



Photo Credited to Phil Balch

Western States Water Council (205th Meeting)

Lawrence, Kansas October 22-23, 2024



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Photo Credited to Isaac Gorges



WESTERN STATES WATER COUNCIL

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Web Page: www.westernstateswater.org

MEMORANDUM

TO: Western States Water Council Members and Others

FROM: Tony Willardson, Executive Director

DATE: October 18, 2024

RE: Briefing Materials for the Fall 2024 (205th) WSWC Meetings

This is to advise you that briefing materials for our 2024 Fall meetings being held in Lawrence, Kansas (a hybrid in-person and virtual event) on October 23, may be downloaded on our [meetings webpage](#). The minutes from the July 2024 Summer meetings will be available on our website (under Past Meetings) for your review. *Please note that preparation of the minutes was complicated due to unanticipated sound quality issues; staff would appreciate any edits to ensure greater accuracy.*

The meeting schedule and agenda are posted on our meetings webpage. As a reminder, in order to participate, whether in-person or virtually, all must register. Please visit our [meetings webpage](#) and when registering for virtual attendance, please mark each section 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 so you may direct others who may be interested to attend to our meetings webpage to register.

Our Kansas hosts have arranged a half day field trip on Tuesday, October 22, which will include lunch. Members and guests will depart The Oread Lawrence at 12:30 pm. Field trip stops will include the Arabia Steamboat Museum and the Rock Island Bridge. ***The field trip is being sponsored by the State of Kansas, and the Interstate Council on Water Policy (ICWP).*** Following the field trip, a joint ICWP/WSWC reception ***sponsored by Burns McDonnell*** will be held for all ICWP/WSWC members and guests from 6:30 – 8:30 pm. Please note that all times are Central Daylight Time (CDT).

The WSWC Committee and Council meetings will be held on Wednesday, October 23, beginning at 8:00 am with the Water Resources Committee meeting, followed by the Water Quality Committee meeting at 10:00 am. We will break for lunch at 12:00 pm (on your own), with the exception of the Executive Committee, which will meet over a working lunch. The Legal Committee meeting will begin at 1:00 pm. The Host State Presentation will follow at 3:00 pm, and the Full Council meeting will begin at 3:45 pm, adjourning at 5:45 pm.

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

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WESTERN STATES WATER COUNCIL
204th COUNCIL MEETING
Lawrence, Kansas
October 22-23, 2024

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O. Groundwater Workshop and Webinars

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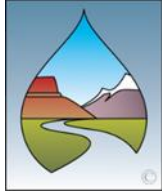
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SCHEDULE OF MEETINGS

WESTERN STATES WATER COUNCIL

The Oread Lawrence
Lawrence, Kansas

October 22-23, 2024

<u>Date/Time</u>	<u>Meeting</u>	<u>Room</u>	<u>Adjournment</u>

(*Central Daylight Time*)

Tuesday, October 22

8:00 am	Joint ICWP-WSWC Meeting	Sunflower Ballroom	Noon
12:30 pm	Field Trip Stops will include: Arabia Steamboat Museum and the Rock Island Bridge Sponsors: <i>State of Kansas</i> <i>Interstate Council on Water Policy</i>		5:00 pm
6:30 pm	Reception Sponsor: <i>Burns & McDonnell</i>	Upper Terrace	8:30 pm

Wednesday, October 23

8:00 am	Water Resources Committee Meeting	Presidential Ballroom	9:45 am
10:00 am	Water Quality Committee Meeting	Presidential Ballroom	11:45 am
12:00 pm	Executive Committee (over lunch)	Hearth Room	12:45 pm
1:00 pm	Legal Committee Meeting	Presidential Ballroom	2:45 pm
3:00 pm	Host State Presentation	Presidential Ballroom	3:45 pm
3:45 pm	WSWC Full Council (205 th) Meeting	Presidential Ballroom	5:45 pm

AGENDA
WATER RESOURCES COMMITTEE

Oread Hotel
Lawrence, Kansas

October 23, 2024

Call to Order at: 8:00 a.m. (Central Daylight Time)
Conducting: Anna Pakenham Stevenson, Montana

Presidential Ballroom

TABS

1. **Welcome and Introductions**
2. **Approval of Minutes**
- C 3. **Sunsetting Resolutions –**
Position #473 - Federal Water and Climate Data Collection and Analysis Programs
Position #474 - Drought Preparedness, Prediction and Early Warning Programs
Position #475 - Bureau of Reclamation Drought Response Programs
- G 4. **Water Projects Navigators Act (S. 4995/H.R. 9506) –** Cameron Bradshaw, Office of Senator Jerry Moran (R-KS)
5. **New Mexico Integrated Water Financing Plan –** Tanya Trujillo, OSE, New Mexico
- H 6. **Roundtable Discussion: Challenges of Small and Rural Water Systems**
- I 7. **WaDE/WestDAAT/WestCAT Update –** Tony Willardson/Ryan James
- J 8. **Roundtable: Water Supply as a Primary Purpose of Corps Projects**
- K 9. **Federal Water Resources Legislation –**
 - a. TBD - Water Data Act
 - b. H.R. 2429/S. 1119 - Open Access Evapotranspiration Data Act
 - c. H.R. 4356/S. 2927 - WaterSMART Access for Tribes
 - d. H.R. 4385/S. 4242 - Drought Preparedness Act
 - e. H.R. 5770/S. 4245 - Water Monitoring and Tracking Essential Resources Data Improvement Act
 - f. S. 4458 - Rural Water Supply Program Reauthorization Act
 - g. S. 4576 - Colorado River Basin System Conservation Extension Act
10. **Other Matters**
- L a. WSWC Landsat support letter

Adjourn by 10:00 a.m.

AGENDA
EXECUTIVE COMMITTEE

The Oread Lawrence Hotel
Lawrence, Kansas
October 23, 2024

Call to Order at: 12:00 p.m. (Central Daylight Time)
Conducting: Jon Niermann, Chair

Hearth Room

TAB

1. **Welcome and Introductions**
2. **Approval of Minutes**
- D 3. **Report on Budget and Finances** – Tony Willardson
- C 4. **Sunsetting Positions** – Jon Niermann
 - Position #471 - supporting State Clean Water Act Section 401 Certification Authority
 - ~~Position #472 – regarding Clean Water Act Jurisdiction (superseded by Position #481)~~
 - Position #473 - regarding Federal Water & Climate Data Collection & Analysis Programs
 - Position #474 - regarding Drought Preparedness, Prediction & Early Warning Programs
 - Position #475 - regarding Bureau of Reclamation Drought Response Program
 - Position #476 - regarding States’ Water Rights and Natural Flows
 - Position #477 - regarding Abandoned Hardrock Mine Cleanup
 - Proposed – regarding the Extension of NPDES Permit Terms
- E 5. **Executive Director’s Report/WSWC Activities and Events** – Tony Willardson
- F 6. **Future WSWC Meetings** – Jon Niermann
- B 7. **Council Membership Update** – Tony Willardson
- XYZ 8. **Sunsetting Positions for Spring 2025 Meetings** – #478-#481
 - Position No. 478 - supporting Rural Water Infrastructure Needs & Projects
 - Position No. 479 - supporting Renewable Hydropower Development
 - Position No. 480 - regarding Migratory Birds & the Management of State Water Rights & Resources
 - Position No. 481 - regarding Clean Water Act Jurisdiction
9. **Other Matters**
- 12:45 p.m. **Adjourn**

WATER QUALITY COMMITTEE MEETING

The Oread Lawrence Hotel
Lawrence, Kansas
October 23, 2024

Call to Order at: 10:00 a.m. (Central Daylight Time)
Conducting: Jennifer Zygmunt, Wyoming

Presidential Ballroom

TAB

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

Position #471 - supporting State CWA Section 401 Certification Authority
Position #477 - regarding Abandoned Hardrock Mine Cleanup

