill Number S. 2169 Bill Title Watershed Results Act Passed (S/H) Bill Sponsor Sen. Wyden, Ron [D-OR]	Date Introduced 06/22/23 Assigned Committee(s) Energy and Natural Resources Hearing(s) Co-sponsors	WSWC Keywords Congress.gov Link	Summary of Bill Directs DOI to establish 2-5 pilot watershed projects in Reclamation states, Alaska, and Hawaii, in consultation with states, tribes, and others, with a cross-agency funding strategy to achieve the outcomes of (1) a quantifiable increase in surface water or groundwater; (2) an increase in habitat; or (3) other quantifiable watershed benefits. The bill would waive cost-share requirements, and establishes a process for recommending permanent funding for permanent projects. Authorizes \$15M for each watershed pilot for each of FY24-29, and another \$2M to carry out advanced watershed analytics for each pilot for each of FY24-26.	
Bill Number S. 2162 Bill Title Support To Rehydrate the Environment, Agriculture, and Municipalities (STREAM) Act Passed (S/H) Bill Sponsor Sen. Feinstein, Dianne [D-CA]	Date Introduced 06/22/23 Assigned Committee(s) Energy and Natural Resources Hearing(s) 7/19/23: ENR Subcommittee hearing Co-sponsors 1 Democrat, AZ 1 Independent, AZ	WSWC Keywords Congress.gov Link	Summary of Bill Provides authorizations for Reclamation state storage and conveyance projects, water recycling, desalination, drinking water assistance for disadvantaged communities, O&M work, drought resilience, dam safety, improved technology and data, ecosystem restoration, and modifications to drought program. Authorizes over \$1.65B for FY25-29	
Bill Number S. 2161 Bill Title	Date Introduced 06/22/23 Assigned Committee(s)	WSWC Keywords Congress.gov Link	Summary of Bill To provide financial assistance for projects to address certain subsidence impacts in the State of California	

Canal Conveyance Capacity Restoration Act Passed (S/H) Bill Sponsor Sen. Feinstein, Dianne [D-CA]	Energy and Natural Resources Hearing(s) Co-sponsors		
Bill Number S. 2160/ H.R. 6107 Bill Title Urban Canal Modernization Act Passed (S/H) Bill Sponsor Sen. Risch, James E. [R-ID]; Rep. Simpson, Michael K. [R-ID-2]	Date Introduced 06/22/23 Assigned Committee(s) Energy and Natural Resources Hearing(s) 7/19/23: ENR Subcommittee hearing 11/14/23: House-Natural Resources, Subcommittee Hearings Held Co-sponsors House: 2 Republicans from ID, WA Senate: 1 Democrat, OR; 1 Republican, ID	WSWC Keywords Congress.gov Link	Summary of Bill Authorizes O&M work for urban canals for at-risk populations.
Bill Number S. 2130 Bill Title PFAS Community Engagement and Transparency Act Passed (S/H) Bill Sponsor Sen. Shaheen, Jeanne [D-NH]	Date Introduced 06/22/23 Assigned Committee(s) Armed Services Hearing(s) Co-sponsors	WSWC Keywords Congress.gov Link	Summary of Bill To require community engagement and reporting relating to activities of the Department of Defense with respect to PFAS
Bill Number H.R. 4247 Bill Title Flood Prevention and Snowpack Management Act Passed (S/H) Bill Sponsor Rep. Harder, Josh [D-CA-9]	Date Introduced 06/21/23 Assigned Committee(s) T&I Hearing(s) Co-sponsors 3 Democrats, CA	WSWC Keywords Congress.gov Link	Summary of Bill Directs the Corps to establish a Task Force with FEMA, Reclamation, NOAA, California representatives and agencies and tribes, develop a plan of action for snowpack melt, flood mitigation and recovery, and expediting water storage projects to capture water from the snowpack and alleviate future drought conditions.
Bill Number S. 2102 Bill Title Water for Conservation and Farming Act Passed (S/H) Bill Sponsor Sen. Wyden, Ron [D-OR]	Date Introduced 06/21/23 Assigned Committee(s) Energy and Natural Resources Hearing(s) 7/19/23: ENR Subcommittee hearing Co-sponsors Sen. Merkley, Jeff [D-OR]	WSWC Keywords Congress.gov Link	Summary of Bill Title I of the bill provides for drought preparedness and improved water supply reliability. It creates a new Bureau of Reclamation Infrastructure Fund which would transfer \$300M a year for FY35-65 directly from the Reclamation Fund, with a third of those funds expended by DOI for each of (1) reclamation and reuse projects, (2) water management improvement grants, and (3) Reclamation dam safety. It would increase WaterSMART funding from \$820M to \$1B and expend the program to include temporary, voluntary, and compensated transactions to decrease consumptive uses at a watershed scale; and to include enhancing natural water storage in floodplains and riparian wetlands.

Bill Number H.R. 4213/S. 1224 Bill Title Conservation Reserve Enhancement Program Improvement Act Passed (S/H) Bill Sponsor Rep. Buck, Ken [R-CO-4]; Sen. Bennet, Michael F. [D-CO]	Date Introduced 06/20/23 Assigned Committee(s) Agriculture Hearing(s) 8/21/23: Referred to the Subcommittee on Conservation, Research, and Biotechnology. Co-sponsors House: 1 Democrat, CO Senate: 1 Democrat, CO; 2 Republicans	WSWC Keywords Congress.gov Link	Summary of Bill Amends the Food Security Act to modify CREP, including setting payment rates for retired water rights under drought and water conservation agreements to be equal to the irrigated acre payment rates determined by USDA.
Bill Number H.R. 4197/S. 202 Bill Title Collaborative Forest Landscape Restoration Program Reauthorization Act Passed (S/H) Bill Sponsor Rep. Neguse, Joe [D-CO-2]; Sen. Merkley, Jeff [D-OR]	Date Introduced 06/16/23 Assigned Committee(s) Agriculture; Natural Resources Hearing(s) 08/21/2023 Referred to the Subcommittee on Forestry Co-sponsors House: 2 Democrats from WA, OR Senate: 3 Democrats including OR, CO, MT; 2 Republicans, ID	WSWC Keywords Congress.gov Link	Summary of Bill Reauthorizes the program and adds eligibility to criteria for proposals that (1) seek to use innovative implementation such as good neighbor agreements and conservation finance agreements; (2) seek to reduce the risk of uncharacteristic wildfire or increase ecological restoration activities within lands that cross state, tribal, and private boundaries; or (3) that seek to enhance watershed health and drinking water sources.
Bill Number H.R. 4094/S. 1955 Bill Title Great Salt Lake Stewardship Act Passed (S/H) Bill Sponsor Rep. Curtis, John R. [R-UT-3]; Sen. Lee, Mike [R-UT]	Date Introduced 06/14/23 Assigned Committee(s) Natural Resources; Energy and Natural Resources Hearing(s) 7/19/23: SENR hearing 11/15/2023: House, Ordered to be Reported by Unanimous Consent 12/14/23: Senate, Ordered to be reported with amendments favorably Co-sponsors House: 4 Republicans, UT Senate: 1 Republican, UT	WSWC Keywords Congress.gov Link	Summary of Bill Authorizes the Central Utah Project to expend funds toward water conservation measures for the benefit of the downstream Great Salt Lake basin
Bill Number H.R. 4069 Bill Title Protecting Coasts and Cities from Severe Weather Act Passed (S/H) Bill Sponsor	Date Introduced 06/13/23 Assigned Committee(s) Science, Space, and Technology Hearing(s) Co-sponsors	WSWC Keywords Congress.gov Link	Summary of Bill Directs NOAA to establish a coastal flooding and storm surge forecast improvement program that prioritizes real-time prediction of the ocean's role in coastal flooding and storm surge events, improvements in mitigating impacts, and utilizes distributed sensors to easily incorporate data into models. It also directs NOAA to work with FEMA and others to ensure equal and complete weather observation coverage and emergency information sharing in the United States, including advancing weather forecasting and climate modeling at urban scales, and supporting interagency pilot projects to accelerate coordination and use of localized weather data such as mesonets for emergency management decisions and infrastructure operators.

Rep. Kean, Thomas H. [R-NJ-7]	1 Republican		
Bill Number H.R. 4052 Bill Title National Infrastructure Bank Act Passed (S/H) Bill Sponsor Rep. Davis, Danny K. [D-IL-7]	Date Introduced 06/13/23 Assigned Committee(s) 7 House committees Hearing(s) Co-sponsors 26 Democratic co-sponsors, including CA, NM, WA	WSWC Keywords Congress.gov Link	Summary of Bill The Congressional findings include the ASCE 2021 report card estimating the costs of various infrastructure needs, including (1) drinking water, wastewater, and stormwater systems (\$801M), (2) dams, levees, inland waterways, and ports (\$197M, and (3) major new water supply projects (\$400M). The bill proposes a national bank to finance various infrastructure needs, including water infrastructure. It authorizes \$100M for FY23-24 to get the bank started.
Bill Number H.R. 4018/S.1853 Bill Title Headwaters Protection Act Passed (S/H) Bill Sponsor Rep. Costa, Jim [D-CA-21]; Sen. Bennet, Michael F. [D-CO]	Date Introduced 06/12/23 Assigned Committee(s) Agriculture; Natural Resources Hearing(s) Co-sponsors House: 5 Democrat and 2 Republican Co-Sponsors including from CA, OR, NM, CO, WA Senate: 6 Democrats including CA, NM, AZ, CO, OR; 2 Republicans including ID; 1 Independent, AZ	WSWC Keywords Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/4018	Summary of Bill To amend the Healthy Forests Restoration Act of 2003 to reauthorize and improve the Water Source Protection Program. Priority projects include risk management benefits for drought, wildfire, flooding, and minimizing risks to watershed health, water supply and quality, water-related infrastructure (including municipal and ag systems), and include contributions of funds or in-kind or leadership support from non-federal partners. It authorizes \$30M for each of FY24-28.
Bill Number H.R. 4017/S.174 Bill Title Conservation Reserve Program Improvement Act Passed (S/H) Bill Sponsor Rep. Costa, Jim [D-CA-21]; Sen. Thune, John [R-SD]	Date Introduced 06/12/23 Assigned Committee(s) Agriculture Hearing(s) Co-sponsors House: 1 Democrat, CA; 1 Republican Senate: 1 Democrat; 1 Republican, SD	WSWC Keywords Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/4017	Summary of Bill Revises the CRP to permanently establish a continuous enrollment procedure for the State Acres for Wildlife Enhancement Initiative. Provides federal cost sharing payments for grazing infrastructure on CRP contracts and practices where grazing is included in the conservation plan, and for other plans not related to haying or grazing. It increases the annual rental payment limitation from \$50,000 to \$125,000.
Bill Number H.R. 3980 Bill Title National Oceanic and Atmospheric Administration Act Passed (S/H) Bill Sponsor Rep. Lucas, Frank D. [R-OK-3]	Date Introduced 06/09/23 Assigned Committee(s) Science, Space, and Technology; Natural Resources Hearing(s) Co-sponsors 13 Republican co-sponsors, including CA, OK, TX	WSWC Keywords Congress.gov Link	Summary of Bill The bill would create NOAA as an independent science research and development agency
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill

H.R. 3977/S. 1898 Bill Title Navajo-Gallup Water Supply Project Amendments Act Passed (S/H) Bill Sponsor Rep. Leger Fernandez, Teresa [D-NM-3]; Sen. Lujan, Ben Ray [D-NM]	06/09/23 Assigned Committee(s) Natural Resources; Indian Affairs Hearing(s) 7/12/23: SIA hearing Co-sponsors 2 Democrats, NM 1 Republican, UT	Congress.gov Link	The bill would amend the CWA to require a certain percentage of funds appropriated for SRF grants to be used for green projects, water or energy efficiency improvements, or other environmentally innovative activities.
Bill Number H.R. 3972 Bill Title Flood Resiliency and Land Stewardship Act Passed (S/H) Bill Sponsor Rep. Hinson, Ashley [R-IA-2]	Date Introduced 06/09/23 Assigned Committee(s) Agriculture Hearing(s) Co-sponsors House: 1 Democrat; 2 Republicans	WSWC Keywords Congress.gov Link	Summary of Bill To amend the Food Security Act of 1985 to add flood prevention and mitigation measures to purposes of the Regional Conservation Partnership Program
Bill Number H.R. 3966 Bill Title Improving Atmospheric River Forecasts Act Passed (S/H) Bill Sponsor Rep. Garcia, Mike [R-CA-27]	Date Introduced 06/09/23 Assigned Committee(s) Science, Space, and Technology Hearing(s) Co-sponsors 1 Republican, CA	WSWC Keywords Congress.gov Link	Summary of Bill The bill directs NOAA to establish at least one pilot project within OAR's US Weather Research Program to carry out the activities to implement the recommendations in the 2018 NWS report on "Seasonal to Subseasonal Forecasting Innovation: Plans for the 21st Century."
Bill Number H.R. 3954/S. 1874 Bill Title Water and Agriculture Tax Reform Act Passed (S/H) Bill Sponsor Rep. Buck, Ken [R-CO-4]; Sen. Crapo, Mike [R-ID]	Date Introduced 06/09/23 Assigned Committee(s) House Ways and Means; Senate Finance Hearing(s) Co-sponsors House: 2 Republicans including WA and UT. 1 Democrat, CO Senate: 4 Republicans including ID, WY, MT 1 Democrat, CO	WSWC Keywords Congress.gov Link	Summary of Bill To amend the Internal Revenue Code of 1986 to facilitate water leasing and water transfers to promote conservation and efficiency.
Bill Number S. 1764/H.R.482 Bill Title Western Wildfire Support Act Passed (S/H)	Date Introduced 05/31/23 Assigned Committee(s) Energy and Natural Resources Hearing(s)	WSWC Keywords Congress.gov Link	Summary of Bill The bill is to improve activities relating to wildfires, including preparation and post-wildfire mitigation. Section 302 establishes a Long-Term Burned Area Recovery Account (\$100M annually) for rehabilitation projects between 1-3 years after a wildfire, with a priority on downstream effects on water resources

