



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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ADMINISTRATION/WATER RESOURCES

Army Corps/Principles, Requirements and Guidelines

On January 18, the Army Corps of Engineers' (Corps) Agency Specific Procedures (ASP) To Implement the Principles, Requirements, and Guidelines for Federal Investments in Water Resources (89 FR 103992) went into effect. The new Rule requires the Corps to consider nature-based solutions and give equal consideration to the "environmental, economic and social effects" when evaluating water resources projects. The rule also allows the quantification of benefits using both monetary or non-monetary metrics. Qualitative descriptions of benefits may also be developed.

During the comment period in 2024, the California Department of Water Resources noted that definitions should emphasize the social and environmental costs of water resources projects, resiliency and sustainability, inclusion of tribal governments, and the implementation authority of non-federal interests. They suggested that during the planning process, the Corps should consider alignment with state and local regulations, impacts to economically distressed areas, impacts of climate change on flood risk, multi-purpose benefits and nature-based solutions, sustainable economic development, and holistic watershed management.

The North Dakota Department of Water Resources expressed general support for the rule's aim to create a more holistic and collaborative review process, but requested clarity on the inclusion of existing projects, methods and metrics to be used, and eligibility criteria for exemption from full analysis. They requested that the Corps specify that droughts, floods, interstate compacts, and other developments impacting water supplies be fully considered, and that structural solutions must be given fair consideration. ND DWR advocated for increased collaboration with States and Tribes and recognition as "co-equal sovereigns with primary authority over water resources allocation within their borders."

The Idaho Attorney General's Office commented: "The Rule has several major failings that the Corps should address: the Rule is predicated on a blatant disregard of Congressional Authority, the Rule exceeds

the authority given to the Corps by Congress, and the Rule impedes the fundamental sovereignty of the states over water resources...the Rule should be modified to remove environmental justice considerations and make the States' role in the process more explicit and involve the States in the early planning stages."

In issuing the final Rule, the Corps responded to assertions that the ASPs exceed Congressional intent and cited the express direction it received under Section 110 of the Water Resources Development Act (WRDA) 2020. The Corps summarized other changes in response to comments: "Based on comments received, text within the rule was updated to better describe the full consideration of economic, environmental, and social benefits in decision-making. The rule text has also been updated to add clarity and emphasis to respecting Tribal treaty rights throughout the planning process for any plan, project, or program. A large majority of comments received were seeking further clarity on process, procedures, methodology, and tools. The Corps will review current guidance following publication of the final rule to determine the need for updates." The Corps made no adjustments regarding applicability to existing projects where no changes are proposed. It did remove certain caveat language to balance representation of structural and non-structural alternatives and said: "Establishing a higher priority for certain alternatives would contradict the concept of equal consideration." The Corps also made minor edits, for clarity, to the section on collaboration with state agencies and said updated guidance may include additional details on public engagement.

CONGRESS/WATER RESOURCES

House/Colorado River/WaterSMART

On January 23, the House Natural Resources Subcommittee on Water, Wildlife and Fisheries held a hearing on recently introduced water bills. Subcommittee Chair Harriet Hageman (R-WY) presented the Colorado River Basin System Conservation Extension Act of 2025 (H.R. 231), which would extend the System Conservation Pilot Program (SCPP) through FY2026, and require the Department of Interior (DOI) to report to Congress on the continued effectiveness of the program by the end of FY2027. Hageman said: "To be clear this program is not

and should not be viewed as a permanent solution to addressing the drought conditions in the basin. However, at this time it is a tool that the Upper Basin States can use to reduce risk to test new innovative water management strategies.”

On January 22, Representative Melanie Stansbury (D-NM) reintroduced the WaterSMART Access for Tribes Act (H.R. 635), which would authorize DOI to reduce or waive cost-share requirements for tribal governments under the Bureau of Reclamation’s WaterSMART program. Stansbury said this is: “...one tool to unlock critically needed resources to address tribal water security. For over a decade the Department of the Interior’s WaterSMART program has provided hundreds of grants to communities across the West as one of the nation’s premier water conservation programs. Yet Tribes have received fewer than 5% of these grants due to burdensome cost-sharing requirements which have acted as a significant barrier to accessing funds.... This legislation will help to break down economic barriers to addressing those needs and will help to unlock the funds to support tribal communities in building out infrastructure. The time to address these issues is now.”

