



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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ADMINISTRATION

EPA/CWA §401 Authority

On May 21, the Environmental Protection Agency (EPA) issued a memo entitled “Clarification regarding the Application of Clean Water Act Section 401 Certification.” The memo explains the “specific and limited role” that Clean Water Act (CWA) Section 401 provides States and authorized Tribes in the federal licensing or permitting process. “The 2023 rule and all prior EPA regulations and guidance documents have consistently stated that CWA Section 401 is limited to addressing only water quality-related impacts. Similarly, the regulations do not authorize a certification condition based on generalized concerns about water quality untethered to noncompliance with a specific applicable water quality requirement or requirements. It would be inconsistent with CWA Section 401 to deny or condition a certification based on potential impacts not connected to water quality (e.g., based solely on potential impacts to air quality, traffic, noise, project preference, or economic impacts that have no direct connection to water quality).”

The agency plans to issue a Federal Register notice with recommendations to identify additional implementation challenges which will be later addressed through guidance or rulemaking.

The memo refers to EPA’s “Powering the Great American Comeback” initiative, to “achieve the agency’s mission while energizing the greatness of the American economy.” The initiative outlines agency priorities under the Trump Administration, consisting of five pillars to guide the agency including: (1) Clean Air, Land, and Water for Every American; (2) Restore American Energy Dominance; (3) Permitting Reform, Cooperative Federalism, and Cross-Agency Partnership; (4) Make the United States the Artificial Intelligence Capital of the World; and (5) Protecting and Bringing Back American Auto Jobs. The memo noted that some of the most common examples of projects subject to Section 401 involve “energy, critical mineral, infrastructure and development projects that are key to economic growth and the EPA’s ‘Powering the Great American Comeback’ initiative.” <https://www.epa.gov/newsreleases/>

CONGRESS

House/Natural Resources/Geothermal

On May 12, the House Committee on Natural Resources, Subcommittee on Energy and Mineral Resources held a field hearing entitled “Letting Off Steam: Unleashing Geothermal Energy Development on Federal Land” in Cedar City, Utah. Members and witnesses highlighted the potential of geothermal energy, including enhanced geothermal systems (EGS), as a reliable, clean, and domestic base load power source crucial for meeting growing energy demands, including those from AI development. Subcommittee Chairman Pete Stauber (R-MN) highlighted the House Natural Resources Committee’s advancement of the One Big Beautiful Bill Act (H.R.1), which includes mandates for annual geothermal lease sales. Celeste Maloy (R-UT) highlighted the GEO Act (H.R.301) and the Streamlining Thermal Energy through Advanced Mechanics (STEAM) Act (H.R.1077), which would both streamline permitting for geothermal projects.

Dr. Joseph Moore, University of Utah, discussed the Utah Frontier Observatory for Research in Geothermal Energy (Forge) project. Funded by the Department of Energy, Utah Forge is a field-scale underground laboratory dedicated to EGS research. Dr. Moore highlighted the lab’s successful stimulation of a slanted and cased well, recovering 90% of injected water at 380°F, demonstrating high temperatures and low water loss. <https://naturalresources.house.gov/news>

WATER RESOURCES

ASCE 2025 Report/Infrastructure

On May 12, the American Society of Civil Engineers (ASCE) provided a news release for their 2025 Report Card for America’s Infrastructure, discussed during the ASCE Solutions Summit in March. The report acknowledged significant federal investments of \$580B (2022-2026) through the Infrastructure Investment and Jobs Act (IIJA) and the Inflation Reduction Act (IRA), as well as state, local, and private sector partnerships that raised grades in nearly half of the 18 categories assessed. However, half of the categories are still at a grade D, meaning that the infrastructure is below

standard, reaching the end of its service life, exhibiting significant deterioration, and presents a strong risk of failure. Water infrastructure categories included dams (D+), drinking water (C-), levees (D+), stormwater (D), and wastewater (D+). The report noted that the benefits of IIJA's significant funding will be delayed due to decades of neglect, aging systems, and rising demands. It emphasized the need for modern, resilient infrastructure and the increasing role of financing tools like municipal bonds and private equity.