Bill Sponsor Sen. Cortez Masto, Catherine [D-NV]; Rep. Neguse, Joe [D-CO-2]	10/25/2023: Committee on Energy and Natural Resources Subcommittee on Public Lands, Forests, and Mining. Hearings held. Co-sponsors House: 4 Democrats including CA, NV		
Bill Number H.R. 3746 Bill Title Fiscal Responsibility Act Passed (S/H) 5/31/23: House passed 314-117 6/1/23: Senate passed 63-36 6/3/23: President signed into law, P.L. 118-5 Bill Sponsor Rep. McHenry, Patrick T. [R-NC-10]	Date Introduced 05/29/23 Assigned Committee(s) 15 Committees Hearing(s) Co-sponsors	WSWC Keywords Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/3746	Summary of Bill The bill will raise the debt ceiling, temporarily suspend the debt limit, impose caps on discretionary funding in FY24-25 enforced by sequestration, rescind unobligated balances, and make further changes affecting spending and revenues. It also amends provisions of existing law that regulate the permitting of proposed energy-related projects. Division C, Title III on permitting reform would amend the National Environmental Policy Act (NEPA) regarding: (1) thresholds for NEPA review; (2) the designation of lead agencies to coordinate cross-agency NEPA reviews; (3) categorical exclusions; and (4) adding energy storage to the projects covered by the FAST-41 program. It directs the CEQ to study the potential for online and digital technologies to address delays in NEPA reviews, including the creation of a unified online permitting portal that would allow applicants to submit required documents, to track progress, and to work with agencies to upload and edit documents in real-time. Section 324 directed the expedited completion of the Mountain Valley Pipeline (MVP), a 303-mile interstate natural gas. Congress directed the Army Corps of Engineers under subsection (d) to issue all permits or verifications necessary "to complete the construction of the [MVP] across the waters of the United States," notwithstanding any other provision of law, within 21 days of enactment of H.R. 3746. Division B, Title I, rescinded many ARPA (P.L. 117-2) funds. Section 57 rescinded the unobligated balance of the \$500M appropriated for state and tribal drinking water and wastewater grants for
Bill Number H.R. 3675 Bill Title Western Water Accelerated Revenue Repayment Act Passed (S/H) Bill Sponsor Rep. Boebert, Lauren [R-CO-3]	Date Introduced 05/25/23 Assigned Committee(s) Natural Resources Hearing(s) 07/26/23 Ordered to be Reported in the Nature of a Substitute (Amended) by the Yeas and Nays (22-14) Co-sponsors 9 Republicans including WY, WA, AZ, MT, TX, CO, CA	WSWC Keywords Congress.gov Link	Summary of Bill Amends WIIN (PL 114-322) section 4013 to extend contract prepayment authority
Bill Number H.R. 3568/S.1718 Bill Title Primacy Certainty Act Passed (S/H) Bill Sponsor Rep. Crenshaw, Dan [R-TX-2]; Sen. Sullivan, Dan [R-AK]	Date Introduced 05/22/23 Assigned Committee(s) Energy and Commerce; Environment and Public Works Hearing(s) Co-sponsors House: 7 Republicans including TX, AZ, UT Senate: 2 Republicans including WY, NE	WSWC Keywords Congress.gov Link	Summary of Bill Amends the SDWA to clarify EPA's timeline for making decisions on the approval or disapproval of State underground injection control programs. It requires EPA to provide notice to the State within 180 days of the application or notice on the status of the review, the reason a decision has not yet been made, and an itemized list of specific deficiencies with the State's application or notice to be addressed to receive approval of the application or notice. It would create automatic approval of complete applications or notices if EPA doesn't approve or disapprove within 30 days of the 180-day period.
Bill Number H.R. 3490 Bill Title Water Infrastructure Modernization Act	Date Introduced 05/18/23 Assigned Committee(s) T&I, Energy and Commerce	WSWC Keywords Congress.gov Link	Summary of Bill Amends the CWA and SDWA to authorize grants for smart water infrastructure technology for drinking water, wastewater, and stormwater systems, to support modernization of POTWs and drinking water systems, and to encourage use of water-efficient technologies to address drought and prepare for the strain of growing populations and climate change on over-allocated water supplies

Passed (S/H) Bill Sponsor Rep. Gallego, Ruben [D-AZ-3], Rep. Duarte, John S. [R-CA-13]	Hearing(s) Co-sponsors		and climate change on over allocated water supplies
Bill Number S. 1715/H.R. 3439/S.188 Bill Title Wildfire Emergency Act Passed (S/H) Bill Sponsor Sen. Feinstein, Dianne [D-CA]; Rep. Panetta, Jimmy [D-CA-19]	Date Introduced 05/18/23 Assigned Committee(s) Agriculture, Nutrition, and Forestry; 4 House committees Hearing(s) Co-sponsors House: 8 Democrats including CA, OR Senate S.1715: 3 Democrats including CA, OR; 1 Republican, UT Senate S.188: 2 Democrats including CA, OR; 1 Republican MT	WSWC Keywords Congress.gov Link	Summary of Bill Directs USDA to select and implement landscape-scale forest restoration projects, to assist communities in increasing their resilience to wildfire
Bill Number H.R. 3424 Bill Title Forest Conservation Easement Program Act Passed (S/H) Bill Sponsor Rep. Kelly, Trent [R-MS-1]	Date Introduced 05/17/23 Assigned Committee(s) Agriculture Hearing(s) Co-sponsors House: 9 Democrats including OR, WA, CA; 6 Republicans	WSWC Keywords Congress.gov Link	Summary of Bill Directs USDA to establish the forest conservation easement program to, among other things, protect and restore watersheds for water quality and quantity improvements
Bill Number H.R. 3167/S.115 Bill Title Clean Water Allotment Modernization Act Passed (S/H) Bill Sponsor Rep. Waltz, Michael [R-FL-6]; Sen. Rubio, Marco [R-FL]	Date Introduced 05/09/23 Assigned Committee(s) T&I Hearing(s) Co-sponsors House: 7 Republicans Senate: 1 Democrat, AZ; 1 Republican	WSWC Keywords Congress.gov Link	Summary of Bill Revises EPA's allocation formula for distributing SRF funds for water quality infrastructure projects. The initial allotment for FY24-28 must be no less than the amount received by each state in FY23, with additional allotments based on each state's share of the US population. The formula must also provide allotments for tribes and territories, and an allotment for EPA's oversight of American iron and steel requirements. Beginning in FY29, EPA must use an updated allotment formula base on the needs of states as identified in the most recently available clean watersheds needs survey.
Bill Number S. 1430 Bill Title Water Systems PFAS Liability Protection Act Passed (S/H)	Date Introduced 05/03/23 Assigned Committee(s) Environment and Public Works Hearing(s)	WSWC Keywords Congress.gov Link	Summary of Bill The bill would exempt state and local water entites (POTWs, municipalities with 402 permits for stormwater discharges, water agencies, public water systems, and contractors performing management or disposal activities) from CERCLA liability for PFAS releases.

Bill Sponsor Sen. Lummis, Cynthia M. [R-WY]	Co-sponsors 7 Republicans including AK, NE, ND, OK		
Bill Number H.R.3027 Bill Title Reclamation Climate Change and Water Program Reauthorization Act Passed (S/H) Bill Sponsor Rep. Porter, Katie [D-CA-47]	Date Introduced 04/28/23 Assigned Committee(s) Natural Resources Hearing(s) Subcommittee Hearings Held (6/14/2023) Co-sponsors 9 Democrat co-sponsors (including NM, OR, CA, AZ)	WSWC Keywords SECURE Water Act Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/3027	Summary of Bill Originally authorized in the 2009 Omnibus Public Land Management Act, under the SECURE Water Act §9503(c), the program coordinates the efforts of the Bureau of Reclamation, the U.S. Geological Survey (USGS), the U.S. Department of Agriculture (USDA), the National Oceanic and Atmospheric Administration (NOAA), and other federal and state agencies to address the risks of climate change to water scarcity in watersheds with Reclamation facilities. The program is used to develop strategies to manage water supply, potential shortages and water delivery to contractors, conflicts, and impacts to water uses and the environment. Reclamation reports to Congress every five years with the West-Wide Climate and Hydrology Assessment, which provides estimates of changes in temperature, precipitation, snowpack, and streamflow across the West.
Bill Number H.R. 2921 Bill Title Water Infrastructure Sustainability and Efficiency (WISE) Act Passed (S/H) Bill Sponsor Rep. Williams, Nikema [D-GA-5]	Date Introduced 04/26/23 Assigned Committee(s) Transportation and Infrastructure Hearing(s) Co-sponsors 1 Democrat co-sponsor	WSWC Keywords SRFs Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/2921	Summary of Bill The bill would amend the CWA to require a certain percentage of funds appropriated for SRF grants to be used for green projects, water or energy efficiency improvements, or other environmentally innovative activities.
Bill Number H.R. 2811 Bill Title Limit, Save, Grow Act Passed (S/H) 4/26/23: Passed House 217-215 Senate - 05/04/2023 Committee on the Budget. Hearings held Bill Sponsor Rep. Arrington, Jodey C. [R-TX-19]	Date Introduced 04/25/23 Assigned Committee(s) 11 Committees Hearing(s) 5/4/23: Senate Budget Hearing Co-sponsors 19 Republican co-sponsors (including CA, OK, TX, UT, WA)	WSWC Keywords CWA 401 Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/2811	Summary of Bill The bill would provide for an increase to the debt ceiling. It also incorporates H.R. 1, including the provisions on amending CWA 401 State Certifications
Bill Number S. 1224/H.R.4213 Bill Title Conservation Reserve Enhancement Program Improvement Act Passed (S/H) Bill Sponsor	Date Introduced 04/20/23 Assigned Committee(s) Agriculture, Nutrition, and Forestry Hearing(s) Co-sponsors	WSWC Keywords Farm Bill Conservation Programs Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/1224	Summary of Bill To amend the Food Security Act of 1985 to modify the CREP.

Sen. Bennet, Michael F. [D-CO]; Rep. Buck, Ken [R-CO-4]	Senate: 2 Republicans; 1 Democrat, CO House: 1 Democrat, CO		
Bill Number H.R. 2787 / S. 1233 Bill Title No Title Passed (S/H) Bill Sponsor Rep. Sewell, Terri A. [D-AL-7] Sen. Booker, Cory A. [D-NJ]	Date Introduced 04/20/23 Assigned Committee(s) Agriculture Hearing(s) Co-sponsors 2 Republican co-sponsors	WSWC Keywords Infrastructure Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/2787	Summary of Bill To amend the Consolidated Farm and Rural Development Act to modify provisions relating to rural decentralized water systems grants.
Bill Number H.R. 2671 Bill Title Restoring WIFIA Eligibility Act Passed (S/H) Bill Sponsor Rep. Costa, Jim [D-CA-21]	Date Introduced 04/18/23 Assigned Committee(s) T&I, Energy and Commerce Hearing(s) Co-sponsors 1 Republican, UT	WSWC Keywords WIFIA Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/2671	Summary of Bill To amend the Water Infrastructure Finance and Innovation Act of 2014 with respect to budgetary treatment of certain amounts of financial assistance
Bill Number H.R.2521 Bill Title Clean Drinking Water Equity Act Passed (S/H) Bill Sponsor Rep. Ruiz, Raul [D-CA-25]	Date Introduced 04/14/23 Assigned Committee(s) House Energy and Commerce Subcommittee on Environment, Manufacturing, and Critical Materials Hearing(s) Co-sponsors	WSWC Keywords Congress.gov Link	Summary of Bill To amend the Safe Drinking Water Act with respect to assistance for disadvantaged communities, and for other purposes. This bill revises the drinking water state revolving fund (SRF) program to increase the cap on the total amount of loan subsidies that states may give to assist disadvantaged communities. The drinking water SRF program is a financial assistance program to help water systems and states achieve the health protection objectives of the Safe Drinking Water Act.
Bill Number H.R. 2461 Bill Title San Juan Southern Paiute Tribal Homelands Act Passed (S/H) Bill Sponsor Rep. Crane, Elijah [R-AZ-2]	Date Introduced 04/03/23 Assigned Committee(s) Natural Resources Hearing(s) 6/7/23: Subcommittee hearing Co-sponsors 7 bipartisan co-sponsors from AZ and MT	WSWC Keywords Tribal water rights Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/2461	Summary of Bill To ratify a Treaty (2000) between the San Juan Southern Paiute Tribe and the Navajo Nation, to provide for the creation of a reservation for the San Juan Southern Paiute Tribe. Section 10 provides for transfers of water rights, water rights held in trust by the federal government, and establishes parameters for water used on Northern and Southern areas of the newly created reservation.
Bill Number S. 1079	Date Introduced 03/30/23	WSWC Keywords Rural infrastructure	Summary of Bill To amend the Consolidated Farm and Rural Development Act to provide additional assistance to rural water,

Bill Title Assistance for Rural Water Systems Act Passed (S/H) Bill Sponsor Sen. Shaheen, Jeanne [D-NH]	Assigned Committee(s) Agriculture, Nutrition, and Forestry Hearing(s) Co-sponsors 3 Republicans including AK 1 Democrat	Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/1079	wastewater, and waste disposal systems
Bill Number H.R. 2429 / S. 1118 Bill Title Open Access Evapotranspiration Data Act Passed (S/H) Bill Sponsor Rep. Lee, Susie [D-NV-3] Sen. Cortez Masto, Catherine [D-NV]	Date Introduced 03/30/23 Assigned Committee(s) Natural Resources; Energy and Natural Resources Hearing(s) 7/19/23: Senate Subcommittee hearing 12/14/23: Ordered to be reported with an amendment in the nature of a substitute favorably Co-sponsors House: 3 bipartisan co-sponsors in CA, UT Senate: 1 Democratic co-sponsor in CO	WSWC Keywords OpenET Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/2429	Summary of Bill The bill authorizes the OpenET Data Program under the USGS to deliver satellite-based ET data to advance the quantification of ET and consumptive water use, and to provide data users with estimates across large landscapes
Bill Number H.R. 2419 Bill Title Canal Conveyance Capacity Restoration Act Passed (S/H) Bill Sponsor Rep. Costa, Jim [D-CA-21]	Date Introduced 03/30/23 Assigned Committee(s) Natural Resources Hearing(s) Co-sponsors 2 Democrats, CA	WSWC Keywords Infrastructure Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/2419	Summary of Bill To provide financial assistance for projects to address certain subsidence impacts in the State of California
Bill Number S. 1023/ H.R. 4956 Bill Title Farmer-Informed WOTUS Act Passed (S/H) Bill Sponsor Sen. Braun, Mike [R-IN]; Rep. Yakym, Rudy [R-IN-2]	Date Introduced 03/29/23 Assigned Committee(s) Agriculture, Nutrition, and Forestry; House Agriculture, T&I Hearing(s) Co-sponsors House: 2 Republicans Senate: 5 Republicans including NE	WSWC Keywords WOTUS Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/1023	Summary of Bill To establish an advisory committee to inform Congress of the impact of Waters of the United States regulations on United States agriculture

