



RESOLUTION
of the
WESTERN STATES WATER COUNCIL
Regarding
STATE NUTRIENT REDUCTION STRATEGIES
West Fargo, North Dakota
July 26, 2024

WHEREAS, the Clean Water Act (CWA) establishes individual States as co-regulators, responsible for establishing comprehensive water quality standards and nutrient reduction strategies for waters within their borders; and

WHEREAS, the west includes diverse and unique physiographic, hydrologic, geologic and climatic conditions, and water supply infrastructure, with significant implications for nutrient management; and

WHEREAS, States are primarily responsible and accountable for their own water development, management, and protection challenges, and are in the best position to identify, evaluate, and prioritize their needs, and plan and implement strategies to meet those needs; and

WHEREAS, CWA Section 101(b) supports the states' critical role in protecting water quality by stating: "It is the policy of Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution" and "to support and aid research relating to the prevention, reduction, and elimination of pollution and to provide Federal technical services and financial aid to State and interstate agencies and municipalities in connection with the prevention, reduction, and elimination of pollution;" and

WHEREAS, Congress established a national policy in CWA Section 101(a)(7) supporting the development and implementation of programs for the control of nonpoint sources of pollution "in an expeditious manner so as to enable the goals of this chapter to be met through the control of both point and nonpoint sources of pollution;" and

WHEREAS, most States have authority over the regulation of discharges of pollutants, including excess nutrients, for waters within their borders, and are primarily responsible for managing and otherwise controlling such discharges; and

WHEREAS, nitrogen and phosphorus pollutants are the cause of water quality impairment to thousands of water bodies in the U.S., resulting in hypoxia, harmful algal blooms, and groundwater nitrate contamination, and thereby threatening the availability of water for designated uses including domestic supply, recreation, aquatic wildlife habitat, and agricultural use; and

WHEREAS, nutrient issues are typically the result of excess availability, manifesting as drinking water compliance problems and impacts to desirable aquatic life; and

WHEREAS, most States have unique reduction strategies based on narrative criteria, which express and address the impact of excess nutrients, and result in demonstrable positive environmental

responses that decrease the frequency, size, and severity of low dissolved oxygen occurrences and other water quality issues, including those caused by harmful algal blooms; and

WHEREAS, the Environmental Protection Agency (EPA) has promoted the position that numeric nutrient criteria are necessary to provide measurable water quality-based goals and are easier and more efficient than the narrative criteria statements in many state water quality standards; and

WHEREAS, nutrient reduction requires a combination of natural and social sciences to create and implement standards which are achievable, economically feasible and sociologically appropriate, and support desired outcomes for designated uses; and

WHEREAS, EPA provides information, methods, tools, evaluation techniques, and best practices to address problems associated with excess nutrients; and

WHEREAS, EPA seeks to support the efforts of states and tribes to reduce nutrient loading by facilitating water quality modeling and monitoring; and

WHEREAS, baseflow conditions can be predominantly influenced by wastewater from NPDES permitted facilities, and technology-based controls for point sources may be more physically and fiscally achievable than achieving water quality based effluent limitations; and

WHEREAS, reductions of wet weather nutrient loading require control efforts among both point and non-point sources in both urban and rural landscapes, and states have different approaches to controlling nonpoint sources, which are widespread, challenging to control and maintain, and largely subject to only voluntary authority under the Clean Water Act; and

WHEREAS, Congress has authorized funding for programs that are crucial to nutrient reduction such as Clean Water State Revolving Funds (Clean Water SRFs), Section 106 Grants for water pollution control programs, Section 319 Grants for nonpoint management programs, and National Resources Conservation Service (NRCS) programs such as the Environmental Quality Incentives Program (EQIP).

NOW, THEREFORE, BE IT RESOLVED, that any EPA nutrient reduction strategy must recognize and respect state primacy, reflect a true state-federal partnership, and provide adequate funding consistent with current federal statutory authorities and regulatory mandates.

BE IT FURTHER RESOLVED, the Western States Water Council (WSWC) supports the ability of each State to choose how it leverages the portfolio of reduction strategies in determining nutrient reduction regulations, including narrative criteria, technology-based criteria, market-based efforts, state regulated alterations to the landscape, as well as long recognized strategies such as numeric criteria, TMDLs, facility optimization, and NPDES permitting.

BE IT FURTHER RESOLVED, the WSWC supports the ability of each State to implement reduction strategies that focus on state-selected priorities, appropriate documentation and public outreach, and achievable improvement goals and that consider the severity of impairments, the impacts to drinking water, the need to protect unimpaired waterbodies, the implementation challenges and impacts to downstream waters as understood through both natural and social sciences.

BE IT FURTHER RESOLVED, that effective nutrient reduction requires engagement and coordination among all levels of government, each fulfilling their role in scientific investigation, technical and financial assistance, strategic prioritization, tactical regulation, resource delivery, on-site implementation, and adaptive management.

BE IT FURTHER RESOLVED, that the WSWC encourages the EPA to work with its federal partners such as NRCS to form a coordinated federal response with state input to support customized state nutrient reduction strategies and the achievement of water quality standards.

BE IT FURTHER RESOLVED, the WSWC supports funding at levels needed for states to fully implement federal programs that facilitate the development and implementation of science-backed state-led nutrient reduction strategies, including Clean Water SRFs, Section 319 & 106 grants, and NRCS programs such as EQIP.

BE IT FURTHER RESOLVED, the WSWC supports the collection, analysis, and open sharing of reliable water quality data at all levels of government to support sound decision-making, including development of models, tools, and resources that are adaptable to unique hydrologic conditions.