The U.S. has over 92,000 dams, many aging and increasingly vulnerable, with nearly 17,000 classified as high hazard potential (meaning there is "likelihood of deadly harm to residents and property" if they fail.) Maintenance costs have increased in the 21st century because of the increasing number and intensity of extreme weather events, growing populations, and the outdated design challenges of aging structures. The average age of our nation's dams is over 60 years, while 7 of 10 dams nationwide are expected to reach 50 years by 2025. While the IIJA allocated about \$3 billion for dam safety, \$364M was redirected, and federal support remains below authorized levels. Although recent funding has helped, an estimated \$185B is needed to adequately repair the nation's dams.

In 2023, the EPA determined that the nation's water infrastructure needs stood at \$625B over 20 years. That exceeds EPA's 2018 assessment by more than \$150B. The IIJA provided over \$30B to improve drinking water infrastructure, remove lead service lines, and address emerging contaminants. Despite this, State Revolving Funds (SRFs) remain underfunded, and utilities face challenges from aging systems. While some utilities are adopting innovative technologies to predict and prevent failures, only about 30% have fully implemented asset management plans, and just under half are in the process of implementing one. Federal agencies and programs are available to help utilities comply with regulations and replace hazardous pipes.

Twenty-three million Americans nationwide live and work behind levees, which protect \$2T worth of property, seven million buildings, and five million acres of farmland. Despite their importance, nearly two-thirds of the 24,000 miles of U.S. levees have not been assessed for risk. More than half of the nation's levees are operated and maintained at the state and local level. Efforts to improve levee safety are underway, including the development of draft National Levee Safety Guidelines, improvements to the National Levee Database, and development of best practices for levee management. However, funding streams for programs like the National Levee Safety Program and Levee Rehabilitation Grant Program have received little federal funding in recent years. The current need is \$97B.

Across the U.S., stormwater utilities are working to manage aging rain and snowmelt conveyance infrastructure. Impaired rivers and streams miles have increased from about 424,000 miles in 2010 to more than 703,000 miles by 2022. While some of this increase is due to better monitoring, more than 60% of utilities cite aging infrastructure as a major concern. Stormwater utilities are increasing fees, though it is not keeping pace with the demands. Nationally, EPA's 2022 Clean Watersheds Needs Survey (CWNS) estimated the 20-year need for large stormwater systems (Municipal Separate Storm Sewer Systems) had increased from \$23.8B in 2012 to \$115.3 billion a decade later. Congress passed the IIJA and the IRA with \$46 billion in new funding for the stormwater, wastewater, and drinking water sectors between 2022 and 2026.

The U.S. wastewater system, valued at over \$1T and supported by nearly 17,500 treatment plants, faces pressure to address emerging contaminants and stricter environmental standards. Aging infrastructure has led to an increase in collection system failures for combined water utilities, rising from 2 to 3.3 per 100 miles of pipe. The average bill for residential wastewater increased from \$35 to nearly \$65 per month from 2010 to 2020 but local funding remains insufficient. In 2024, the wastewater and stormwater annual capital needs were \$99B, with a funding gap of \$69B. Assuming the combined wastewater and stormwater sector continues along the same path, the gap will grow to more than \$690B by 2044. <https://infrastructurereportcard.org/>

PEOPLE

Governor Mike Dunleavy (R-AK) has appointed Randy Bates as commissioner-designee for the Alaska Department of Environmental Conservation. Bates replaces Christina Carpenter who has accepted a position as EPA Region 10 Chief of Staff.

Secretary of Agriculture, Brooke Rollins, announced the appointment of Aubrey Bettencourt as Chief of the Natural Resources Conservation Service (NRCS). Bettencourt previously served as the President and CEO of the Almond Alliance, and as the Deputy Assistant Secretary for DOI during President Trump's first administration.

MEETINGS

Summer Meetings/60th Anniversary

The WSWC 2025 Summer Meetings and 60th Anniversary will be held in Snowbird, Utah. Registration for virtual attendance on June 11-12 is now available at <https://westernstateswater.org/events/2025-wswc-summer-207th-meetings-and-60th-anniversary-snowbird-utah/t>

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.