Bill Number S. 1022 Bill Title Define WOTUS Act Passed (S/H) Bill Sponsor Sen. Braun, Mike [R-IN]	Date Introduced 03/29/23 Assigned Committee(s) Environment and Public Works Hearing(s) Co-sponsors 2 co-sponsors	WSWC Keywords WOTUS Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/1022	Summary of Bill To amend the CWA to modify the definition of navigable waters
Bill Number H.R. 1740 Bill Title No Title Passed (S/H) Bill Sponsor Rep. Bost, Mike [R-IL-12]	Date Introduced 03/23/23 Assigned Committee(s) T&I, Energy and Commerce Hearing(s) Co-sponsors 7 Democrats including CA, TX 4 Republicans	WSWC Keywords WIFIA Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/1740	Summary of Bill To amend the Water Infrastructure Finance and Innovation Act of 2014 to establish payment and performance security requirements for projects. Requires a borrower to secure the financial project with payment and performance bonds in minimum amounts.
Bill Number S.950 / H.R. 1738 Bill Title Technical Correction to the Shoshone-Paiute Tribes of the Duck Valley Reservation Water Rights Settlement Act of 2023 Passed (S/H) Bill Sponsor Sen. Cortez Masto, Catherine [D-NV] Rep. Amodei, Mark E. [R-NV-2]	Date Introduced 03/22/23 Assigned Committee(s) Indian Affairs; Natural Resources Hearing(s) 3/29/23: SIA hearing; S. Rpt. 118-80 7/26/23: Senate Legislative Calendar 12/18/23: Passed Senate with amendment by Unanimous Consent 12/22/23: Received in the House, and held at the desk Co-sponsors Senate: 2 Republicans from ID, 1 Democrat from NV	WSWC Keywords Tribal water rights Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/950	Summary of Bill To amend the Omnibus Public Land Management Act of 2009 to make a technical correction to the water rights settlement for the Shoshone-Paiute Tribes of the Duck Valley Reservation. The bill adjusts interest payments to the Tribes' Development Fund, adding \$5.1M, and makes indexing adjustments since 2016.
Bill Number S. 938 / H.R. 1729 Bill Title Water Affordability, Transparency, Equity, and Reliability Act Passed (S/H) Bill Sponsor	Date Introduced 03/22/23 Assigned Committee(s) Senate Finance Several House Committees Hearing(s) Co-sponsors	WSWC Keywords Infrastructure Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/938	Summary of Bill To establish a trust fund, up to \$35B or 1/20th of the CW and DW needs assessment, to provide for adequate funding for water and sewer infrastructure. The bill allocates specific percentages to infrastructure under EPA, USDA, HHS, and Labor programs: Clean Water, Safe Drinking Water, Household Wells, Colonias, Indian Health Services, and Water Operators Job Training grants.

Sen. Sanders, Bernard [I-VT] Rep. Watson Coleman, Bonnie [D-NJ-12]	House: 90 Democrats including CA (17), TX (4), AZ (2), NV (2), WA (2), NM (1), OR (1) Senate: 5 Democrats including OR (2).		
Bill Number S. 843 / H.R. 2694 Bill Title No title Passed (S/H) Bill Sponsor Sen. Risch, James E. [R-ID] Rep. Simpson, Michael K. [R-ID-2]	Date Introduced 03/16/23 Assigned Committee(s) Energy and Natural Resources Natural Resources Hearing(s) 5/17/23: SENR hearing; reported 118-68 7/19/23: Senate Calendar Co-sponsors Senate: 1 Republican, ID	WSWC Keywords Dams Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/843	Summary of Bill The bill would amend the IJA to extend funding eligibility under 43 USC 3204(b) to dams developed under the Carey Act (43 USC 641) for rehabilitation and reconstruction projects
Bill Number S.806 Bill Title Healthy H2O Act Passed (S/H) Bill Sponsor Sen. Baldwin, Tammy [D-WI]	Date Introduced 03/15/23 Assigned Committee(s) Senate - Agriculture, Nutrition, and Forestry Hearing(s) Co-sponsors 8 Democrats including OR, CA, NM 1 Republican 1 Independent	WSWC Keywords Congress.gov Link 	Summary of Bill This bill directs the Department of Agriculture (USDA) to establish a program under which USDA awards grants for improving the quality of drinking water in certain rural areas. Grants may be given to individuals or entities, such as home owners, renters, and licensed child-care facilities, that have demonstrated the presence of one or more health contaminants in their drinking water. Grants may also be given to nonprofit organizations to help individuals and entities test their water, analyze the results of the tests, and reduce the contamination.
Bill Number S. 798 / H.R. 1593 Bill Title Land and Water Conservation Fund Water Amendments Act Passed (S/H) Bill Sponsor Sen. Rubio, Marco [R-FL] Rep. Mast, Brian J. [R-FL-21]	Date Introduced 03/14/23 Assigned Committee(s) Energy and Natural Resources Natural Resources Hearing(s) Co-sponsors	WSWC Keywords water quality Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/798	Summary of Bill Authorizes DOI to use LWCF funds to provide financial assistance for water quality improvement projects that restore natural hydrologic systems such as wetlands or living shorelines. To be eligible, the statewide outdoor recreation plan must identify projects on waters with a CWA 303(d) impaired water quality control plan
Bill Number H.R. 1 / S. 947 Bill Title Lower Energy Costs Act Passed (S/H)	Date Introduced 03/14/23 Assigned Committee(s) Natural Resources, Energy and Commerce, Agriculture, Transportation and Infrastructure, Budget Hearing(s)	WSWC Keywords CWA 401 Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/1	Summary of Bill Under §30002, the bill would amend CWA §401, limiting the authority and timing for states to issue certifications. The bill would require each State to publish new certification requirements within 30 days of when the bill is enacted. "A decision to grant or deny a request for certification shall be based only on the applicable provisions of sections 301, 302, 303, 306, and 307, and the grounds for the decision shall be set forth in writing and provided to the applicant. Not later than 90 days after receipt of a request for certification, the State, interstate agency, or Administrator, as the case may be, shall identify in writing all specific additional materials or information that are necessary to grant or deny the request." The bill would: (1) strike consideration of "activities" and limit certifications to only "discharges"; (2) require a direct discharge into navigable waters; (3) remove the requirement for state applications, allowing a

3/30/23: Passed House 225-204 See H.R. Bill Sponsor Scalise, Steve [Rep.-R-LA-1] Sen. Kennedy, John [R-LA]	Co-sponsors House - 49 co-sponsors		"request for certification" to trigger several statutory requirements; and (4) replaces broad consideration of "water quality requirements" in several places with the more specific provisions of CWA 301, 302, 303, 306, or 307. Additionally, H.R. 1 §10009 includes provisions to promote interagency coordination for review of natural gas pipelines. Subsection (e) explicitly exempts natural gas pipelines from the CWA §401 state certification process, and shifts any discretionary decisions about terms and conditions to mitigate the discharge of pollutants to FERC as the lead coordinating agency.
Bill Number H.R. 1556/S.1022 Bill Title Define WOTUS Act Passed (S/H) Bill Sponsor Rep. Miller, Mary E. [R-IL-15] Sen. Braun, Mike [R-IN]	Date Introduced 03/10/23 Assigned Committee(s) Transportation and Infrastructure Environment and Public Works Hearing(s) Co-sponsors 2 Republicans	WSWC Keywords WOTUS Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/1556	Summary of Bill The bill would amend the CWA to define "navigable waters" to explicitly exclude intermittent or ephemeral waters, subsurface waters, some intrastate waters, man-made channels or ditches, prior converted cropland, artificially irrigated areas, artificial lakes and ponds constructed in uplands, water-filled depressions in uplands, stormwater control features, wastewater recycling structures in uplands, waste treatment systems, water that require means beyond visual inspection to determine whether they are covered (e.g., aerial photographs, satellite imaging, or hydrologic testing), and limits determinations to the present-day regardless of whether the waters were navigable in the past or could become navigable in the future. The bill further defines "continuous surface water connection," "relatively permanent, standing, or continuously flowing bodies of water. Section 520 clarifies procedures for jurisdictional determinations. "Navigable waters" would include (1) territorial seas, (2) interstate waters used for interstate commerce, (3) relatively permanent, standing, or continuously flowing bodies of water that flow directly into interstate waters, and (4) adjacent wetlands that have a continuous surface water connection to interstant waters and their tributaries.
Bill Number S. 747 / H.R. 1517 Bill Title Relief for Farmers Hit with PFAS Act Passed (S/H) Bill Sponsor Sen. Collins, Susan M. [R-ME] Rep. Pingree, Chellie [D-ME-1]	Date Introduced 03/09/23 Assigned Committee(s) Agriculture, Nutrition, and Forestry Agriculture Hearing(s) Co-sponsors 2 Independent and 8 Democratic cosponsors including NM, OR House: 8 Democrats including NM, WA, OR; 1 Republican	WSWC Keywords PFAS Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/747	Summary of Bill Directs USDA to establish a program to provide grants to eligible states and tribes, in consultation with EPA, to address PFAS contamination on agricultural lands. At least 30% of the total funding must go to one or more eligible governments with a population <3M, with state/tribe prioritizing purposes that directly assist producers experiencing financial losses due to PFAS. The bill authorizes \$500M for FY24-28.
Bill Number H.R. 1607 / S. 739 Bill Title No Title Passed (S/H) 11/06/23, Passed House: On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays: (2/3 required): 384 - 1 Bill Sponsor Sen. Kelly, Mark [D-AZ] Rep. Schweikert, David [R-AZ-1]	Date Introduced 03/09/23 Assigned Committee(s) Energy and Natural Resources Natural Resources Hearing(s) Senate - 11/07/2023 Received in the Senate and Read twice and referred to the Committee on Energy and Natural Resources Co-sponsors House: 2 Democrats, AZ; 2 Republicans AZ Senate: 1 Independent, AZ	WSWC Keywords Hydropower Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/739	Summary of Bill This bill would clarify federal jurisdiction over land reserved under a 1917 agreement between the U.S. and the Salt River Valley Water Users' Association, with the exclusive right to use the covered land for the development, generation, and transmission of electrical power and energy for the use and benefit of the Salt River Federal Reclamation Project. The federal government will hold title to the land, and SRP will be responsible for O&M. The Bureau of Reclamation is developing pumped storage at the site near the Roosevelt Dam on the Salt River in Arizona.
Bill Number S. 702/H.R. 4890 Bill Title	Date Introduced 03/08/23 Assigned Committee(s)	WSWC Keywords water resources Congress.gov Link	Summary of Bill The Senate bill authorizes EPA, DOI, and USDA to establish the Urban Waters Federal Partnership Program to coordinate across federal agencies (including the Corps, NOAA, DOE, FEMA, and other agencies) to support economically distressed urban communities in reconnecting with their associated waterways, including technical

Urban Waters Federal Partnership Act	Environment and Public Works; House T&I, Natural Resources	https://www.congress.gov/bill/118th-congress/senate-bill/702	economically distressed urban communities in reconnecting with their associated waterways, including technical assistance, funding for projects that provide habitat or water quality improvements, increase river recreation, enhance community resiliency, install infrastructure, strengthen community engagement and education regarding water resources, and carry out community-based capacity building
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Sinema, Kyrsten [I-AZ]; Stanton, Greg [D-AZ-4]	Co-sponsors Rep. 1 Republican cosponsor, TX 1 Democratic cosponsor, AZ		
Bill Number H.R. 1407	Date Introduced 03/07/23	WSWC Keywords water quality	Summary of Bill This bill allows the issuance of tax-exempt private activity bonds to finance the replacement of any privately-owned portion of a lead service line in a public water system. Specifically, the bill provides that the use of proceeds from such bonds for replacement of a lead service line does not constitute private business use.
Bill Title Financing Lead Out of Water Act	Assigned Committee(s) House Ways and Means Senate Finance	Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/1407	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Kildee, Daniel T. [D-MI-8] Sen. Bennet, Michael F. [D-CO]	Co-sponsors 17 Democrats including CA, CO, NM 6 Republicans		
Bill Number H.R. 1367 / S. 660	Date Introduced 03/03/23	WSWC Keywords Infrastructure	Summary of Bill This bill requires the Environmental Protection Agency (EPA) to create a program to support increased membership and involvement of certain smaller water utilities and water treatment works (e.g., wastewater systems) in the Water Information Sharing and Analysis Center (WaterISAC). As background, WaterISAC is a group of water and wastewater systems and associations that coordinate with the EPA and other federal agencies to collect and analyze data on water security and threats. WaterISAC also provides analysis and resources to support response, mitigation, and resilience initiatives.
Bill Title Water System Threat Preparedness and Resilience Act	Assigned Committee(s) Transportation and Infrastructure; Energy and Commerce Environment and Public Works	Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/1367	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Schakowsky, Janice D. [D-IL-9] Sen. Markey, Edward J. [D-MA]	Co-sponsors		
Bill Number H.R. 1304	Date Introduced 03/01/23	WSWC Keywords Indian water rights	Summary of Bill To approve the settlement of water rights claims of the Pueblos of Acoma and Laguna in the Rio San José Stream System and the Pueblos of Jemez and Zia in the Rio Jemez Stream System in the State of New Mexico
Bill Title Rio San José and Rio Jemez Water Settlements Act	Assigned Committee(s) Natural Resources Indian Affairs	Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/1304	
Passed (S/H)	Hearing(s) 12/12/23: Placed on Senate Legislative Calendar No. 274		
Bill Sponsor Rep. Leger Fernandez, Teresa [D-NM-3] Sen. Heinrich, Martin [D-NM]	Co-sponsors 2 Democratic cosponsors from NM		
Bill Number H.R. 1274 / S. 612	Date Introduced 03/01/23	WSWC Keywords water quality	Summary of Bill To reauthorize the Lake Tahoe Restoration Act
Bill Title	Assigned Committee(s)	Congress.gov Link	