Proposed – regarding the Extension of NPDES Permit Terms
- M 4. **Discussion: NPDES Permit Extensions** – Jennifer Zygmunt
5. **Kansas Water Quality Issues** – Tom Stiles
- N 6. **Staff Updates** – Michelle Bushman
 - a. Good Samaritan Legislation
 - b. WSWC Presentation to the Office of Mountains, Deserts, and Plains Workgroup
7. **EPA Updates** – Roger Gorke
 - a. Good Sam
 - b. Managed Aquifer Recharge
 - c. Technical Assistance for Droughts and Cascading Disasters
- O 8. **Discussion: Groundwater Workshop and Webinars** – Michelle Bushman
- P 9. **Discussion: WOTUS and post-Sackett implementation**
- XYZ 10. **Sunsetting Positions for Spring 2025 Meetings – #481**

Position No. 481 - regarding Clean Water Act Jurisdiction
11. **Other Matters**
- 11:45 pm Adjourn

LEGAL COMMITTEE MEETING

The Oread Lawrence Hotel
Lawrence, Kansas
October 23, 2024

Call to Order at: 1:00 pm (Central Daylight Time)
Conducting: Chris Brown, Wyoming

Presidential Ballroom

TAB

1. **Welcome and Introductions**
2. **Approval of Minutes**
- C 3. **Sunsetting Position –**
Position #476 - regarding States' Water Rights and Natural Flows
4. **Rattlesnake Creek and Quivira National Wildlife Refuge – Earl Lewis**
5. **Eastern Snake Plain Aquifer Curtailment – Mathew Weaver**
- Q 6. **Western Water Cooperative Committee – Lauren Leuck, Assistant for Water Resources Legislation & Policy, Office of the Assistant Secretary of the Army for Civil Works**
7. **Indian Water Rights Settlements and 2025 Symposium – Michelle Bushman**
- O 8. **Discussion: Groundwater Workshop**
- R 9. **Staff Updates – Michelle Bushman**
 - a. Legislation and Litigation Update
- XYZ 10. **Sunsetting Positions for Spring 2025 Meetings - #480**
Position No. 480 - regarding Migratory Birds & the Management of State Water Rights & Resources
11. **Other Matters**
- 2:45 pm Adjourn

AGENDA
205th COUNCIL MEETING

The Oread Lawrence Hotel
Lawrence, Kansas
October 23, 2024

Call to Order at: 3:45 p.m. (Central Daylight Time)
Conducting: Jon Niermann, Texas, WSWC Chair

Presidential Ballroom

TAB

1. **Welcome and Introductions**
2. **Approval of Minutes**
3. **Committee Reports – Action Items**
 - a. Water Resources Committee – Anna Pakenham Stevenson
 - b. Water Quality Committee – Jennifer Zygmunt
 - c. Legal Committee – Chris Brown
 - d. Executive Committee – Jon Niermann
4. **Resolutions of Appreciation**
5. **WestFAST Report – Roger Gorke**
- S 6. **Western Governors Association – Steve Emmen**
- F 7. **Future Council Meetings – Jon Niermann**
- T 8. **State Reports**
- XYZ 9. **Sunsetting Positions for Fall 2024 Meetings – #478-#481**

Position No. 478 - supporting Rural Water Infrastructure Needs & Projects
Position No. 479 - supporting Renewable Hydropower Development
Position No. 480 - regarding Migratory Birds & the Management of State Water Rights & Resources
Position No. 481 - regarding Clean Water Act Jurisdiction
10. **Other Matters**
- 5:45 p.m. **Adjourn**



WESTERN STATES WATER COUNCIL

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Web Page: www.westernstateswater.org

MEMORANDUM

TO: Council Members

FROM: Tony Willardson, Executive Director

DATE: September 23, 2024

RE: **30-Day Notice of Fall 2024 (205th) WSWC Meetings**

This memorandum is notice that the Western States Water Council (WSWC) will hold its regular meetings on Wednesday, October 23, in Lawrence, Kansas preceded by a joint WSWC/Interstate Council on Water Policy (ICWP) meeting on October 22. All meetings and events will be held at The Oread Lawrence Hotel located at 1200 Oread Avenue, Lawrence, KS 66044. Consistent with our rules of organization, any external policy positions to be proposed for Council consideration must be included with the 30-day notice

One new position regarding NPDES permit extensions has been proposed by the Water Quality Committee. Six positions adopted on September 16, 2021, are scheduled to sunset at this meeting unless readopted:

- [Position #471](#) - supporting State Clean Water Act Section 401 Certification Authority
- ~~Position #472 - regarding Clean Water Act Jurisdiction (superseded by Position #481)~~
- [Position #473](#) - regarding Federal Water and Climate Data Collection and Analysis Programs
- [Position #474](#) - regarding Drought Preparedness, Prediction and Early Warning Programs
- [Position #475](#) - regarding Bureau of Reclamation Drought Response Program
- [Position #476](#) - regarding States' Water Rights and Natural Flows
- [Position #477](#) - regarding Abandoned Hardrock Mine Cleanup

The sunseting positions are available for review on our [website](#). In keeping with our usual practice, we encourage you to consult with your respective Governor's office and Western Governors' Association Staff Advisory Council (SAC) member regarding the proposed and sunseting positions.

Please note that an Executive Committee pre-meeting Zoom call will be held to review any proposed and sunseting positions. Details will be sent separately. Members may designate an alternate by email if unable to join. As is our usual practice, any changes recommended by the Executive Committee will be forwarded to the Full Council for consideration at our meeting on October 23.

For those attending in person, please register no later than October 8. 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. Please note that there is no virtual option for the joint ICWP/WSWC meeting on October 22.

On Tuesday, October 22, our Kansas hosts have arranged a half day field trip, which will include lunch. Members and guests will depart The Oread Lawrence at 12:30 pm. Field trip stops will include the Arabia Steamboat Museum and the Rock Island Bridge. Following the field trip, a joint ICWP/WSWC reception will be held for all ICWP/WSWC members and guests from 6:30 – 8:30 pm. Please note that all times are Central Daylight Time (CDT).

The WSWC Committee and Council meetings will be held on Wednesday, October 23, beginning at 8:00 am with the Water Resources Committee meeting, followed by the Water Quality Committee meeting at 10:00 am. We will break for lunch at 12:00 pm (on your own), with the exception of the Executive Committee, which will meet over a working lunch. The Legal Committee meeting will begin at 1:00 pm. The Host State Presentation will follow at 3:00 pm, and the Full Council meeting will begin at 3:45 pm, adjourning at 5:45 pm.

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-fall-205th-meetings-in-lawrence-kansas/>

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

Tab B – Membership List

WESTERN STATES WATER COUNCIL

MEMBERSHIP LIST

October 17, 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**
Data Analyst/Hydroinformatics Specialist - **Ryan James**
Office Manager - **Julie Groat**
WestFAST Federal Liaison - **Madeline Franklin**

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**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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NEW MEXICO

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Jerry Rigby - Idaho
(Alternate)
Earl Lewis - Kansas
Anna Pakenham Stevenson - Montana
Jesse Bradley - Nebraska
Adam Sullivan - Nevada
Tanya Trujillo - New Mexico
Andrea Travnicek - North Dakota
Julie Cunningham - Oklahoma
(Vice-Chair)
Sara Gibson - Oklahoma
(Alternate)*
Doug Woodcock - Oregon
Hunter Roberts - South Dakota
Nakaila Steen- South Dakota
(Alternate)*
Jon Niermann - Texas
(Chair)
Candice Hasenyager - Utah
Ria Berns - Washington
Brandon Gebhart - Wyoming
Jeff Cowley - Wyoming
(Alternate)*