On behalf of Navajo Nation President Dr. Buu Nygren, Dwight Witherspoon expressed “...our strong support for this legislation, which will make the WaterSMART grant program more accessible to Tribes by allowing flexibility with the non-federal cost-share requirements. While this bill does not address the full scope of the Navajo Nation’s water needs, it provides a useful tool to help the Nation and other tribes address water infrastructure challenges and move toward a more sustainable future. The Navajo Nation’s water needs are immense and urgent.... Roughly 30% of Navajo households lack access to clean drinking water – a rate that is more than 67 times the national average.”

The Committee discussed H.R. 331, introduced by Representative Russ Fulcher (R-ID), which would amend the Aquifer Recharge Flexibility Act to clarify that no additional permits or authorizations are needed to transport water across Bureau of Land Management (BLM) lands for aquifer recharge purposes. The bill includes a 30-day notice requirement on local entities planning to use BLM infrastructure for aquifer recharge. Witness Wesley Hipke, Idaho Department of Water Resources (IDWR), testified of the need for clarification: “[BLM’s] interpretation requires the [Idaho Water Resources Board] to obtain new right-of-ways to conduct recharge in canals that already have existing right-of-ways. The BLM right-of-way process can be onerous and will add significant time to the development of recharge projects. This could severely delay the Board’s ability to reach the goals of recovery and stabilizing the ESPA.” Hipke recounted the threat of

curtailment for Eastern Snake Plains Aquifer users and said: “The recharge program is working. We just need to do more.... To get it in balance we need to put in about 600,000 acre-feet. Currently the program is only doing about 250,000. On a really dry year we can only do less than half of that. So we have to be prepared in those wet years to be able to put that water in the ground. We don’t know when those are going to happen. So every year we don’t have that in place presents a problem.”

Senate Confirmation Hearings

On January 22, the Senate Budget Committee held a confirmation hearing for Russell Vought, President Trump’s nominee for Director of the Office of Management and Budget (OMB). Chairman Lindsey Graham (R-NC) introduced Vought and noted his experience at OMB during President Trump’s first term. “I think you’re qualified for the job. I know why they picked you.” Under Graham’s questioning, Vought committed to make it easier for America to extract natural resources, create a regulatory environment that allows the U.S. to compete with China, and reduce federal spending responsibly. Ranking Member Jeff Merkley (D-OR) stated: “I have no doubt, Mr. Vought, that you have the intellectual expertise and the experience. You were OMB Director before. You know all the ins and outs. It’s really a question of whether we’re going to accomplish something that provides a foundation for American families to thrive....” Merkley asked whether Vought intended to use a rescission message to Congress to carry out the Executive Order to pause IRA/ IJA disbursements, or an “illegal impoundment strategy.” Vought emphasized that the pause is intended as a programmatic delay. When asked by Senator Patty Murray (D-OR) whether he would faithfully follow the Congressional Budget and Impoundment Control Act he replied: “Senator, we will faithfully uphold the law. The president ran on the notion that the Impoundment Control Act is unconstitutional. I agree with that. I would... say that what the President has unveiled already are not impoundments.”

On January 15, the Senate Homeland Security and Governmental Affairs Committee held a confirmation hearing for Vought. Chairman Rand Paul (R-KY) expressed support for the nomination and emphasized right-sizing the budget. Ranking Member Gary Peters (D-MI) questioned Vought about delayed emergency funding and use of presidential emergencies. In his testimony, Vought said: “The forgotten men and women of this country — those who work hard every day in cities and towns across America — deserve a government that empowers them to achieve their dreams.... If confirmed, I will continue to serve with their best interests at heart, striving to ensure every decision contributes to a more prosperous future for all Americans.”

The WESTERN STATES WATER COUNCIL is a government entity of representatives appointed by the Governors of Alaska, Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.