Lake Tahoe Restoration Reauthorization Act Passed (S/H) Bill Sponsor Rep. Amodei, Mark E. [R-NV-2] Sen. Cortez Masto, Catherine [D-NV]	Natural Resources; Transportation and Infrastructure; Agriculture Energy and Natural Resources Hearing(s) Co-sponsors House: 4 Democratic and 1 Republican cosponsors from NV and CA Senate: 3 Democrats from NV and CA	https://www.congress.gov/bill/118th-congress/house-bill/1274	
Bill Number S. 540 / H.R. 1236 Bill Title Protect the West Act Passed (S/H) Bill Sponsor Sen. Bennet, Michael F. [D-CO] Rep. Crow, Jason [D-CO-6]	Date Introduced 02/28/23 Assigned Committee(s) Agriculture, Nutrition, and Forestry Hearing(s) Co-sponsors 2 Democratic co-sponsors (CO, OR)	WSWC Keywords water quality and quantity Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/540	Summary of Bill The bill authorizes \$60B for an Outdoor Restoration Fund, with \$20B for a Restoration and Resilience Grant program and \$40B for the Restoration Resilience Partnership Program. The bill would establish a Restoration Fund Advisory Council, with 12 members representing states, tribes, local government, resource-dependent industries, conservation, wildlife, or watershed organizations, and national experts on restoration, economic development, and community and climate resilience. For the grant program, priority projects include collaborative projects that address shared priorities of federal and non-federal partners, advance state and tribal plans relating to forests and water, utilize watershed analytics to measure expected outcomes, and improve long-term economic security. The projects would focus on fire ecosystems, hazardous fuels reduction, wildlife habitat, and "measurably improve water quality or water quantity outcomes in waterways that flow through and out of priority areas."
Bill Number H.R. 1181 Bill Title To amend the Federal Water Pollution Control Act with respect to permitting terms, and for other purposes. Passed (S/H) Bill Sponsor Rep. Garamendi, John [D-CA-8]	Date Introduced 02/24/23 Assigned Committee(s) Transportation and Infrastructure Hearing(s) Co-sponsors 2 Democrats including CA; 3 Republican including CA	WSWC Keywords NPDES permits Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/1181	Summary of Bill This bill extends the maximum term for certain permits issued under the National Pollutant Discharge Elimination System (NPDES) program. Specifically, the bill extends the maximum term for NPDES permits issued to states or municipalities from 5 to 10 years.
Bill Number H.R. 1152 Bill Title Water Quality Certification and Energy Project Improvement Act Passed (S/H) Bill Sponsor Rep. Rouzer, David [R-NC-7]	Date Introduced 02/24/23 Assigned Committee(s) Transportation and Infrastructure Hearing(s) 03/17/2023: Reported by the Committee on Transportation and Infrastructure. 03/17/2023: Placed on the Union Calendar by the House Co-sponsors 2 co-sponsors Rep. Garret Graves (R-LA) and Rep. Scott Perry (R-PA).	WSWC Keywords CWA 401 Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/1152	Summary of Bill The bill would amend CWA §401, limiting the authority and timing for states to issue certifications. The bill would require each State to publish new certification requirements within 30 days of when the bill is enacted. "A decision to grant or deny a request for certification shall be based only on the applicable provisions of sections 301, 302, 303, 306, and 307, and the grounds for the decision shall be set forth in writing and provided to the applicant. Not later than 90 days after receipt of a request for certification, the State, interstate agency, or Administrator, as the case may be, shall identify in writing all specific additional materials or information that are necessary to grant or deny the request." The bill would: (1) strike consideration of "activities" and limit certifications to only "discharges"; (2) require a direct discharge into navigable waters; (3) remove the requirement for state applications, allowing a "request for certification" to trigger several statutory requirements; and (4) replaces broad consideration of "water quality requirements" in several places with the more specific provisions of CWA 301, 302, 303, 306, or 307. See also H.R. 1, H.R. 2811
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill

S. 482 Bill Title Klamath Power and Facilities Agreement Support Act Passed (S/H) Bill Sponsor Sen. Wyden, Ron [D-OR]	02/16/23 Assigned Committee(s) Energy and Natural Resources Hearing(s) 07/18/2023: Hearings held Co-sponsors Sen. Merkley, Jeff [D-OR]	Hydropower and water supply Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/482	The bill directs Reclamation to support lowering the Klamath Irrigation District's net delivered power cost, authorizes agreements with state and local entities for watershed projects, authorizes Reclamation to cover a portion of O&M costs of an irrigation pumping plant in Tulelake, CA, and authorization for an agreement to take ownership and operation of the Keno Dam and Link River Dam.
Bill Number S. 466 Bill Title Federal PFAS Research Evaluation Act Passed (S/H) Bill Sponsor Sen. Peters, Gary C. [D-MI]	Date Introduced 02/16/23 Assigned Committee(s) Commerce, Science, and Transportation Hearing(s) Co-sponsors 3 Bipartisan cosponsors	WSWC Keywords PFAS Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/466	Summary of Bill This bill requires various studies and reports on the exposure, hazards, and management of PFAS, and directs an implementation plan.
Bill Number S. 461 / H.R. 1061 Bill Title No Title Passed (S/H) Bill Sponsor Sen. Cramer, Kevin [R-ND]	Date Introduced 02/16/23 Assigned Committee(s) Energy and Natural Resources Hearing(s) Co-sponsors Sen. Hoeven, John [R-ND]	WSWC Keywords Hydropower Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/461	Summary of Bill To make certain irrigation districts eligible for Pick-Sloan Missouri Basin Program pumping power.
Bill Number H.R. 1008 Bill Title Combat Harmful Algal Blooms Act Passed (S/H) Bill Sponsor Rep. Donalds, Byron [R-FL-19]	Date Introduced 02/14/23 Assigned Committee(s) T&I, Energy and Commerce Hearing(s) Co-sponsors 10 Democrats including CA, WA, AK; 11 Republicans including TX	WSWC Keywords HABs Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/1008	Summary of Bill This bill includes algal blooms within the definition of major disaster under the Robert T. Stafford Disaster Relief and Emergency Assistance Act and directs the Centers for Disease Control and Prevention to submit to specified congressional committees a detailed study relating to the health effects of exposure to cyanotoxins in the air that result from algal blooms.
Bill Number H.R. 873 Bill Title	Date Introduced 02/08/23 Assigned Committee(s)	WSWC Keywords water quality Congress.gov Link	Summary of Bill This bill establishes and transfers funds to the Water Quality and Environmental Innovation Fund. Until September 30, 2028, the Environmental Protection Agency (EPA) may use the fund to award grants and contracts to carry out projects (1) that use emerging technologies (e.g., artificial intelligence or quantum information science) to address

Water Quality and Environmental Innovation Act Passed (S/H) Bill Sponsor Rep. Donalds, Byron [R-FL-19]	Transportation and Infrastructure; Energy and Commerce; Science, Space, and Technology Hearing(s) Co-sponsors 4 Republicans including TX, AZ 1 Democrat	https://www.congress.gov/bill/118th-congress/house-bill/873	projects (1) that use emerging technologies (e.g., artificial intelligence or quantum information science) to address threats to water quality; or (2) for the research, development, or design of such technologies. At the start of each fiscal year from FY2024 through FY2028, an amount of funding must be transferred to the fund that is equal to the amount that the EPA determines will be collected in such fiscal year from fees and charges under the Motor Vehicle and Engine Compliance Program of the EPA.
Bill Number S. 306 Bill Title Tule River Tribe Reserved Water Rights Settlement Act Passed (S/H) Bill Sponsor Padilla, Alex [Sen.-D-CA]	Date Introduced 02/07/23 Assigned Committee(s) Indian Affairs Hearing(s) 03/29/2023: Committee on Indian Affairs ordered to be reported without amendment favorably. 11/03/2023: Reported by Sen. Schatz, placed on Senate Legislative Calendar under General Orders, No. 236 Co-sponsors Sen. Feinstein, Dianne [D-CA]	WSWC Keywords Tribal water rights Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/306	Summary of Bill A bill to approve the Tule River Tribe's water rights settlement.
Bill Number H.R. 797 / S. 271 Bill Title Farm System Reform Act Passed (S/H) Bill Sponsor Khanna, Ro [Rep.-D-CA-17]; Sen. Booker, Cory A. [D-NJ]	Date Introduced 02/03/23 Assigned Committee(s) Agriculture; Transportation and Infrastructure Hearing(s) Co-sponsors House: 37 Democratic cosponsors including CA, OR, WA, TX Senate: 3 Democrats and 1 Independent	WSWC Keywords CAFOs Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/797	Summary of Bill This bill places a moratorium on large concentrated animal feeding operations (CAFOs); expands country-of-origin labeling; and expands requirements in the livestock, poultry, and meat markets. Large CAFO may not commence or expand operations and, after January 1, 2040, may not continue to operate. Department of Agriculture must provide grants to eligible animal feed operation (AFO) owners to pay off related debt and to transition the property to alternative agriculture activities. Integrators that exercise substantial operational control of an AFO are liable and subject to civil action for an AFO's operation. Further, the bill expands requirements and prohibitions under the Packers and Stockyards Act of 1921 in order to increase competition and transparency in the livestock, poultry, and meat markets.
Bill Number H.J. Res. 27 / S.J.Res. 7 Bill Title No Title Passed (S/H) 3/9/23 Passed House: 227-198 3/29/23 Passed Senate: 53-43 4/6/23 Vetoed by President 4/18/23 House failed to pass over veto, 227-196	Date Introduced 02/02/23 Assigned Committee(s) Transportation and Infrastructure Hearing(s)	WSWC Keywords WOTUS Congress.gov Link https://www.congress.gov/bill/118th-congress/house-joint-resolution/27	Summary of Bill This joint resolution nullifies the rule titled Revised Definition of "Waters of the United States," which was submitted by the U.S. Army Corps of Engineers and the Environmental Protection Agency on January 18, 2023. The rule specifies which bodies of water fall under the scope of the Clean Water Act and are thereby under federal jurisdiction and protected. For example, the definition in the 2023 rule includes certain wetlands and ephemeral waters (e.g., waters that flow intermittently). The 2023 rule replaced the 2020 Navigable Waters Protection Rule that included a narrower definition of waters of the United States.

Bill Sponsor Graves, Sam [Rep.-R-MO-6] Capito, Shelley Moore [Sen.-R-WV]	Co-sponsors House - 170 Republican cosponsors Senate - 48 Republican cosponsors, 1 Democratic cosponsor from WV		
Bill Number S. 202/H.R.4197 Bill Title Collaborative Forest Landscape Restoration Program Reauthorization Act Passed (S/H) Bill Sponsor Sen. Merkley, Jeff [D-OR]; Rep. Neguse, Joe [D-CO-2]	Date Introduced 02/01/23 Assigned Committee(s) Agriculture, Nutrition, and Forestry Hearing(s) Co-sponsors Senate: 3 Democratic and 2 Republican cosponsors from ID, OR, CO, MT House: 2 Democrats from WA, OR	WSWC Keywords Wildfires Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/202	Summary of Bill This bill reauthorizes and expands the Collaborative Forest Landscape Restoration program, which helps fund collaborative and community-based forest management. The bill emphasizes proposals that use good neighbor agreements, reduce the risk of uncharacteristic wildfire or increase ecological restoration activities, and enhance watershed health and drinking water sources.
Bill Number S. 174/H.R.4017 Bill Title Conservation Reserve Program Improvement Act Passed (S/H) Bill Sponsor Sen. Thune, John [R-SD]; Rep. Costa, Jim [D-CA-21]	Date Introduced 01/31/23 Assigned Committee(s) Agriculture, Nutrition, and Forestry Hearing(s) Co-sponsors Senate: Bipartisan Cosponsors from MN and SD House: 1 Democrat, CA; 1 Republican	WSWC Keywords Farm Bill Conservation Programs Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/174	Summary of Bill A bill to amend the Food Security Act of 1985 to improve the conservation reserve program (grazing and water infrastructure)
Bill Number S. 162 Bill Title Smith River National Recreation Area Expansion Act Passed (S/H) Bill Sponsor Sen. Merkley, Jeff [D-OR]	Date Introduced 01/31/23 Assigned Committee(s) Energy and Natural Resources Hearing(s) 07/11/2023, Reported by Senator Manchin without amendment with report No. 118-49 Co-sponsors 3 Democratic cosponsors from OR and CA	WSWC Keywords Wild and Scenic Rivers Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/162	Summary of Bill This bill expands the Smith River National Recreation Area in California into Oregon and designates specified segments of the North Fork Smith River as components of the National Wild and Scenic Rivers System (NWSRS). It emphasizes management of roadless backcountry and white-water recreation in OR, and directs USDA to study the additions and modify any applicable management plan to protect inventoried resources. It directs USDA to enter into an MOA with applicable Indian tribes to (1) provide them with access to the portions of the recreation area in Oregon to conduct historical and cultural activities; and (2) develop interpretive information to be provided to the public on the history of, and use of the area by, those tribes. On the adoption of a resolution by the State Land Board of Oregon, USDA shall acquire the 555 acres of land known as the Cedar Creek Parcel in Oregon. A streamside protection zone in which timber harvesting is prohibited (with exceptions) shall be established for each of the designated North Fork Smith River segments.
Bill Number S. 128/H.R.4643 Bill Title	Date Introduced 01/30/23 Assigned Committee(s)	WSWC Keywords International waters Congress.gov Link	Summary of Bill This bill establishes requirements to address wastewater from the International Outfall Interceptor, which is a pipeline that carries wastewater from the United States-Mexico border to the Nogales International Wastewater Treatment Plant. The plant, which is located in Rio Rico, Arizona, treats sewage and wastewater originating from Nogales.