Management Subcommittee

Jon Niermann
(Chair)
Julie Cunningham
(Vice-Chair)
Earl Lewis
(Secretary/Treasurer)
Tony Willardson
(Executive Director)
Jeanine Jones
(Former Chair)

Ex-Officio Representatives

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

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Thomas Mooney-Myers - Alaska
Ayesha Vohra - Arizona
Kelly Brown - Arizona
(Alternate)*
Jeanine Jones - California
Jason Ullmann - Colorado
Jerry Rigby - Idaho
John Simpson - Idaho
(Alternate)*
Vacant - Kansas
Jay Weiner - Montana
Justin Lavene - Nebraska
Melissa Flatley - Nevada
Nathaniel Chakeres - New Mexico
Vacant - North Dakota
Sara Gibson - Oklahoma
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Vacant - Oregon
Nakaila Steen - South Dakota
Hunter Roberts - South Dakota
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Jon Niermann - Texas
Teresa Wilhelmsen - Utah
Sarah Shechter - Utah
(Alternate)*
Stephen North - Washington
Chris Brown - Wyoming
(Chair)

Clean Water Act Jurisdiction

Julie Pack - Alaska

Non-Tribal Federal Water Needs Subcommittee

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Melissa Flatly - Nevada
Adam Sullivan - Nevada
Kathy Alexander - Texas
Buck Smith - Washington
Chris Brown - Wyoming

Micheline Fairbanks (ex-officio member)

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

Tribal Reserved Water Rights Subcommittee

Jay Weiner - Montana
Teresa Wilhelmsen - Utah

WRDA/Corps Policies

Tom Stiles - Kansas
Kathy Alexander - Texas

WATER QUALITY COMMITTEE

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Betty Olson - California
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Trisha Oeth - Colorado
Jojo La - Colorado
(Alternate)*
Jess Byrne - Idaho
Tom Stiles - Kansas
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Lindsey Krywaruchka - Montana
Jim Macy - Nebraska
Jennifer Carr - Nevada
John Rhoderick - New Mexico
David Glatt - North Dakota
Shellie Chard - Oklahoma
Jennifer Wigal - Oregon
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Jeanne Goodman - South Dakota
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Jon Niermann - Texas
John Mackey - Utah
Tim Davis - Utah
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Leslie Connelly - Washington
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Jennifer Zygmunt - Wyoming
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Abandoned Mines Subcommittee

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Jennifer Carr - Nevada
Allison Woodall - Texas
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Maui Subcommittee

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Nutrients Subcommittee

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Tab C – WSWC Policy Positions



Position No.

**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding
THE EXTENSION OF NPDES PERMIT TERMS
Lawrence, Kansas
October 23, 2024**

WHEREAS, the Western States Water Council (WSWC) is a government entity representing eighteen states, with members appointed by their respective governors; and

WHEREAS, the WSWC's 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; and

WHEREAS, the federal Clean Water Act (CWA) created the National Pollutant Discharge Elimination System (NPDES) in 1972, addressing water pollution by regulating point sources that discharge pollutants to waters of the United States; and

WHEREAS, the CWA 33 U.S.C. 1342(b)(1)(B) indicates NPDES permits “are for fixed terms not exceeding five years”; and,

WHEREAS, most states are now authorized to implement all or part of the CWA NPDES program; and

WHEREAS, the task of implementing the NPDES program has increased in scope and complexity since 1972, including: the number and type of sources needing permits, the scope of projects under consideration, and the environmental and social considerations to be included in permit writing; and

WHEREAS, for States with approved CWA programs, the role of the Environmental Protection Agency (EPA) is one of oversight and not implementation of core program activities; and

WHEREAS, understanding of water quality issues is constantly evolving, and the resulting increased demands on state-level administrative processes require increased capacity, innovation, efficiency, flexibility, and long-term planning; and

WHEREAS, modern water quality infrastructure investments often involve projects with construction terms that extend beyond five years, and many local public agencies cannot complete the planned upgrades before beginning the permitting process anew, requiring them to negotiate new terms and requirements while balancing extensive environmental reviews, project design, scheduling, and labor and construction agreements; and

WHEREAS, extending the upper limit of NPDES permit terms to 10 years would provide States discretionary authority to set an appropriate length during the permit writing process, allowing States to maximize the use of limited resources, provide permittees the necessary time to comply with existing permits, better plan and construct new technologies and facilities, better support other department

responsibilities, and focus on non-point and water-shed-based approaches; and

WHEREAS, EPA tracks permit backlogs and encourages authorized permit programs to work to “increase efficiencies in the permitting process to decrease the NPDES permit backlog” to provide greater certainty to the business community; and

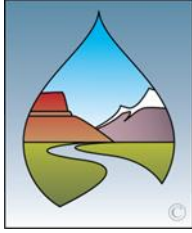
WHEREAS, States striving to reduce permit backlogs are faced with challenges including a widening universe of permit-seeking facilities; stagnant or declining funding; increasing federal guidelines, staffing and retention; implementation of other regulations; and increasing permit complexity due to numeric water quality standards, [Total Maximum Daily Load \(TMDL\)](#) requirements, and more comprehensive effluent guidelines; and

WHEREAS, States have demonstrated the ability and authority to implement other controls using 10-year permit terms including [Resource Conservation and Recovery Act \(RCRA\)](#), solid waste disposal (42 U.S.C. §6925 (c)(3)), and state water pollution control permit programs for [Concentrated Animal Feeding Operations \(CAFO\)](#) where 5-year NPDES permits are not required; and

WHEREAS, permits contain clauses to reopen, amend and/or modify permits following proper administrative procedures to update the appropriate requirements (40 CFR 122.62 and 124.5), allowing permitting authorities to respond to changes in standards, technologies and water quality needs, as well as public concern prior to permit expiration; and

NOW, THEREFORE, BE IT RESOLVED, the Western States Water Council supports amending the federal Clean Water Act 33 U.S.C. 1342(b)(1)(B) to indicate NPDES permits “are for fixed terms not exceeding 10 years,” while retaining existing authority to reopen permit terms based on current law.

BE IT FURTHER RESOLVED, the Western States Water Council encourages Congress and the Administration to provide adequate funding consistent with federal statutory authorities and regulatory mandates, at levels needed for states to fully implement federal environmental programs.



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
in support of
STATE CWA SECTION 401 CERTIFICATION AUTHORITY**

**Deadwood, South Dakota
September 16, 2021 Lawrence, Kansas
October 23, 2024**

WHEREAS, States have responsibly exercised their delegated authority under the Clean Water Act (CWA) Section 401 and under state water quality statutes to protect water quality, and must consider proposed activities and discharges in light of the states' designated water uses and related water quality standards; and

WHEREAS, the Council supports a balanced and integrated approach to achieve water and energy policy goals that plans for the future in sustainable ways, and recognizes legitimate state water and water quality management, protection and planning authorities to balance competing water uses; and

WHEREAS, the western states strongly support the planning and development of critical infrastructure and streamlined permitting processes, but such efforts should not come at the expense of states' authority to allocate, manage, and protect their water resources; and

WHEREAS, the development of hydropower and other federally permitted and licensed projects involving activities that may impact states' water quality standards should be appropriately undertaken in compliance with substantive and procedural state water law and delegated authority under CWA Section 401; and

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

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

WHEREAS, Section 27 of the Federal Power Act declares: "That nothing herein contained shall be construed as affecting or intending to affect or in any way to interfere with the laws of the respective States relating to the control, appropriation, use, or distribution of water used in irrigation or for municipal or other uses, or any vested right acquired therein."; and