Nogales Wastewater Improvement Act	Foreign Relations	https://www.congress.gov/bill/118th-congress/senate-bill/128	Plant. The plant, which is located in Rio Rico, Arizona, treats sewage and wastewater originating from Nogales, Mexico, and Nogales, Arizona. The bill transfers the ownership, operations, and maintenance of the pipeline from the city of Nogales, Arizona, to the U.S. Section of the International Boundary and Water Commission. The commission must construct, operate, and maintain a debris screen at the pipeline's Manhole One for intercepting debris and drugs coming into the United States from Nogales, Mexico. The bill also limits the portion of the costs that the city of Nogales, Arizona, must pay for the Nogales sanitation project.
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Sinema, Kyrsten [I-AZ]	Co-sponsors Senator Mark Kelly (D-AZ)		
Bill Number S. 115/H.R.3167	Date Introduced 01/26/23	WSWC Keywords SRFs	Summary of Bill This bill revises the formula EPA uses to determine how to distribute funds from the Clean Water SRF program. Under the program, the EPA allocates funding to states for water quality infrastructure projects, such as wastewater systems and stormwater management projects.
Bill Title Clean Water Allotment Modernization Act	Assigned Committee(s) Environment and Public Works	Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/115/	In FY2024-FY2028, the EPA must provide an initial allotment to each state that is equal to the amount the state received in FY2023. The EPA must also provide an additional allotment to each state that is based on its share of the U.S. population. In FY2029 and each subsequent fiscal year, the EPA must use an updated allotment formula, which is based on the needs of states as identified in the most recently available clean watersheds needs survey. Beginning in FY2024, the formula must also provide allotments for Indian tribes and territories. In addition, the formula must provide an allotment for EPA's oversight of SRF projects to ensure they use American iron and steel.
Passed (S/H)	Hearing(s) 5/10/23: Referred to the Subcommittee on Water Resources and the Environment		
Bill Sponsor Sen. Rubio, Marco [R-FL]; Rep. Waltz, Michael [R-FL-6]	Co-sponsors Senate: 1 Republican, FL; 1 Democrat, AZ House: 7 Republicans, FL		
Bill Number S. 64	Date Introduced 01/24/23	WSWC Keywords water rights	Summary of Bill This bill addresses issues of water rights with respect to lands under the jurisdiction of DOI and USDA, including water rights of federally recognized Indian tribes. They must ensure that federal action imposes no greater restriction or regulatory requirement than under applicable state water law. It would prohibit the agencies from take actions that adversely affects state authority in permitting water usage or in adjudicating water rights, or from requiring water users to transfer water rights to the United States or acquire water rights in the name of the United States as a condition of issuing or renewing a land use or occupancy agreement.
Bill Title Water Rights Protection Act	Assigned Committee(s) Energy and Natural Resources	Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/64	
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Barrasso, John [R-WY]	Co-sponsors 2 Republican co-sponsors from ID		
Bill Number H.R. 5770	Date Introduced 01/17/23	WSWC Keywords	Summary of Bill To reauthorize certain United States Geological Survey water data enhancement programs through 2028.
Bill Title Water Data Improvement Act	Assigned Committee(s) House - Natural Resources	Congress.gov Link	
Passed (S/H)	Hearing(s) 01/17/2024: Ordered to be Reported (Amended) by Unanimous Consent.		
Bill Sponsor Rep. Neguse, Joe [D-CO-2]	Co-sponsors 1 Republican, AZ		
Bill Number H.R. 289	Date Introduced 01/11/23	WSWC Keywords water supply	Summary of Bill The bill directs Reclamation operations in the Central Valley Project and Upper Klamath Lake. Allocations for the Sacramento Valley contractors would align with the percentages in the Sacramento Water Year Type Index, with not less than 100% of their contract quantities in Wet and Above Normal Years, not less than 75% in Below Normal years, and not less than 50% in Dry and Critically Dry years. The bill provides additional conditions regarding substitute supplies, making water available to wetlands, protection of municipal and industrial water supplies, and protection of other operations, deliveries, and allocations to other Reclamation project contractors. The bill also directs Reclamation to operate all water in the Upper Klamath Lake above elevation 4136 feet solely for agricultural
Bill Title Protect Our Water Rights Act	Assigned Committee(s) Natural Resources	Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/289	
Passed (S/H)	Hearing(s)		

Bill Sponsor LaMalfa, Doug [Rep.-R-CA-1]	Co-sponsors		and refuge purposes, and to the extent practicable, maximize storage in the Upper Klamath Lake.
Bill Number H.R. 277 / S. 184 Bill Title Regulations From the Executive in Need of Scrutiny (REINS) Act Passed (S/H) House: 06/14/2023 passed 221-210 Bill Sponsor Rep. Kat Cammack (R-Fla.) Sen. Paul, Rand [R-KY]	Date Introduced 01/11/23 Assigned Committee(s) House - Judiciary, Rules, Budget Senate - placed directly on the legislative calendar Hearing(s) Senate - 06/21/2023 Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 103 Co-sponsors House - 182 Republican co-sponsors Senate - 29 Republican co-sponsors	WSWC Keywords Regulatory oversight Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/277	Summary of Bill This bill revises provisions relating to congressional review of agency rulemaking. Specifically, the bill establishes a congressional approval process for a major rule. A major rule may only take effect if Congress approves of the rule. A major rule is a rule that has resulted in or is likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises; or (4) an increase in mandatory vaccinations. The bill also provides for the designation, review, and approval of at least 20% of agency rules currently in effect.
Bill Number H.R. 250 Bill Title Clean Water SRF Parity Act Passed (S/H) Bill Sponsor Rep. Garamendi, John [D-CA-8]	Date Introduced 01/10/23 Assigned Committee(s) Transportation and Infrastructure Hearing(s) 02/01/2023: Referred to Subcommittee on Water Resources and Environment Co-sponsors 1 Republican and 5 Democrat co-sponsors	WSWC Keywords SRFs Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/250	Summary of Bill The bill would amend the CWA (33 USC 1383) to make certain qualified nonprofit entity and POTW projects and activities eligible for financial assistance under SRFs, with limitations on contributions and recipients. This bill expands the state revolving fund established under the Clean Water Act, including by allowing low-interest loans to be given to privately owned treatment works to address wastewater. Currently, loans are given to wastewater systems that are publicly owned.
Bill Number H.R. 215 Bill Title Working to Advance Tangible and Effective Reforms (WATER) for California Act Passed (S/H) Bill Sponsor Valadao, David G. [Rep.-R-CA-22]	Date Introduced 01/09/23 Assigned Committee(s) Natural Resources Hearing(s) 04/28/2023: Committee on Natural Resources approved for report 22-17 Co-sponsors 11 Republican co-sponsors, CA	WSWC Keywords water supply Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/215	Summary of Bill This bill modifies CWA water quality criteria, the NPDES program, the 404 dredge or fill program, and the meaning of WOTUS. It includes provisions to shield NPDES permit holders from liability under certain circumstances. It also provides statutory authority for the EPA to issue general permits under the program. The EPA must also provide written notification two years before the expiration of a general permit. If notice is not provided by that deadline, then discharges under the expired permit may continue until a new permit is issued. The bill limits EPA's veto authority. The bill also modifies requirements for general permits to discharge dredge or fill material that are issued on a nationwide, regional, or state basis for particular categories of activities, including by extending the maximum term for a general permit from a period of 5 years to 10 years. It also exempts the Corps from certain consultation and environmental review requirements when reissuing nationwide general permits. It directs EPA and the Corps to issue guidance on the implementation of the 2023 WOTUS rule.
Bill Number H.R. 189 Bill Title Action Versus No Action Act	Date Introduced 01/09/23 Assigned Committee(s) Natural Resources; Agriculture	WSWC Keywords NEPA Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/189	Summary of Bill For certain collaborative forest management activities (16 USC 6591b(b)(1)(C)) requiring NEPA environmental assessments (EA) or Environmental Impact Statements (EIS), the bill would limit the consideration of alternatives to only two: (1) the forest management activity, or (2) the alternative of no action. For the alternative of no action, the relevant Secretary (Agriculture or DOI) would consider the effect of no action on forest health, wildfire potential, wildlife diversity, and other factors, and the implications of resulting declines on domestic water supply, habitat, potential losses of life and property, and other economic and social factors.

Passed (S/H)	Hearing(s)		potential issues of life and property, and other economic and social factors.
Bill Sponsor Rep. McClintock, Tom [R-CA-5]	Co-sponsors 6 Republican co-sponsors, including CA, OR		
Bill Number H.R. 186 Bill Title Water Supply Permitting Coordination Act Passed (S/H) Bill Sponsor McClintock, Tom [Rep.-R-CA-5]	Date Introduced 01/09/23 Assigned Committee(s) Natural Resources Hearing(s) 02/21/2023 Referred to the Subcommittee on Water, Wildlife, and Fisheries Co-sponsors 5 Republican co-sponsors, including CA, OR, and UT	WSWC Keywords water storage projects Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/186/	Summary of Bill The bill directs the Bureau of Reclamation to coordinate Federal and State permitting processes and unified environmental documentation related to the construction of new surface water storage projects on lands under the jurisdiction of the Secretaries of the Interior and Agriculture, and designates the Bureau of Reclamation as the lead agency for permit processing and establishing the project schedule. Specifically, Reclamation must identify, notify, and coordinate all Federal agencies that may have jurisdiction over a review, analysis, opinion, statement, permit, license, approval, or decision for a qualifying project. A state where a project is being considered may also choose to participate as a cooperating agency. Reclamation's coordination responsibilities include (1) preparing a unified environmental review document, and (2) maintaining a consolidated administrative record and project data records. Additionally, Reclamation is authorized to accept and expend funds contributed by a nonfederal public entity to expedite the evaluation of a permit for such a project.
Bill Number H.R. 2199, H.R. 2283 Bill Title No Title Passed (S/H) Bill Sponsor Rep. Biggs, Andy [R-AZ-5]	Date Introduced Assigned Committee(s) House - Transportation and Infrastructure; Energy and Commerce Hearing(s) Co-sponsors 4 Republicans including MT, AZ	WSWC Keywords Congress.gov Link	Summary of Bill To provide for a limitation on availability of funds for the EPA WIFIA Program Account for fiscal year 2024.

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Case Name	Issues	Conjunctive Management and State Engineer Authority
Sullivan et al. v. Lincoln County et al.	On January 25, 2024, the Nevada Supreme Court ruled in a 7-0 decision on the consolidated appeals of the State Engineer's Order 1309 regarding the redesignation of seven hydrographic basins as one "superbasin" for the purposes of managing surface and groundwater conjunctively, and reversing the lower court. The seven basins just north of Las Vegas have a lengthy history of new water right application restrictions by the Nevada State Engineer going back to 2001. In June 2020, State Engineer Adam Sullivan issued Order 1309, determining that seven basins were interconnected and withdrawals from one affected water levels in other basins. He found that pumping groundwater from these basins may reduce availability to those with vested surface water rights, including rights to the Muddy River, which was fully appropriated prior to 1905. The Muddy River is also the only habitat of the Moapa Dace, a fish protected under the Endangered Species Act. The order combined the basins into one superbasin, and named it the Lower White River Flow System (LWRFS). Additionally, the order indicated that existing appropriations of water exceeded the rate of recharge in the superbasin. The State Engineer determined that 8,000 acre-feet per year was the maximum amount that could be appropriated from the LWRFS without affecting vested water rights and other public interests, and noted that it might be less. The Nevada Supreme Court held that the State Engineer was within his authority to manage the waters conjunctively, and was empowered to issue Order 1309. The court held that the State Engineer has implied authority under NRS 533.085, which prohibits granting statutory water rights to the impairment of prior vested water rights. Water rights under the Muddy River Decree are protected, pre-statutory vested rights, and the State Engineer must be able to study and regulate groundwater resources feeding the Muddy River. "If statutory rights holders deplete groundwater resources such that the flow of water to the elevated springs that feed the Muddy River is reduced to the point of impairing vested rights, then the State Engineer has the authority to invoke NRS 533.085 to protect vested rights.... We likewise decline to hold that NRS 533.085 solely applies within a single previously delineated basin and cannot extend across multiple basins regardless of the location of the supply of water. Without this authority, junior rights holders could deplete the shared water resources according to their local priority and previously granted appropriation, regardless of the impact such appropriation has on vested rights holders outside the local basin. The result would be contrary to both NRS 533.058 and the prior appropriation doctrine because it could impair the most senior prestatutory vested rights that rely on this supply of water." The court also pointed to NRS 533.024 which requires the State Engineer to consider the best available science in making decisions about available sources of water, and to manage the appropriation, use, and administration of all waters conjunctively. The court held that the "best available science" presented at the Order 1309 hearing established that the basins are interconnected. "If the best available science indicates that groundwater and surface water in the LWRFS are interrelated and that appropriations from one reduces the flow of the other, then the State Engineer should manage these rights together based on a shared source of supply." The court also found implied authority through several other statutes. The court found that the State Engineer had provided adequate notice and opportunity to be heard at the Order 1309 hearing, and had met due process obligations. While the respondents took issue with the criteria the State Engineer used to determine the boundary of the basin, the "Due Process Clause does not require the State Engineer to explain how he will analyze and weigh evidence prior to the evidence being submitted at a hearing." Instead, it forbids an agency from using evidence in a way that "forecloses an opportunity to offer a contrary presentation."	
Case Number		
#84739		
(lower court: #A-20-816761-C)		
Court		
Nevada Supreme Court		
(Clark County District Court)		
Relevant Dates		
Related Cases		
Notes		
Case Name	Issues	CWA §401 Water Quality Certification Improvement Rule (2023 Rule) (88 FR 66558)
State of Louisiana et al. v. U.S. Environmental Protection Agency et al.	The plaintiff states (including AK, MT, OK, and WY) and regulated entities challenged the 2023 Rule, arguing that it expands the states' authority beyond the scope of the CWA by: (1) allowing states to establish additional requirements for a complete certification request; (2) directing states to evaluate all potential water quality-related effects of a proposed activity (rather than evaluating the point source discharge only) under all types of state water quality requirements; (3) retroactively applying the rule to pending requests; and (4) failing to adequately carry out APA notice-and-comment procedures. The petitioners requested an order declaring that the 2023 Rule violates the CWA and the APA; vacating and setting aside the 2023 Rule; and enjoining EPA from applying or enforcing the 2023 Rule. Since filing the complaint on December 4, the plaintiffs also petitioned for preliminary injunctive relief to stay the 2023 Rule in states bringing the lawsuit. The intervenor defendant states (including CA, NM, OR, and WA) argued that they have a "clear and direct interest in upholding the 2023 Rule to preserve their sovereign authority over water quality within their respective states under section 401 of the CWA." They argued that their interests are not adequately represented by either the plaintiff states or EPA. They noted that the plaintiff's plea to invalidate the 2023 Rule and return to the 2020 Rule may impair intervenor defendant states' ability to protect their interests. They disagreed with the plaintiffs allegations that the 2023 Rule is overly broad or burdensome, stating: "Placing the ultimate authority to ensure proposed projects comply with state water quality requirements in the hands of states is the core reason Congress included the section 401 certification requirement in the first place." They pointed out that the nature of cooperative federalism as mandated by the CWA requires independent state representation, and that EPA's interests in this case diverge from their own.	
Case Number		
2:23-cv-01714		
Court		
U.S. District Court for the Western District of Louisiana		
Relevant Dates		
12/4/23: Complaint filed 1/12/24: 18 states filed a motion to intervene as defendants		
Related Cases		
Notes		

Case Name	Issues	Federal water rights
Klamath Irrigation District v. Reclamation	The underlying issue in both cases was whether Reclamation held the water rights necessary to implement its 2019-2024 Klamath Project operating procedures, based on the biological opinions of the FWS and NMFS, to maintain instream flows from the Upper Klamath Lake to the Klamath River downstream to benefit the threatened salmon and to comply with the ESA. Reclamation noted that the 2019-2024 operations plan has the added effect of partially protecting the tribal fishing-based water rights in California. The Klamath River Basin Compact between California and Oregon (1957) recognizes vested rights to waters originating in the Upper Klamath River Basin, whether diverted or used in Oregon or California, and does not deprive tribes of their rights to those waters under treaty, agreement, or statute. While the United States filed water rights claims in the Klamath Basin Water Adjudication on behalf of tribes in Oregon, and for diversions that take place in Oregon but are used in California, they did not file claims on behalf of the Hoopa Valley Tribe and Yurok Tribe in California. USBR asserted that they did not need to because those tribes and their water uses are outside of Oregon jurisdiction. The Klamath I APA claims alleged that USBR's 2019-2024 operating procedures were unlawful. The lower court dismissed the case under FRCP 19, because the Klamath Tribes and the Hoopa Valley Tribe, which could not be joined as parties to the APA action due to their tribal sovereign immunity, were indispensable parties to a lawsuit that could impact their rights to the water for hunting, fishing, and gathering. The court held that because the case was not about administering rights following a state stream adjudication, the McCarran Amendment did not apply and could not waive the immunity of the tribes. The 9th Circuit affirmed. In its Klamath I petition for certiorari, the Klamath Irrigation District's (KID) question presented was: "Whether [FRCP] 19 requires dismissal of an action challenging a federal agency's use of water subject to state-adjudicated water rights if a Native American tribe asserts an interest in the suit and does not consent to joinder." KID argued that the decision of the lower courts granted Native American tribes a veto power over water rights cases against the federal government, and undermined the Western water rights adjudication regime. KID argued: "The real-world consequences of the Ninth Circuit's holding are severe. Property rights that cannot be asserted in court are not property rights at all. The Ninth Circuit's ruling deprived thousands of farmers and ranchers in Oregon's Klamath Water Basin of their ability to vindicate water rights in Oregon's Upper Klamath Lake against the federal government after they spent more than 38 years in litigation to obtain a comprehensive adjudication of all state and federal rights in that source." KID noted that it did not seek to prevent USBR from satisfying its obligations to the Tribes or under the ESA, only to require that USBR obtain water using lawful means, including purchase, appropriation, or judicial condemnation. KID also expressed concerns about the U.S. Supreme Court waiting for a Circuit split. "Nearly all Native American land is located within the Ninth and Tenth Circuits. This means that only those two circuits are likely to address the Rule 19 and McCarran Amendment questions this case raises; indeed, they account for most of the cases that cite the McCarran Amendment and Reclamation Act.... [The Ninth Circuit] has jurisdiction over seven Western States that encompass a population of over 65 million people-approximately a fifth of the country.... Scarcity of water is one of the most important problems facing this vast region, yet the decision below severely undermines the legal framework to determine and administer rights in that scarce and vital resource." The underlying case for Klamath II began as a motion for a preliminary injunction in the Klamath Basin Water Adjudication. In Oregon, OWRD handles the first phase of reviewing water rights claims, hearing contested claims, and issuing a determination. OWRD began the Klamath Basin Water Adjudication in 1975 and issued its Findings of Fact and Final Order of Determination in 2013. In the second phase, the Klamath County Circuit Court is responsible for resolution of exceptions and issuance of the water right decree. In 2021, KID filed a motion for a preliminary injunction in the Klamath Basin Water Adjudication to enjoin certain aspects of USBR's operation of the Klamath Project, based on the water rights and storage rights in OWRD's Final Order of Determination. KID argued that USBR had to acquire a water right to implement its operations plan, and that the Hoopa Valley Tribe and Yurok Tribe in California lacked any water rights to the Klamath River flows because they had failed to file water rights claims in Oregon. USBR removed the motion to the U.S. District Court for the District of Oregon (KID v. USBR, #1:21-cv-504) due to ESA compliance implications under federal law, as well as the reserved water rights of tribes in California. OWRD joined as an intervenor. The U.S. District Court denied KID's subsequent motion to remand back to the State Court, holding that the Adjudication did not possess exclusive jurisdiction over the injunctive claim. The court rejected KID's argument that the McCarran Amendment waived the United States' sovereign immunity on the issues of ESA compliance and the fishing-based water rights in California, noting that these issues are not governed by Oregon law. OWRD explained that the jurisdiction of the Klamath Basin Water Adjudication does not extend to these issues. On appeal, when KID sought a writ of mandamus on the motion for remand, the 9th Circuit (#22-70052) affirmed, holding that the McCarran Amendment does not expand a state court's subject matter jurisdiction or empower a state to adjudicate rights beyond its jurisdiction. On appeal, KID's question presented was: "Whether the federal government can avoid the doctrine of prior exclusive jurisdiction in an ongoing, comprehensive water adjudication under the McCarran Amendment by asserting defenses based on federal law." KID argued that the ruling of the lower courts enables the federal government to remove any water rights case or enforcement proceeding that affects an interstate water system or federal obligations to federal court. KID pointed out that Klamath I enabled the tribes to close the federal courthouse doors to water users, and Klamath II allowed the federal government to close the state courthouse doors. "As a result, the rights of every other water user turn on the tactical litigation decisions of parties who compete with them for access to this limited resource. Collectively, those parties now have the power to insulate agency water rights actions from judicial review."	
Case Number		
22-1116 (Klamath I)		
23-216 (Klamath II) (appeal from a motion in In re Waters of the Klamath River Basin, #WA1300001)		
Court		
U.S. Supreme Court		
U.S. District Court for the District of Oregon (Klamath I)		
Klamath County Circuit Court (Klamath II)		
Relevant Dates		
5/11/23: Klamath I Petition for Cert 9/27/23: Federal brief in opposition to Klamath I 10/20/23: Klamath I Petition denied 1/8/24: Klamath II Petition denied		
Related Cases		
Notes		
See https://www.oregon.gov/owrd/programs/waterrights/adjudications/klamathriverbasinadj/pages/default.aspx and https://www.courts.oregon.gov/courts/klamath/resources/pages/klamathbasinadjudication.aspx		
Case Name	Issues	Maui "functional equivalent" standard
Stone v. High Mountain Mining Company	The plaintiffs alleged CWA violations by the mining company due to seepage from its settling ponds that flowed into groundwater and to the Middle Fork of the South Platte River. The district court agreed that the ponds constituted a point source and that High Mountain's operation of them constituted an unpermitted discharge of pollutants into navigable waters. The district court relied on three Maui factors to make its determination: (1) transit time; (2) distance traveled; and (3) the nature of the material through which the pollutant traveled. The district court gave "no weight" to the remaining Maui factors because neither party presented evidence that the factors should weigh in their favor. High	
Case Number		
22-1340		
Court		

10th Circuit	Mountain Mining Company appealed the decision.	
U.S. District Court for Colorado	The Tenth Circuit largely agreed with the district court's analysis of time and distance. However, the Court found that the district court had erred by not making additional findings on the remaining Maui factors, and specifically highlighted the factors of: (1) dilution and chemical changes; and (2) relative amount of pollutant entering the water. The Court also held that by omitting factually underdeveloped factors, the district court impermissibly shifted the burden of proof from the citizen plaintiffs to the mining company. The Tenth Circuit also noted Colorado's complex mining regulatory regime surrounding its 10,380 active mines, and that Maui indicates that courts should not undermine state regulations. The Court concluded that the case required a more "comprehensive and rigorous" application of Maui, and suggested that the court may wish to reopen the evidentiary hearing rather than dismiss the plaintiffs' claims. The Tenth Circuit reversed and remanded.	
Relevant Dates		
Related Cases		
Cottonwood Environmental Law Center v. Edwards, #22-36015 (9th Circuit)		
County of Maui v. Hawaii Wildlife Fund, 140 S. Ct. 1462 (2020)		
Notes		
Case Name	Issues	Interbasin Transfers
In Re Application A-19594, Central Platte Natural Resources District et al. v. NDNR	On October 6, 2023, the Nebraska Supreme Court affirmed a decision of the Nebraska Department of Natural Resources (NDNR) and dismissed objections to an interbasin transfer application for lack of standing. In the underlying application, the Platte to Republican Basin High Flow Diversion Project (PRD) filed for a conditional interbasin transfer permit to divert up to 150 cubic feet per second (cfs) of excess surface water flow from the over appropriated Platte River Basin into the Republican River Basin. The conditions included: (1) that the interbasin transfers would only occur when the Platte River reached a minimum level of discharge; and (2) that the PRD appropriation would be in a perpetually junior status and would never be able to exercise a call over any future junior appropriations on the Platte River. The water transfers, when available, would be used for Republican River Compact compliance. Several entities filed objections to the application alleging that they would be harmed by the interbasin transfer, including, among other concerns, that less excess water would be available in the Platte River for other downstream recharge projects. The court held that, where the demands of state-protected instream flows and all other water rights would be met, the argument that "potentially less water would be available" was a speculative harm that was insufficient to confer standing for an objection to the application.	
Case Number		
315 Neb. 311		
Court		
Nebraska Supreme Court		
Relevant Dates		
10/6/23: Nebraska Supreme Court decision		
Related Cases		
Notes		
Case Name	Issues	Delegation of CWA 404 and Tribal Lands
<i>Miccosukee Tribe v. EPA</i>	The Miccosukee Tribe alleged that EPA's approval of Florida's CWA 404 permitting program (85 FR 83553) impermissibly disregarded and diminished the Miccosukee's Tribal Sovereignty by subjecting more than 200,000 acres of Indian lands to the State's regulatory jurisdiction. Tribal members have been prevented from obtaining permits to build homes on tribal lands in the Everglades. The complaint asserted that Miccosukee lands include more than the reservation lands, noting that the tribe holds interests in lands held by the federal government, Miccosukee reserved areas, perpetually leased lands, reserved rights lands, and fee simple lands. EPA's approval of Florida's proposal transferred CWA § 404 permitting authority over the Miccosukee Leased Lands, Reserved Rights, and Fee Simple Lands to the State of Florida unless such lands were subject to the ebb and flow of the tide. The complaint alleged that the state lacks legal authority to carry out the CWA 404 program on Indian lands, and in the absence of that authority, EPA's regulations (40 CFR 233.2(b)) specify that 404 permitting authority will remain with the Army Corps of Engineers. Rather than describe the waters within the state's jurisdiction and the waters retained by the Corps, Florida's description said that "State-assumed waters...are all waters of the United States that are not retained waters," provided inconsistent definitions of Corps-retained waters, and although Florida noted that "Indian country, as defined in 18 USC 1151, is not included in Florida's 404 program," failed to include other Indian lands. The Tribe sought five counts of relief under the APA, requesting that EPA's transfer of authority over certain waters be vacated. Florida intervened and countered in the MSJ reply (#43) that "the Tribe's boundless view of 'Indian lands' as much broader than 'Indian country' is erroneous and unprecedented. 'Florida's Section 404 Program remains subject to continuous permit-by-permit oversight by the federal government and allows for full involvement by the Tribe at every stage. As such, there is no legal or factual basis to claim 'sovereignty' injuries here. The Tribe's decision to selectively forego participating in the Section 404 program for two proposed permits [the Tribe expressly asked Florida to suspend the processing of the two applications, and Florida consented to that request] is entirely self-inflicted and inconsistent with the Tribe's own past involvement in state permit programs." Florida argued that Congress clearly did not intend the application process to include a canvass of the landscape on a parcel-by-parcel basis and get bogged down in contentious disputes over jurisdictional line-drawing. "As set forth in the FDEP-Corps MOA, any site-specific line-drawing determinations can be made as circumstances warrant, particularly since the precise boundaries of assumable waters are subject to change based on current conditions." Additionally, Florida expressly did not seek authority over Indian country (18 USC 1151). "If EPA correctly interpreted Indian lands synonymously with Indian country, Florida's program obviously does not cover Indian lands within the meaning of 40 CFR 233.11(h)." Florida also argued against the Tribe's assertion that state-tribe interactions injure tribal sovereignty and cannot be government-to-government relations, noting that states are also sovereign, and that the BIA has acknowledged: "While federally recognized tribes generally are not subordinate to states, they can have a government-to-government relationship with these other sovereigns, as well... [T]ribes frequently collaborate and cooperate with states through compacts or other agreements on matters of mutual concern such as environmental protection and law enforcement."	
Case Number		
1:22-cv-22459		
Court		
U.S. District Court for the Southern District of Florida		
Relevant Dates		
8/4/22: Tribe filed complaint against EPA		
9/7/22: Florida motion to intervene (granted)		
7/27/23: Tribe's MSJ		
9/27/23: EPA cross-MSJ		
12/20/23: Florida Reply to cross-MSJ		
12/27/23: Florida Reply to MSJ		
Related Cases		
Notes		
Case Name	Issues	Chevron Deference
<i>Loper Bright Enterprises v. Raimondo</i>	On May 1, 2023, the U.S. Supreme Court granted certiorari with the limited issue of whether the court should overrule Chevron, or at least	