WHEREAS, the Supreme Court has narrowly interpreted the Federal Power Act (16 U.S.C. 791a et seq.) reading Section 27 (16 U.S.C. 821) to limit state authority to set streamflow requirements on federally permitted and licensed projects, holding in *First Iowa Hydro-Electric Cooperative v. Federal Power Commission*, 328 U.S. 152 (1946) and in *California v. FERC*, 495 U.S. 490 (1990) that federal requirements preempted any state requirements, including efforts to establish minimum stream flows, noting that "...Congress remains free to alter what we have done"; and

WHEREAS, these rulings eroded state authority over state resources, and the Council has supported federal legislation to restore states' primary authority for regulating streamflows and water use and clarifying Congressional intent under the Federal Power Act; and

WHEREAS, in *P.U.D. No. 1 of Jefferson County v. Washington Department of Ecology*, 511 U.S. 700 (1994), the Supreme Court upheld a state's delegated authority to impose minimum stream flow conditions under

the CWA Section 401 certification process where necessary to protect a designated use for fish habitat, expressly rejecting any implied limitations on Section 401 certifications based on the *First Iowa* interpretation of the Federal Power Act; and

WHEREAS, an overly narrow reading of Section 401 would deprive the states of the ability to maintain the very beneficial uses that the Clean Water Act was designed to protect, and threaten the existing partnership between states and federal agencies based on cooperative federalism; and

WHEREAS, the vast majority of Section 401 certification requests are processed within 90 days, well within the one year allowed by current law, with relatively little if any backlog of certification actions; and

WHEREAS, most delays are typically due to submission of an incomplete application, applicants' non-responsiveness to requests for additional information, the completion of necessary study requirements, the size and complexity of some projects (and related impacts), substantive changes to the proposed project requiring further review, or constraints on state resources; and

WHEREAS, CWA Section 401 certification denials by states are rare and carefully considered, and are not examples of the failure of the system, as the process has been historically well-understood, reliable and supported by case law that provides certainty for both the states, federal agencies, and the regulated community; and

WHEREAS, ~~recent~~ actions taken by the federal government under the 2020 CWA Section 401 Certification Rule ([85 FR 42210](#)) ~~have~~ caused some western states to issue an increased number of denials, due to inflexible deadlines that ~~did~~ not accommodate state public engagement laws or allow sufficient time to gather adequate information on project impacts; and

WHEREAS, the [2020](#) rule revision ~~has also recently~~ led to federal agencies waiving reopener conditions in nationwide permits imposed on federal projects by states under CWA Section 401, inconsistent with CWA Sections 101(b) and 101(g), Section 27 of the Federal Power Act, and the Supreme Court ruling under *P.U.D. No. 1 of Jefferson County v. Washington Department of Ecology*; and

WHEREAS, EPA published a new 2023 CWA Section 401 Water Quality Certification Improvement Rule ([88 FR 66558](#)); and

WHEREAS, the [2023 CWA Section 401 Water Quality Certification Improvement Rule](#) identified 16 national parks that EPA determined to be "lands of exclusive federal jurisdiction" and asserted that [EPA is the Section 401 certifying authority in those parks, although states have been the certifying authority in some of those parks for decades; and](#)

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

NOW, THEREFORE, BE IT RESOLVED that the Western States Water Council supports any changes that strengthen the deference to state water laws and do not diminish the primary state authority and responsibility for the appropriation, allocation, development, conservation, and protection of their water resources, including minimum streamflows, and the protection of water quality and designated uses.

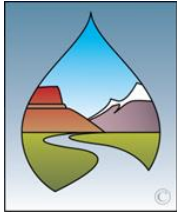
BE IT FURTHER RESOLVED that the Western States Water Council strongly supports early state engagement in federal permitting and licensing actions and the coordination of state and federal environmental requirements and review processes for critical infrastructure without diminishing state authority.

BE IT FURTHER RESOLVED that the Western States Water Council supports a mechanism in any rule development process for a representative number of states, as co-regulators with diverse perspectives and

regions, to engage actively with EPA staff to provide direct and effective feedback on the implementability of a proposed rule.

BE IT FURTHER RESOLVED that the Western States Water Council encourages EPA to consult with affected states regarding EPA's certifying authority in national parks designated as "lands of exclusive federal jurisdiction" in order to resolve any jurisdictional disputes in a manner that upholds the CWA's direct grant of Section 401 certifying authority to states and its intent to empower states to protect water quality within their boundaries.

Revised and Readopted
(See Position No. 471, September 16, 2021 and No. 426, October 26, 2018)



**POSITION
of the
WESTERN STATES WATER COUNCIL
regarding
FEDERAL WATER AND CLIMATE DATA COLLECTION AND ANALYSIS
PROGRAMS**

**~~Deadwood, South Dakota~~
~~September 16, 2021~~ Lawrence, Kansas
October 23, 2024**

WHEREAS, the Western States Water Council is a policy advisory body representing eighteen states, and has long been involved in western water conservation, development, protection, and management issues, and the member states and political subdivisions have long been partners in cooperative federal water and climate data collection and analysis programs; and

WHEREAS, in the West, water is a critical, vital resource and sound decision-making demands accurate and timely data on precipitation, temperature, evapotranspiration, soil moisture, snow depth, snow water content, streamflow, groundwater, water quality and similar information; and

WHEREAS, the demands for water and related climate data continue to increase, and this information is used by federal, state, tribal, and local government agencies, as well as private entities and individuals to: (1) forecast flooding, drought and other climate-related events; (2) project future water supplies for agricultural, municipal, and industrial uses; (3) estimate streamflows for hydropower production, recreation, and environmental purposes, such as for fish and wildlife management, including endangered species needs; and (4) facilitate water management and administration of water rights, decrees, and interstate compacts; and

WHEREAS, without timely and accurate information, human life, health, welfare, property, and environmental and natural resources are at considerably greater risk of loss; and

WHEREAS, critical and vital information is gathered and disseminated through a number of important federal programs including, but not limited to: (1) the Snow Survey and Water Supply Forecasting Program, administered by the National Water and Climate Center (NWCC) in Portland, Oregon, and funded through USDA's Natural Resources Conservation Service (NRCS); (2) NWCC's Soil and Climate Analysis Network (SCAN); (3) the U.S. Geological Survey's (USGS) Groundwater and Streamflow Information Program (GWSIP) and National Streamflow Network, which are funded through the Department of Interior; (4) Landsat thermal data, archived and distributed by the USGS, and other remotely-sensed data acquired through the National Atmospheric and Space Administration (NASA) and its water-related missions; (5) the National Oceanic and Atmospheric Administration's (NOAA) National Weather Service and Climate Programs Office; (6) the Environmental Protection Agency's National Environmental Information Exchange Network (NEIEN); and (7) the Bureau of Reclamation's Agrimet System and similar weather station networks; and

WHEREAS, state-of-the-art technology has been developed to provide real or near real-time data in formats that can be shared and used by different computer programs with the potential to vastly improve the water-related information available to decisionmakers in natural resources and emergency management, and thus better protect the public safety, welfare and the environment; and

WHEREAS, these federal programs and newly proposed projects and programs provide useful products to assist in visualizing and interpreting data on water and snow, water use, evapotranspiration and other parameters making water supply, demand and availability information more accessible and easy to interpret; and

WHEREAS, over a number of years, the lack of capital investments in water data programs has led to the discontinuance, disrepair, or obsolescence of vital equipment needed to maintain existing water resources related data gathering activities; and

WHEREAS, there is a serious need for adequate and consistent federal funding to maintain, restore, modernize, and upgrade federal water, weather and climate observation programs, not only to avoid the loss or further erosion of critical information and data, but also to address new emerging needs, with a primary focus on coordinated data collection and dissemination; and

WHEREAS, wildfires, floods, and other natural disasters have led to the significant loss of monitoring capabilities and require timely action to restore, maintain, and upgrade sensors and observing systems and networks.