Case Number	clarify that statutory silence concerning controversial powers expressly but narrowly granted elsewhere in the statute does not constitute an ambiguity requiring deference to the agency. In the underlying case, the Magnuson-Stevens Act requires marine vessel owners to make room on board for federal observers to ensure compliance with federal regulations, and NMFS regulations require the owners to pay the salaries of the government-mandated observers. A divided panel of the D.C. Circuit deferred to the NMFS, identifying the silence in the statute as ambiguity that called for Chevron deference. Eighteen states filed an amicus brief in support of the petition, including Alaska, Idaho, Kansas, Montana, Nebraska, Texas, and Utah. They noted that Chevron deference, the most cited administrative case law in history, “gives agencies wide latitude to interpret statutes aggressively and shift course dramatically when administrations change. Regulation is costly; over-regulation and mercurial regulation even more so.” The states argued: “This problem is not academic. Right or wrong, the lower courts treat Chevron as a heavy thumb on the federal government’s side of the scale. The real-world result? Agencies have all the incentives to push expansive constructions of their governing statutes. After all, if agencies—and the administrations most of them answer to—know that lower courts will almost certainly defer to a plausible interpretation, it is hard to hold the line on a more restrained view of agency power.... Even more when administrations change and the next set of officials come in to ‘undo the ambitious work of their predecessors’ by ‘proceeding in the opposite direction with equal zeal.’ Changed agency priorities are not inherently wrong, of course—and we have seen a lot of them as presidents ask federal agencies to enact ‘partisan policy agendas’ that are otherwise ‘stymied by congressional stalemate.’ But by encouraging ever-more-ambitious theories of agency power, Chevron expands the range. Now, waffling from one aggressive construction to its opposite becomes a whipsaw. That’s a bad place to be. Litigation is expensive and can take years; the countless challenges involving Chevron seem a poor investment when lower courts virtually always defer to the work of another Branch. More to the point, regulation is expensive. And when the uncertainty in the law favors over-regulation, not under, our residents and businesses pay the higher price.”	
22-451		
(lower court: 21-5166)		
Court		
U.S. Supreme Court		
(United States Court of Appeals for the District of Columbia Circuit)		
Relevant Dates		
10/10/22: Petition for Cert		
12/15/22: States amicus brief		
5/1/23: Petition granted for Q2		
7/24/23: States amicus brief		
9/15/23: Brief of Respondents		
10/13/23: Case to be argued in tandem with #22-1219		
10/16/23: Reply of Petitioners		
1/17/24: Oral Argument		
Related Cases		
No. 22-1219, Relentless, Inc., et al. v. Dept. of Commerce, et al.		
Notes		
Case Name	Issues	2023 WOTUS Rule (88 FR 3004) and Amended Rule (88 FR 61964)
<i>West Virginia et al. v. EPA</i>	A coalition of 24 states, led by WV and including the ten western states of AK, KS, MT, NE, ND, OK, SD, UT, and WY, requested that the rule be vacated and remanded to the agencies for violations of the Clean Water Act (CWA), the Administrative Procedures Act (APA), and the U.S. Constitution, including the Commerce Clause and the Fifth and Tenth Amendments. The States asserted that the 2023 WOTUS rule mirrors or exceeds the 2015 WOTUS Rule (enjoined by this court for likely violating the CWA grant of authority to EPA and the Corps), and that it “improperly upsets the balance of State and federal powers in an area typically dominated by the States.” Each State expressed its sovereign authority to govern, manage, and protect the waters within its borders, as cited in their respective state constitutions and statutes. For a lengthier summary of the complaint, see WSW #2546 Special Report.	
Case Number		
3:23-cv-00032		
Court		
U.S. District Court in North Dakota		
Relevant Dates		
2/16/23: Lawsuit filed	On April 12, 2023, the court issued a preliminary injunction staying the implementation of the 2023 Waters of the United States (WOTUS) Rule in 24 states (AK, AL, AR, FL, GA, IA, IN, KS, LA, MI, MO, MT, ND, NE, NH, OH, OK, SC, SD, TN, UT, VA, WV, and WY). The court found that the 2023 rule has unlimited boundaries and “raises a litany of other statutory and constitutional concerns.” The court noted that EPA has arguably acted beyond its statutory authority, noting problems with several categories of water, including: (1) interstate waters not connected to navigable waters; (2) impounded waters without any outlet or hydrologic connection to the tributary network; (3) an overly broad definition of tributary that includes dry waterways; (4) non-navigable intrastate waters previously considered isolated and not subject to CWA jurisdiction; and (5) a treatment of wetlands that is “plagued with uncertainty” and extends jurisdiction to remote wetlands that the U.S. Supreme Court has already excluded. For a lengthier summary of the preliminary injunction, see WSW # 2552 Special Report.	
4/12/23: Preliminary injunction (24 states)		
7/18/23: Case stayed		
9/1/23: Status report from Corps & EPA re: amended WOTUS rule issued		
10/10/23: Stay lifted		
11/13/23: Amended Complaint		
12/12/23: Industry Motion to Intervene granted (Ag, Mining, Construction, etc)		
12/13/23: Answers filed		
2/26/24: States and Industry MSJs filed		
Related Cases		
Notes		
Case Name	Issues	2023 WOTUS Rule (88 FR 3004) and Amended Rule (88 FR 61964)
<i>Texas et al. v. EPA et al.</i>	The complaint requested that the 2023 WOTUS rule be vacated for violations of the Constitution, the CWA, and the APA. Texas alleged: “The Final Rule harms Plaintiffs by: (1) expanding federal regulation beyond that authorized in the CWA; (2) eroding the states’ authorities over their own waters; (3) increasing the states’ burdens and diminishing the states’ abilities to administer their own programs; and (4) undermining the states’ sovereignty to regulate their internal affairs as guaranteed by the Constitution.” Texas asserted that the CWA “only authorizes the Federal Agencies to regulate ‘navigable waters,’ defined as ‘waters of the United States’” and the new rule is a violation of the CWA and APA for asserting jurisdiction over lands and waters that fall outside the CWA and effectively removing any requirement of navigability. For a lengthier summary of the complaint, see WSW #2546 Special Report.	
Case Number		
3:23-cv-00017		
Court		
U.S. District Court for the Southern District of Texas		
Relevant Dates		

1/18/23: Lawsuit filed 2/27/23: Idaho joined 3/19/23: Preliminary injunction (TX & ID only) 7/10/23: Case stayed 9/1/23: Status report from Corps & EPA re: amended WOTUS rule issued 2/2/24: Plaintiffs filed MSJ	On March 19, 2023, the court issued a preliminary injunction preventing the 2023 WOTUS Rule from taking effect in the States of Texas and Idaho. "[T]wo aspects of the 2023 Rule make the plaintiffs particularly likely to succeed on the merits – first, the Rule's significant-nexus test, and second, the Rule's categorical extension of federal jurisdiction over all interstate waters, regardless of navigability." The court found that Chevron deference does not apply due to the criminal penalties in the rule, and due to the significant constitutional and federalism questions raised by the agencies' interpretation of the CWA. The court held that the states had standing to challenge the rule to protect their quasi-sovereign interests in regulating their land and water. For a lengthier summary of the preliminary injunction, see WSW # 2549.	
Related Cases	In August 2023, the EPA announced amendments in response to the Supreme Court decision in Sackett v. EPA. In turn, Texas and Idaho amended their complaint to include the changes. On February 2, 2024, the plaintiffs filed an MSJ. They argued that the Amended 2023 Rule (88 FR 61964) is unconstitutionally vague in its definitions of "every jurisdictional category," including its definitions of Traditional Waters, Impoundments, Tributaries, Wetlands, and Other Jurisdictional State Waters. Additionally, the Relatively Permanent Standard is broader and vaguer than the standard described in Sackett and Rapanos. Plaintiffs also argued that the Amended 2023 Rule exceeds the CWA, is contrary to the States' sovereignty, violates due process afforded by the Constitution, and was adopted through unlawful procedure under ADA. They conclude: "It cannot be supported by the plain language of the Clean Water Act, it is inconsistent with Supreme Court precedent, it cannot be justified as a valid exercise of congressional authority under the Commerce Clause, it cannot be excused in the face of the Tenth Amendment, and it infringes on the due process rights afforded under the Fifth Amendment. And even if it were not substantially unlawful, it was adopted through unlawful procedure." See WSW #2596	
Notes		
Case Name	Issues	Water rights adjudication (groundwater), SGMA 2014, federal water rights and groundwater
<i>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.</i>	During a joint case management conference, one of the jurisdictional issues raised was whether the de minimus water users, and any overlying non-users, needed to be included in the proceeding in order for the Court to have jurisdiction over the United States as part of a comprehensive adjudication, both to ensure the US participation and to protect the due process rights of these others. Also discussed was the potential for a bifurcated trial, with phase 1 focused on the characteristics of the basin, the total groundwater and available freshwater in storage, and the safe yield. Phase 2 would then address water rights claims not already agreed to by stipulation, and the presentation of a "physical solution" (California Const. Art. X sec. 2), one that achieves the practical allocation of water among competing interests consistent with the constitutional mandate to maximize reasonable and beneficial use, and recognize established water rights. The solution seeks to make water available for a greater number of beneficial uses while still protecting senior priorities and implementing targeted management actions. Some of the parties requested that phase 1 of the trial be completed by the end of summer 2023, and phase 2 occur expeditiously thereafter. The Water District filed a motion regarding the scope of the trial phases. They proposed that Phase 1 issues include determining the amount of fresh groundwater in storage and adjudicating the federal reserved water right claim of the United States. Phase 2 would include determining the safe yield, adjudicating all water rights and their relative priorities, and considering and adopting a physical solution consistent with the Phase 1 trial findings. The court is schedule to hear the motion on March 22, 2024.	
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		
3/17/23: Case Management Conference		
9/1/23: Status Conference (awaiting judicial assignment from the Judicial Council, followed by briefing on Court's authority to determine safe yield and impose a physical solution, as well as the issue of including de minimis users and McCarran jurisdiction)		
2/23/24: IIWVWD Motion for order to divide the trial into phases, establish the basin boundary, set the phase 1 trial, and partially lift the discovery stay		
[3/22/24: Hearing scheduled]		
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/		
Case Name	Issues	Nationwide Permits, ESA
<i>Center for Biological Diversity et al. v. Spellmon</i>		
Case Number		
4:21-cv-00047		
1:22-cv-02586		
Court		

U.S. District Court for Montana	transferred to the District of Columbia for further proceedings.	
U.S. District Court for the District of Columbia		
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 6/9/22: Hearing on MSJs ("order will be submitted forthwith") 8/18/22: Case transferred to District of Columbia 11/18/22: Supplemental Briefing on schedule submitted by the parties to the DC court 9/2023: Supplemental authorities filed		
Related Cases		
Northern Plains Resource Council et al. v. U.S. Army Corps of Engineers, No. 4:19-cv-00044 (D. Mont.), appeal vacated lower court decision (8/11/21) in part due to new NWP that renders some claims moot, and remanded to determine whether vacatur was appropriate, (9th Cir. #20-35412). On remand, claim four was dismissed as moot, and the other three claims were dismissed without prejudice (9/29/22)		
Notes		
Case Name	Issues	ESA
<i>Center for Biological Diversity et al. v. Interior et al.</i>	On March 31, 2022, the lower court issued a decision requiring FWS and Fort Huachaca to reinstate an ESA 7(a)(2) consultation and formulate a BiOp consistent with the court's opinion. On appeal, the 9th Circuit vacated the 2014 BiOp, and reversed the district court's decision to grant the federal MSJ on the issue of agricultural water easement savings in the groundwater demand accounting, and remanded with instructions for the Army and FWS to re-evaluate its water-savings analysis in a new BiOp to ensure that the tangible effects of the proposed action are "reasonably certain" to occur as required by the regulations (50 CFR 402.02). The court upheld other portions of the 2014 BiOp.	
Case Number		
4:20-cv-106		
22-15809	BACKGROUND: 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.	
Court		
U.S. District Court for the District of Arizona		
9th Circuit		
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 3/31/22: Court order directing FWS and the Fort to reinstate an ESA 7(a)(2) consultation and formulate a BiOp consistent with the Opinion 5/27/22: Notice of appeal to 9th Cir. by Plaintiffs 9/14/22: Opening brief filed 5/16/23: Oral arguments 12/4/24: Opinion		
Related Cases		
Notes		
Case Name	Issues	Indian Reserved Water Rights
<i>Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water Dist.</i>	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.	
Case Number		
5:20-cv-00174		
Court		

U.S. District Court for the Central District of California		
Relevant Dates		
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		
2/22/24: Stay extended (3/15/24)		
Related Cases		
Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District, et al., 13-883		
Notes		
Case Name	Issues	Colorado River
Save the Colorado, et al. v. DOI	On December 23, 2022, the court issued its decision denying the plaintiffs' MSJ and granting the federal defendants' and state intervenors' cross-MSJs. The court held that NEPA only requires consideration of reasonable alternatives consistent with the agency's policy objectives and the purpose, in this case, of the LTEMP, which is to set guidelines regarding water releases based on the 2007 Interim Guidelines and the Law of the River. Complying with the Law of the River, meeting water delivery requirements, and complying with other federal laws is an appropriate goal for the federal defendants. The range of alternatives considered in the EIS was consistent with the NEPA goals of informed decision-makeing and informed public participation. The EIS provided explanations for why the plaintiffs' proposed alternatives (decommissioning Glen Canyon Dam, equalizing upstream flows, filling Lake Mead first, or run-of-the-river) were rejected. On February 23, 2023, the plaintiffs appealed the decision to the 9th Circuit. The 9th Circuit heard oral arguments on February 6, 2024.	
Case Number		
3:19-cv-8285		
23-15247		
Court		
U.S. District Court for the District of Arizona		
9th Circuit		
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		
1/22/22: Plaintiffs MSJ		
3/13/22: DOI's MSJ		
4/7/22: Intervenor defendants' (lower basin) joinder to DOI's MSJ		
4/8/22: NM Interstate Stream Commission amicus brief		
10/7/22: Oral Arguments held		
12/23/22: Judgement entered for the Defendants		
2/23/23: Appeal to 9th Circuit		
8/23: States' briefings filed, joining with DOI briefing and adding State concerns		
2/6/24: Oral argument		
Related Cases		
Notes		
Case Name	Issues	Indian Reserved Water Rights
Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District, et al.	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.)	
Case Number		
5:13-cv-883		
Court		
U.S. District Court for the Central District of California		
Relevant Dates		
	On March 7, 2017, the 9th Circuit upheld the California District Court's summary iudgment, holding that the United States implicitly reserved a	