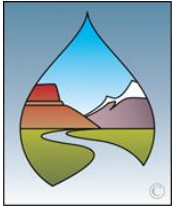
WHEREAS, Western States have invested millions of dollars in monitoring programs, observing systems, and networks, some of which are carried out in collaboration with federal agencies and programs; and

NOW THEREFORE BE IT RESOLVED, that the Western States Water Council urge the Administration and the Congress to give a high priority to the allocation and appropriation of sufficient funds for these critical, vital programs, which benefit so many, yet have been or are being allowed to erode to the point that it threatens the quantity and quality of basic data provided to a myriad, growing and diffuse number of decisionmakers and stakeholders, with significantly adverse consequences.

BE IT FURTHER RESOLVED, that the Western States Water Council supports efforts to enhance and expand the availability of and access to consistent and comprehensive water supply, demand and water use data and information, such as, but not limited to, the Open Access Evapotranspiration (OpenET) data program, the USGS Water Use and Data Research program, and related federal authorizing legislation and appropriations.

BE IT FURTHER RESOLVED, that the Western States Water Council supports the creation of and authorization for a federal water data council, a national water data framework, an advisory committee, and water data grants program, as well as sufficient appropriations.

(See also No. 473, 428, 385, 345, 320, 284, 256, and 235)
Adopted as revised September 16, 2021



**POSITION
of the
WESTERN STATES WATER COUNCIL
regarding
DROUGHT PREPAREDNESS, PREDICTION AND EARLY WARNING PROGRAMS**

**Deadwood, South Dakota
~~September 16, 2021~~ Lawrence, Kansas
October 23, 2024**

WHEREAS, the Western States Water Council is a policy advisory body representing eighteen states, and has long been involved in western water conservation, development, protection, and management issues, and western states have a long history of promoting drought preparedness, planning and response programs, in cooperation with federal agencies; and

WHEREAS, in the West, water is often scarce even in “wet” years and drought is a recurring threat to our environment, economy and way of life – affecting not only the West, but also the Nation; and

WHEREAS, according to the [National Oceanic and Atmospheric Administration \(NOAA\)](#) National Centers for Environmental Information (NCEI), from 1980-2023³⁰, there have been [3128](#) drought events costing over \$1B/event with total economic losses of [\\$352.9258.9B](#) due to drought, or an average of [\\$11.49.2B](#)/event, also leading to an average of [10395](#) deaths/year, with drought contributing to another [\\$142.4102.3B](#) in wildfire losses, and [1240](#) deaths/year, and NCEI noting a rise in vulnerability to drought and wildfire in the western statesⁱ; and

WHEREAS, continuing exceptional, extreme and severe drought conditions afflict the West and elsewhere, highlighting the need for greater attention to developing more comprehensive and coordinated drought prediction, preparedness, planning and response programs at all levels; and

WHEREAS, there is a need for maintaining and improving existing monitoring networks that help provide drought early warning signals, as well as for tracking the impacts of drought; and

WHEREAS, there is a continuing need for developing new monitoring technologies, such as remote sensing, that provide more timely data on water availability and better spatial coverage for assessing drought impacts; and

WHEREAS, early drought warning systems facilitate early drought assessment and mitigation efforts to minimize drought impacts; and

WHEREAS, there is a need for continuing federal research to develop new predictive capability for precipitation at subseasonal to seasonal time scales as described in the report to Congress prepared by NOAA pursuant to Title II of PL 115-25ⁱⁱ; and

WHEREAS, there is a continuing need for a permanent federal role in coordination of research programs related to drought early warning and prediction; and

WHEREAS, the collection and monitoring of basic data on streamflow, snow pack, groundwater levels, and weather and climate data are essential to understanding water availability and interpreting the early signs of drought.

NOW THEREFORE BE IT RESOLVED, that the Western States Water Council urges the Administration and the Congress to support federal programs including but not limited to the [NOAA's National Integrated Drought Information System \(NIDIS\)](#), ~~[under the National Oceanic and Atmospheric Administration \(NOAA\)](#)~~, and other efforts designed to improve our forecasting and response capabilities.

Revised and Readopted
(See Position No. 474, September 16, 2021, No. 429,
October 26, 2018, No. 386, October 9, 2015, and No. 346, October 12, 2012)

ⁱ <https://www.climate.gov/news-features/blogs/beyond-data/2023-historic-year-us-billion-dollar-weather-and-climate-disasters-2020-U.S.-billion-dollar-weather-and-climate-disasters-in-historical-context> | NOAA Climate.gov

ⁱⁱ <https://repository.library.noaa.gov/view/noaa/27408>



**POSITION
of the
WESTERN STATES WATER COUNCIL
regarding
BUREAU OF RECLAMATION DROUGHT RESPONSE PROGRAM
Deadwood, South Dakota
September 16, 2021 Lawrence, Kansas
October 23, 2024**

WHEREAS, the Western States Water Council is a policy advisory body representing eighteen states and since its inception the Council has been actively involved in national drought preparedness, planning and response, as well as related policy and program development and implementation; and

WHEREAS, in the West, water is often scarce and drought is a recurring threat; and

WHEREAS, according to the [National Oceanic and Atmospheric Administration \(NOAA\)](#) National Centers for Environmental Information (NCEI), from 1980-2023~~0~~, there have been ~~3128~~ drought events costing over \$1B/event with total economic losses of ~~\$352.9258.9B~~ due to drought, or an average of ~~\$11.49.2B/event~~, also leading to an average of ~~10395~~ deaths/year, with drought contributing to another ~~\$142.4102.3B~~ in wildfire losses, and ~~1240~~ deaths/year, and NCEI noting a rise in vulnerability to drought and wildfire in the western states¹; and

WHEREAS, the Reclamation States Emergency Drought Relief Act of 1991 (43 U.S.C. 2214(c)) and subsequent reauthorizations, under Title I, provide only temporary authority for some critical Reclamation actions; and

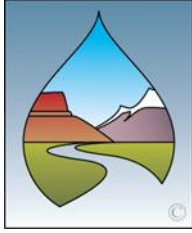
WHEREAS, Reclamation's current Drought Response Program supports a proactive approach to drought and provides financial assistance to water managers and users via its WaterSMART program to: (1) develop drought contingency plans; (2) implement drought resiliency projects to build the capacity of communities to mitigate and respond to drought – increasing the reliability of water supplies, improving water management and operational flexibility, facilitating voluntary sales, transfers or exchanges of water, and providing benefits for fish and wildlife and the environment; and (3) undertake emergency actions to minimize losses due to drought through temporary construction activities and other activities, including water purchases and the use of Reclamation facilities to convey and store water; and

WHEREAS, there is a continuing need for making permanent the temporary authority allowing Reclamation the flexibility to continue delivering water to meet authorized project purposes, meet environmental requirements, respect state water rights, work with all stakeholders, and provide leadership, innovation, and assistance.

NOW THEREFORE BE IT RESOLVED, that the Western States Water Council strongly supports legislation to permanently authorize Title I activities under the Reclamation States Emergency Drought Relief Act, and provide for adequate appropriations to meet priority needs and continue the Reclamation Drought Response Program.

BE IT FURTHER RESOLVED that the Council urges and encourages the Administration and the Congress to assess and consider the need for a comprehensive national drought preparedness and response program on par with federal efforts to address other natural disasters such as hurricanes, tornadoes and similar extreme events.

ⁱ <https://www.climate.gov/news-features/blogs/beyond-data/2023-historic-year-us-billion-dollar-weather-and-climate-disasters2020-U.S.-billion-dollar-weather-and-climate-disasters-in-historical-context> | NOAA Climate.gov



**POSITION
of the
WESTERN STATES WATER COUNCIL
regarding
STATES' WATER RIGHTS AND NATURAL FLOWS**

**Deadwood, South Dakota
September 16, 2021 Lawrence, Kansas
October 23, 2024**

WHEREAS, the Western States Water Council strongly supports preservation of the States' inherent right to develop, use, control, and distribute water; 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; and

WHEREAS, States are in the best position to protect 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, the Flood Control Act of 1944 specifically declared the policy of Congress to recognize the interests and rights of the Missouri River Basin States in determining the development of the watersheds within their borders and likewise their interests and rights in water use and control, and to preserve and protect to the fullest extent established and potential uses of the rivers' natural flows, those flows being the natural flows that would pass through the states in the absence of the U.S. Army Corps of Engineers dams; and

WHEREAS, the federal government has long recognized the right to use water as determined under the laws of the various states; and

WHEREAS, the various states have the authority and duty to manage permitting of stored water to supplement natural flows; and

WHEREAS, federal agencies in the western states, such as the Bureau of Reclamation, generally recognize western water laws and natural flows through reservoir operations, with releases from storage that supplement natural flows, and water service contracts that supplement natural flow; and

WHEREAS, representatives of the U.S. Army Corps of Engineers have indicated that all waters entering its Missouri River mainstem reservoirs are stored waters to be allocated and controlled by the U.S. Army Corps of Engineers without recognition of the States' rights to natural flows being separate from the captured floodwaters stored within those reservoirs; and

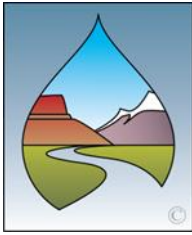
NOW, THEREFORE, BE IT RESOLVED, that the Western States Water Council urges the U.S. Army Corps of Engineers to recognize and proceed in conformity with State law related to the development, use, control, appropriation, storage, and distribution of the States' surface waters, including natural flows.

BE IT FURTHER RESOLVED, that the Western States Water Council supports legislation to require the U.S. Army Corps of Engineers to comply with substantive and procedural state law as it relates to development, use, control, appropriation, storage, and distribution of the States' surface waters, including natural flows, similar to the U.S. Bureau of Reclamation.

BE IT FURTHER RESOLVED, that any policy of the U.S. Army Corps of Engineers to require storage contracts to access natural flows within a reservoir boundary would be a violation of the States' rights to develop, use, control, and distribute surface water.

BE IT FURTHER RESOLVED, that the Western States Water Council opposes any and all efforts that would diminish the primary and exclusive authority of States over the allocation of surface water.

(See Position No. 476, September 16, 2021,
No. 431, October 26, 2018, No. 388, October 9, 2015, and No. 348, October 12, 2012)



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding
ABANDONED HARDROCK MINE CLEANUP**

**Deadwood, South Dakota
September 16, 2021 Lawrence, Kansas
October 23, 2024**

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 [Clean Water Act \(CWA\)](#), 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.

See Position No. 477, September 16, 2021

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.)
520	L	7/26/2024	regarding Endangered Species and State Water Rights
519	WQ	7/26/2024	regarding Water Transfers and National Pollutant Discharge Elimination System (NPDES) Discharge Permits
518	WR	7/26/2024	regarding the Rural Water Supply Project/Infrastructure Needs
517	WQ	7/26/2024	regarding State Nutrient Reduction Strategies
516	L	3/14/2024	regarding the Dividing the Waters program
515	L	3/14/2024	on State primacy over groundwater
514	L	3/14/2024	supporting universal access to reliable, clen drinking water for federally recognized Indian tribes and Alaska native communities
513	WR	3/14/2024	supporting federal research on climate adaptation
512	WR	3/14/2024	regarding water and energy planning and policy
511	WR	3/14/2024	supporting water infrastructure funding
510	WR	3/14/2024	supporting weather station networks
509	WR	3/14/2024	supporting the use of Forecast Informed Reservoir Operations and Innovations
508	WR	3/14/2024	regarding probable maximum precipitation standards
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

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

Final WSWC FY2025 Approved Budget & July-Sept Income and Expenses

	WaDE FY2024-25 Proposed Budget	July-Sept Income/Expenses	WSWC FY2024-25 Proposed Budget	July-Sept Income/Expenses	Total FY2024-25 Proposed Budget	July-Sept Income/Expenses
<u>INCOME</u>						
Member States Assessments	\$ -		\$ 648,000.00	\$ 612,000.00	\$ 648,000.00	\$ 612,000.00
Miscellaneous Income	\$ -		\$ -		\$ -	\$ -
PTIF Interest	\$ -		\$ 46,400.00		\$ 46,400.00	\$ 15,197.31
WellsFargo Interest	\$ -		\$ -		\$ 70.00	\$ 45.16
Joint Meeting Income	\$ -		\$ -		\$ -	\$ -
Council Meeting Sponsors	\$ -		\$ 6,750.00		\$ 6,750.00	\$ -
Symposium/Workshop Sponsors (no CA S2S workshop)	\$ -		\$ -		\$ -	\$ -
NARF WSWC Symposium (net)	\$ -		\$ -		\$ -	\$ -
USBR Water SMART (\$200k/2 years)	\$ 827.00		\$ -		\$ 827.00	\$ -
Water Foundation Grant	\$ -		\$ -		\$ -	\$ -
BHP Foundation - Duke Year 3	\$ 18,337.00		\$ 2,037.00		\$ 20,374.00	\$ 20,347.00
BHP Foundation - Duke Year 4 (\$37,500)	\$ 33,750.00		\$ 3,750.00		\$ 37,500.00	\$ -
BHP Foundation - Duke Year 5 (\$37,500)	\$ -		\$ -		\$ -	\$ -
USBR Water SMART (\$400k/2 years)	\$ 180,000.00		\$ 20,000.00		\$ 200,000.00	\$ -
WSWC Water SMART match	\$ 200,000.00		\$ -		\$ 200,000.00	\$ -
Lincoln Institute CSG/USBR Subcontract	\$ 72,000.00		\$ 8,000.00		\$ 80,000.00	\$ 14,272.43
Thornburg Foundation et al - New Mexico	\$ -		\$ 4,300.00		\$ 4,300.00	\$ 4,300.00
TOTAL INCOME	\$ 504,914.00		\$ 739,237.00		\$ 1,244,151.00	\$ 666,161.90
<u>EXPENSE</u>						
Accounting	\$ -		\$ 4,000.00		\$ 4,000.00	\$ 1,380.00
Annual & Sick Leave Funding	\$ -		\$ -		\$ -	\$ -
Audit	\$ -		\$ 3,000.00		\$ 3,000.00	\$ -
Contingencies	\$ 1,000.00		\$ 7,000.00		\$ 8,000.00	\$ 786.00
Contract Services (Independent Contractors)	\$ -		\$ 3,500.00		\$ 3,500.00	\$ -
Contracted Office Maintenance			\$ 3,400.00		\$ 3,400.00	\$ 900.00
Equipment Replacement Fund	\$ -		\$ -		\$ -	\$ -
Furniture-Equipment	\$ -		\$ -		\$ -	\$ -
Internet & Email (Comcast & UT Div. Tech Services)	\$ -		\$ 5,250.00		\$ 5,250.00	\$ 1,638.65
Insurance	\$ -		\$ 2,200.00		\$ 2,200.00	\$ -
Meetings & Arrangements	\$ 1,000.00		\$ 29,300.00		\$ 30,300.00	\$ 5,150.13
Office Supplies	\$ -		\$ 1,200.00		\$ 1,200.00	\$ 444.64
Payroll Benefits					\$ -	
Dental Insurance	\$ 687.00		\$ 2,798.00		\$ 3,485.00	\$ -
Life Insurance	\$ 66.00		\$ 262.00		\$ 328.00	\$ 81.75
LT Disability Insurance	\$ 458.00		\$ 1,724.00		\$ 2,182.00	\$ 551.14
Medical Insurance	\$ 16,709.00		\$ 72,653.00		\$ 89,362.00	\$ 20,117.42
Pension	\$ 15,565.00		\$ 58,600.00		\$ 74,165.00	\$ 12,592.44
Payroll Salaries	\$ 91,559.00		\$ 344,704.00		\$ 436,263.00	\$ 86,537.38
Payroll Taxes (unemployment ins)	\$ 4,759.00		\$ 28,015.00		\$ 32,774.00	\$ 6,561.34
Pension Management	\$ -		\$ 8,500.00		\$ 8,500.00	\$ -
Postage & Freight	\$ -		\$ 600.00		\$ 600.00	\$ 182.42
Printing & Reproduction	\$ -		\$ 1,200.00		\$ 1,200.00	\$ 207.34
HOA Fees (w/o Property Tax)	\$ -		\$ 4,500.00		\$ 4,500.00	\$ 900.00
Property Tax	\$ -		\$ 3,500.00		\$ 3,500.00	\$ 1,405.00
Storage Rent	\$ -		\$ 6,505.00		\$ 6,505.00	\$ 1,413.00
Reports & Publications	\$ -		\$ 6,000.00		\$ 6,000.00	\$ 4,990.71
Symposium (Nat'l Water Data Workshop)	\$ -		\$ -		\$ -	\$ -
Symposium (CDWR-S2S)	\$ -		\$ -		\$ -	\$ -
Symposium (WSWC / NARF)	\$ -		\$ -		\$ -	\$ -
Telephone (UBS)	\$ -		\$ 1,750.00		\$ 1,750.00	\$ 420.00
Travel	\$ 2,000.00		\$ 34,700.00		\$ 36,700.00	\$ 18,520.40
Utilities (Questar & Murray Power)	\$ -		\$ 1,500.00		\$ 1,500.00	\$ 496.26
Other - Software & Licensing	\$ 13,111.00		\$ 2,876.00		\$ 15,987.00	\$ 473.70
WaDE Contractor Payments (DPL)	\$ 350,000.00		\$ -		\$ 350,000.00	\$ 10,447.50
WaDE Contractor Payments (WIF)	\$ 8,000.00		\$ -		\$ 8,000.00	\$ -
SWCA Contractor Payments	\$ -		\$ 100,000.00		\$ 100,000.00	\$ 44,946.68
TOTAL EXPENSES	\$ 504,914.00		\$ 739,237.00		\$ 1,244,151.00	\$ 221,143.90
Balance	\$ -		\$ -		\$ -	