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 7/17/20: Agua Caliente filed its amended complaint 7/31/20: Answers to amended complaint 10/6/20: Case stayed pending private mediation 2/22/24: Stay extended (3/15/24)	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 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. 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 July 17, 2020, the tribe filed its amended complaint. The case was stayed for mediation.	
Related Cases 9th Circuit #15-55896 Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water Dist., 5:20-cv-00174 Notes 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/		
Case Name <i>California v. Bureau of Land Mgmt.</i> 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 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 for mediation 2/2/24: Administrative closure extended to 3/6/24 Related Cases Sierra Club et al. v. Zinke, No. 18-524 (consolidated) Notes	Issues Hydraulic fracturing BACKGROUND: 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	Issues Rio Grande Compact	

<i>Texas v. New Mexico and Colorado</i>	
Case Number	
#22O141	
Court	
U.S. Supreme Court	
Relevant Dates	
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.	
6/24/22: Status conference: settlement agreed to in principle (drafting, approval, legislative and regulatory steps pending)	
9/21/22: Joint Status report: settlement discussions continue, proposed completion or trial by January 2023	
1/9/23: Proposed Consent Decree (settlement agreement) unsealed	
7/24/23: Special Master's Recommendation to the Supreme Court to approve the Consent Decree	
10/6/23: United States Exception to the Special Master's Recommendation	
12/4/23: TX, NM, CO joint reply to the Exceptions	
12/11/23: 22 states filed an amicus brief (including AK, AZ, ID, KS, MT, NE, OR, SD, UT, WY)	
[3/20/24: Oral argument scheduled]	
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/	On July 24, 2023, the Special Master submitted his recommendation to the Supreme Court to approve the Consent Decree. On October 6, 2023, the U.S. filed exceptions on the grounds that it was not a party to the Consent Decree, that its claims have not been resolved, that the Consent Decree violates the Rio Grande Compact, and that it imposes obligations on the U.S. without its consent. On December 4, 2023, the States of Texas, New Mexico, and Colorado filed a joint reply to the United States exceptions. The States argued that they are able to resolve ambiguities in an interstate compact, and that the Supreme Court has historically honored such agreements between states. The States explained how the Consent Decree is consistent with the Rio Grande Compact, and argued that the Bureau of Reclamation acts as an agent of the Compact, not of the States. "The United States asserts, incorrectly, that Reclamation, and not the Compact, 'dictate[s] the terms of the apportionment' below the Reservoir. That radical position would stand the normal principles of compact apportionment on their head and vest the United States with freedom to determine how much water New Mexico and Texas receive. Because the Compact, not Reclamation, establishes the apportionment... Reclamation simply does not have discretion to adjust the amount of water to which each State is entitled. Any other result would undermine State sovereignty and allow the apportionment to change based on the unilateral actions of the United States – a non-signatory to the Compact." On December 11, 2023, 22 other states filed an amicus brief in support of TX, NM, and CO. The brief argued that the ability to form interstate compacts is a key component of state sovereignty, enabling them to address issues that cross jurisdictional boundaries, including the ability to equitably apportion and manage interstate waters. "As parties to interstate water compacts, Amici States expect certainty from their agreements and to be able to manage their state waters in accordance with such agreements. If a dispute arises regarding an interstate water compact, the state parties to the compact have the authority to resolve these disputes among themselves. State sovereignty and principles of federalism prevent undue interference from the United States when the United States is not a party to the compact." The Amici States argued: "Even in those instances where there is a federal water project associated with an project does not create a role for the United States in the enforcement or interpretation of the compact or in the division and governance of water between the States. Federal law requires that the United States comply with state law relating to the control, appropriation, and distribution of water in federal water projects. See 43 U.S. § 383 [Section 8 of the Reclamation Act]; see also 43 U.S.C. § 666 [McCarran Amendment]. Federal water project authorizations do not supersede compact terms negotiated by States and cannot impose new terms and conditions that were not agreed to by the compacting parties. This Court should reject the United States' argument that it may enforce against state parties its own interpretation of interstate water compacts to which it is not a party and refuse the United States' attempt to expand its role in the interpretation and enforcement of such compacts." The Amici States noted that the Bureau of Reclamation could still resolve its concerns by going back to the states: "That does not mean, however, that the United States is without recourse. If the United States has a claim regarding water appropriated to it in relation to a federal water project, the United States, like all other water right holders, may turn to state courts to protect project water rights.... In line with these principles, laws authorizing federal water projects that involve compact water recognize that such projects are subsidiary to interstate compacts and must operate within the compact framework." BACKGROUND: The state of Texas filed a lawsuit in the United States Supreme Court against the states of New Mexico and Colorado alleging that 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. On January 9, 2023, the Special Master released the states-proposed Consent Decree (document 720). In his order (document 742), the Special Master said: "The States, but not the United States, now have reached a proposed settlement of their pending claims against one another. The proposed settlement differs in many ways from the parties' litigation positions... Texas, however, asserts that it is satisfied the Decree achieves its primary goal: ensuring delivery to Texas of Texas's share of Rio Grande water with well-defined methods to verify delivery and enforceable consequences for under- or over-delivery. New Mexico, similarly, asserts that it is satisfied the Decree achieves New Mexico's primary goals: ensuring delivery in New Mexico of the appropriate share of Rio Grande water without unduly infringing upon New Mexico's sovereignty to address water-related disputes between New Mexicans, between New Mexico and its citizens (including water districts), or between New Mexico and the United States. Colorado, whose interests are primarily upstream of the Elephant Butte Reservoir, agrees that the Decree is consistent with the Compact and adequately protects Colorado's interests. Finally, the Decree does not amend the Compact. In fact, it expressly disavows any such amendment as well as any interference with the United States' duties towards Mexico and towards native citizens' tribes. To achieve these goals, the proposed Decree employs several mechanisms found elsewhere in the Rio Grande Compact and in many other interstate compacts. For example, the Decree calls for a gauge to measure flow near El Paso and imposes a delivery requirement on New Mexico at that gauge. The delivery requirement is based on formulas that use many inputs including the flow leaving Caballo Reservoir just downstream of Elephant Butte Reservoir. Recognizing the likelihood that actual deliveries will vary from formula-required deliveries, the Decree establishes deviation limits and calls for responsive actions in the event deliveries exceed or fall short of requirements. In part, responsive actions are left for New Mexico to select in its sovereign prerogative. Ultimately water transfers through the Rio Grande Project and adjustments to water escrow accounts are required if any state fails to remedy deviations adequately or in a timely fashion."

Tab S – State Reports

Tab T - U - V (Intentionally Blank)

Tab W – Newsletter Index

WESTERN STATES WATER NEWSLETTER INDEX

January 5, 2024 - March 1, 2024

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2024 Meetings (#468 - #470)



RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding the
RURAL WATER SUPPLY PROJECT/INFRASTRUCTURE NEEDS
Cody, Wyoming
June 25, 2021

WHEREAS, in the West, water is indeed our “life blood,” a vital and scarce resource the availability of which has and continues to circumscribe growth, development, our economic and environmental well-being and quality of life; and

WHEREAS, across the West, rural and tribal communities are experiencing water supply shortages due to drought, declining streamflows and groundwater supplies, and inadequate infrastructure, with some communities hauling water over substantial distances to satisfy their potable water needs; and

WHEREAS, often water supplies that are available to these communities are of poor quality and may be impaired by naturally occurring and man-made contaminants, including arsenic and carcinogens, which impact communities’ health and their ability to comply with increasingly stringent federal water quality and drinking water mandates; and

WHEREAS, at the same time, many rural and tribal communities in the West are suffering from significant levels of unemployment and simply lack the financial capacity and expertise to finance and construct needed drinking water system improvements; and

WHEREAS, there are six authorized and active rural water projects located in Montana, New Mexico, North Dakota, and South Dakota of which five have yet to be completed at an estimated federal cost of around \$898 million – while costs continue to increase due to delays, inflation and the rising costs of materials and labor – and at current levels of funding completion of some project could be delayed by decades; and

WHEREAS, there is a Federal responsibility to complete authorized rural water projects, particularly those intended to fulfill in part a solemn Federal promise and trust responsibility to compensate States and federally recognized Indian Tribes for lost resources as a result of the construction of Federal flood control projects and other actions; and

WHEREAS, recognizing Federal budget constraints, a modest increase in Federal expenditures would expedite completion of authorized projects and in the long run save taxpayer

money while inadequate funding levels, and untimely appropriations only increase delays and Federal costs and perpetuates rural and tribal communities' hardships; and

WHEREAS, authorizing the increased use of Reclamation Fund revenues to expedite completion of these projects fulfills both financial and moral obligations that some beneficiaries have waited decades to see honored; and

WHEREAS, the Congress enacted the Rural Water Supply Act of 2006 (P. L. 109-451) and established the Bureau of Reclamation's Rural Water Supply Program authorizing the agency to work with rural communities, states and tribes, to assess potable water supply needs and identify options to address those needs through appraisal investigations and feasibility studies; and

WHEREAS, federal expenditures for rural water projects actually generate significant returns on the investment through increased national and local economic benefits, as well as improvements in quality of life; and

WHEREAS, Reclamation Fund receipts are largely derived from water and power sales, project repayments, and receipts from public land sales and leases, as well as oil and mineral-leasing and related royalties, from western lands adjacent to rural and tribal communities; and

WHEREAS, western States are committed to continuing to work cooperatively with the Department of Interior and Bureau of Reclamation to meet rural water needs in the West for present and future generations, within the framework of state water law, as envisioned in the Reclamation Act of 1902; and

WHEREAS, under the Reclamation Act of 1902, the Reclamation Fund was envisioned as the principal means for financing federal western water and power projects with revenues from western resources – but these receipts are only available for expenditure pursuant to annual appropriation acts; and

WHEREAS, with growing receipts -- in part due to energy development across the rural West -- and limited federal appropriations for Reclamation Act purposes, the unobligated balance grows larger and larger (and is expected to soon exceed \$18 billion), while the money is actually spent elsewhere for other federal purposes contrary to the Congress' original intent; and

WHEREAS, the Western States Water Council (WSWC) has a long-standing policy in support of using receipts accruing to the Reclamation Fund for authorized projects, including rural and tribal water supply projects.

NOW THEREFORE BE IT RESOLVED, that the WSWC strongly supports Administrative and Congressional action to expedite construction of authorized rural water supply projects in a timely manner, including projects that meet tribal trust and other federal responsibilities -- recognizing and continuing to defer to the primacy of western water laws and tribal settlements in allocating water among users.

BE IT FURTHER RESOLVED, that the WSWC recommend that the Administration and the Congress investigate the advantages of converting the Reclamation Fund from a special account to a true revolving trust fund with annual receipts to be appropriated for authorized purposes in the year following their deposit (similar to some other federal authorities and trust accounts).

(See also former No. 424, August 13, 2018;
No. 382, July 10, 2015; No. 342, June 8, 2012;
No. 316, July 17, 2009, and No. 278, July 21, 2006)



RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding
WATER TRANSFERS
and
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
DISCHARGE PERMITS
Cody, Wyoming
June 25, 2021
(revised and reaffirmed)

WHEREAS, the Western States Water Council has long declared its position that the transport of water through constructed conveyances to supply beneficial uses should not trigger federal National Pollutant Discharge Elimination System (NPDES) permit requirements, simply because the transported water contains different chemical concentrations and physical constituents; and

WHEREAS, the Western States Water Council supports the ability of each Western State to use available authorities to place appropriate conditions on water transfers to protect water quality; and

WHEREAS, the Environmental Protection Agency (EPA) published 40 CFR Part 122.3(i), expressly excluding water transfers from regulation under the NPDES permitting program, and defining water transfers as an activity that conveys or connects waters of the United States to another water of the United States without subjecting the water to intervening industrial, municipal, or commercial use; and

WHEREAS, the final rule relies on EPA's interpretation of the federal Clean Water Act and does not limit any ability of a State to use any available authority, including authority regarding nonpoint sources of pollution, to protect the water quality of the receiving water body in a water transfer;

WHEREAS, water transfers and water quality are essential to the social, economic and environmental well-being of the Western States; and

WHEREAS, the United States Court of Appeals, in the cases of *Friends of the Everglades v. South Florida Water Management Dist.*, 570 F.3d 1210 (11th Cir. 2009), and *New York State et al. v. Environmental Protection Agency*, 846 F.3d 492 (2nd Cir. 2017), upheld EPA's Water Transfer Rule, holding it to be a reasonable construction of the Clean Water Act and therefore entitled to deference by the Federal Courts and on which decisions the United States Supreme Court subsequently denied Petitions for Writ of Certiorari.

*(See also former No. 424, August 13, 2018;
No. 382, July 10, 2015; No. 342, June 8, 2012;
No. 316, July 17, 2009, and No. 278, July 21, 2006)*

NOW, THEREFORE, BE IT RESOLVED that the Western States Water Council generally supports EPA's amendment to its Clean Water Act regulations as codified in 40 CFR 122.3(i).

BE IT FURTHER RESOLVED that the Western States Water Council supports the use by a State of available authorities to protect the water quality of the receiving water body in a water transfer.

BE IT FURTHER RESOLVED that the Western States Water Council supports the codification of 40 CFR 122.3(i) into statute by the Congress.



RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding
ENDANGERED SPECIES AND STATE WATER RIGHTS
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, 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.