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: Executive Committee

FROM: Tony Willardson, Executive Director

DATE: October 18, 2024

RE: WSWC 2023 Auditor Review

Squires, our auditor, has completed its review for our fiscal year ended June 30, 2023. The auditor's report notes that the "...review includes primarily applying analytical procedures to management's financial data and making inquiries of management. A review is substantially less in scope than an audit, the objective of which is the expression of an opinion regarding the financial statements as a whole. Accordingly, we do not express such an opinion."

The auditor's report concludes, "Based on our review, we are not aware of any material modifications that should be made to the accompanying financial statements in order for them to be in accordance with accounting principles generally accepted in the United States of America."

The report highlights include:

"The Council's net position increased by \$280,698 during 2023 resulting in a net position of \$954,613 at June 30, 2023.... Assets exceeded liabilities by \$954,613 at the close of the most recent fiscal year."

"Revenues totaled \$1,238,571 for the year ended June 30, 2023. Member state assessments comprise much of the Council's revenues for the years ended June 30, 2023 and 2022. The Council also received more contract revenue in 2023 compared to 2022."

"Total revenues increased by 17.4% compared to the prior year, due to contract revenue."

"Contracts revenue was \$318,968 more than budgeted amounts. Such contracts are included in the budget at their full amounts, but contract revenue is only recognized when all contract requirements have been met. Therefore, actual contract revenue is normally less than the amounts budgeted. This year, additional contracts were awarded that were not originally planned when preparing the budget."

For example, the Thornburg Foundation agreement and the Lincoln Institute subcontract.

“Total expenses decreased from the prior year by \$52,390 bringing current year expenses to \$957,873. The decrease in professional fees was somewhat offset by an increase in meetings and travel.... The increase in meetings and travel is a direct result of the increase in contract revenue.”

Of note, total expenses (page 7 showing \$957,873) differ from total expenditures (page 9 showing \$914,834). The differences are explained on the bottom of page 9 and are related to changes in capital assets (depreciation and additions/disposals) and changes in long-term liabilities.

“Expenditures totaled \$914,834, which is a decrease of 9.4% compared to the prior year.”

As the auditor’s review of our 2023 financial statements indicate, the WSWC is in a sound position.

Please let me know if you have any questions.

Tab E – WSWC Activities and Events

Western States Water Council Summary of Activities

March 2024 – October 2024

ADMINISTRATION/CONGRESSIONAL OUTREACH

During March-April, the WSWC sent support requests asking for a \$15 million National Weather Service FY25 increase to begin a western S2S precipitation pilot for improving sub-seasonal to seasonal (S2S) precipitation forecasting to 15 Senators and 21 members of the House Representatives. WSWC staff followed up with several in person meetings and calls with Congressional staff.

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.

On April 18, the WSWC sent a letter to the House Leadership of the Committee on Transportation and Infrastructure expressing an interest in H.R. 7065. Including water supply and water conservation as part of the U.S. Army Corps of Engineers mission offers opportunities for greater federal-state cooperation and collaboration, something the WSWC strongly supports.

On April 23-24, WSWC Executive Director met with staff from several congressional offices.

On July 1, the WSWC sent a letter to the White House President’s Council of Advisors on Science and Technology (PCAST) regarding state groundwater management and protection.

On July 22, WSWC Deputy Director participated in the PCAST Workshop: Safeguarding America’s Groundwater Security.

On August 7, WSWC Deputy Director presented an Intermountain West state perspective on abandoned mine cleanup, with an overview of some state priorities and strategies, at the EPA Good Samaritan monthly call hosted by the Office of Mountains, Deserts, and Plains.

On August 14, the WSWC sent a letter to the leadership of the Senate Committee on Environment and Public Works, and the House Committee on Transportation & Infrastructure, expressing interest in Section 121 of H.R. 8812, to “include water supply as a primary mission of the Corps of Engineers in planning, prioritization, designing, constructing, modifying, operating, and maintaining water resources development projects.”

On August 16, the WSWC sent a letter to Principal Deputy Assistant Secretary Brain and Deputy Administrator Melroy, expressing strong support for the timely development and launch of the Landsat Next mission given its increasingly critical importance to western water managers.

On September 23, the WSWC sent a letter to the House Leadership in support of the Good Samaritan Remediation of Abandoned Hardrock Mines Act (H.R. 7779), as well as additional comments.

On October 1, the WSWC sent a letter to Representative Melanie Stansbury (D-NM) in support of the reintroduction of the Water Data Act to leverage state and federal resources to build a national water data framework for sharing, integrating, and utilizing water data and supporting the development of innovative water data technologies and tools.

WESTERN GOVERNORS' ASSOCIATION COORDINATION

June 10-12, WSWC Executive Director and Deputy Director/General Counsel attended WGA Annual Meeting in Olympic Valley, California.

WSWC members helped review WGA's positions of water and water quality adopted at the meeting.

WSWC staff also coordinate with WGA staff on policy letters, positions, statements, and testimony.

WSWC staff have regular monthly calls with the WGA's Water Policy Advisor.

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

WSWC CALLS, MEETINGS, SURVEYS, SYMPOSIA AND WORKSHOPS

On March 13-15, the WSWC held its Spring Meetings in Washington, D.C., as well as a Joint Roundtable with the Interstate Council on Water Policy (ICWP).

The WSWC staff participated in various calls and virtual workshops with New Mexico agencies, WestFAST agencies, and SWCA in support of the NM Integrated Water Financing Plan project.

On May 9, the WSWC distributed a North Dakota Department of Water Resources survey of the 17 western states to provide a comprehensive summary of data collection activities and current methods and infrastructure used to collect, store, and manage data.

May 29 and July 8, the Water Quality Nutrients Subcommittee met to discuss the proposed draft position on Nutrient Reduction Strategies

On September 6 and 11, the WSWC Groundwater Subcommittee met to plan the topics for a Groundwater Workshop for the Spring 2025 meetings.

On September 23, the Water Quality NPDES Subcommittee discussed the draft policy position on extensions of NPDES permits up to 10 years.

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).

Under a WaterSMART grant from the U.S. Bureau of Reclamation, WSWC staff have helped identify and characterize Reclamation's water rights across the West.

WSWC staff are also working with the Lincoln Institute for Land Policy's Center for Geospatial Solutions and Reclamation to identify and improve access to data via an interoperable western water data hub, as well as design and build visualization tools for decisionmakers.

On April 24, WSWC Executive Director met with Dr. Karen St. Germaine at NASA HQ in Washington, D.C. to discuss Landsat NEXT and western water management using NASA data.

On April 25, WSWC Executive Director co-chaired the meeting of National Integrated Drought Information System's Executive Council, under NOAA, in Washington, D.C.

On May 16, WSWC Deputy Director/General Counsel participated in a Federal Mining Dialogue Quarterly Meeting along with the Interstate Technology and Regulatory Council, the Interstate Mining Compact Commission, and the National Association of Abandoned Mined Land Programs.

On August 16, the WSWC sent a letter of support for the Landsat program to the Department of the Interior and NASA calling for approval and construction of the Landsat Next mission without delay, signed by the Executive Director.

On August 22, the WSWC Executive Director provided background for a NASA earth science writer regarding the leadership of WestFAST NASA representative Brad Doorne, recently reassigned to focus on agriculture and leaving his water portfolio.

On August 26, WSWC staff participated in a USGS WUDR open forum call on total irrigation by crop in the US from 2008-2020.

On September 19, the WSWC Executive Director, Co-Chair, National Integrated Drought Information System (NIDIS), joined an update on plans for a pilot program for soil moisture and snowpack monitor report to be prepared by the at the request of the Congress.

On September 20, WaDE/WSWC staff had a call with USGS WUDR staff on WaDE/WestDAAT and encouraging WSWC member states to take advantage of WUDR grants.

On October 15, WSWC Executive Director was interviewed by a NASA science writer and Landsat history specialist with the Landsat Communication & Public Engagement Team regarding the WSWC's longstanding support for the Landsat program and western states use the data.

WestFAST WEBINARS

May 8 – Introducing the USGS 3D Hydrography Program

June 25 – Building a Water Rights Database: The Bureau of Reclamation and WestDAAT

September 25 – Bureau of Reclamation WaterSMART Program Updates

October 9 – Stream Restoration and Water Rights from a Landowner's Perspective

COORDINATION WITH OTHER ORGANIZATIONS

On March 26-27, the WSWC Executive Director attended and participated on a panel at the Association of Clean Water Administrators mid-year meeting in Washington, D.C.

April 22, WSWC Deputy Director/General Counsel attended the Navigating Western Waters: Addressing Water Challenges Symposium in Laramie, Wyoming.

May 1-2, WSWC Deputy Director/General Counsel presented on a state-federal water security panel at the Western Regional Partnership Principles Meeting in Beaver Creek, Colorado.

July 9-12, WSWC Executive Director attended the annual meetings of the Council of State Governments – West in Portland, Oregon.

On September 26, the WSWC Executive Director attended and presented at the Mountain West Regional Summit of NAIOP, a Commercial Real Estate Development Association, in Salt Lake City on western water supply challenges.

On September 30 - October 2, the WSWC Executive Director attended the AWRA, UCOWR, NIWR 60th Anniversary Joint Water Resources in St. Louis, Missouri and presented at two sessions on the WSWC's proposed Western Water Conservation Application Tool (WestCAT) and separately on the creation of the Western States Water Council and the role AWRA played in calling for such regional cooperation.

WaDE DEVELOPMENT AND OUTREACH (Ongoing)

A summary of the status of our Water Data Exchange (WaDE) and Western States Water Data Access and Analysis Tool (WestDAAT) was included in the briefing materials for the WSWC meetings in Fargo, ND on July 23-25.

On October 10, the WSWC/WaDE team submitted an updated summary report under contract with Duke's Nicholas Institute and funding from the BHP Foundation outlining the development of WestDAAT and highlighting its subsequent use. The report also laid out next steps towards building and releasing WestDAAT 2.0.

The following outlines some related WaDE/WestDAAT work over the past 6 months.

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; Great Salt Lake Commission, 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) Coalition

WSWC Executive Director and WaDE Program Manager shared updates and participated in IoW bimonthly check-in calls related to WaDE progress as a major IoW data hub, and IoW Coalition Steering Committee meetings, as well as IoW's Public Agencies Workgroup.

Coordination and Participation Calls

WSWC staff 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 staff also conducted the calls related to WaDE water data sharing requests with representatives of the California State Water Resources Control Board; the Colorado Water Conservation Board, Delaware River Basin Commission; Great Lakes Commission; Minnesota Department of Natural Resources; Oklahoma Water Resources Board; the Oregon Department of Water Resources, and the Utah Division of Water Rights and Division of Water Resources.

Western Water Data Hub for the Bureau of Reclamation

WSWC staff participated several significant 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 for the Hub.

Other Calls

Numerous other calls related to WaDE, WestDAAT and development of a proposed Western States Water Conservation Application Tool (WestCAT).

COMMITTEES, TASK FORCES AND WORKGROUPS

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

American Water Resources Association (AWRA) – WSWC Executive Director

Internet of Water (IOW) Coalition Steering Group – WSWC Executive Director

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

USGS Water Use Data and Research (WUDR) Open Forum

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 F – Future WSWC Meetings

WESTERN STATES WATER COUNCIL

FUTURE MEETINGS

2025 Council Meetings/Host States

- Spring – Lincoln, Nebraska
April 22-25, 2025
Courtyard
- Summer – WSWC 60th Anniversary!
Snowbird, Utah
June 9-12, 2025
Cliffs Lodge
- Spring – California
Dates (TBD)
Location (TBD)

2026 Meetings Projections

Spring –	New Mexico	last held 10/20/2017 in Albuquerque
Summer –	Oregon	last held 8/3/2018 in Newport
Fall –	Idaho	last held 10/26/2018 in Coeur d’Alene

MEETING SCHEDULE

[illegible]

	Alaska	Arizona	California	Colorado	Idaho	Kansas	Montana	Nebraska	Nevada	New Mexico	North Dakota	Oklahoma	Oregon	South Dakota	Texas	Utah	Washington	Wyoming	Other
185										Albuquerque 10/20/17									
186																			Wash. DC 3/14/18
187													Newport 8/3/18						
188					Coeur d'Alene 10/26/18														
189		Chandler 3/22/19																	
190																	Leavenworth 7/18/19		
191				Breckenridge 10/18/19															
192																			Cancelled - Wash. DC 4/1/20 COVID-19
193																			No Host 7/22/20
194																			No Host 10/15/20
195															Virtual Texas 3/25/21				
196																		Cody 6/25/21	
197														Deadwood 9/16/21					
198																			Arlington, VA 4/6/22
199							Polson 8/5/22												
200												Sulphur 10/21/22							
201									Reno 5/24/23										
202	Anchorage 9/14/23																		
203																			Wash. DC 3/14/24
204											West Fargo 7/25/24								

Tab G – Water Project Navigators Act

S. 5014

To provide for the establishment of a Water Project Navigators Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 10, 2024

Mr. HICKENLOOPER (for himself and Mr. MORAN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To provide for the establishment of a Water Project Navigators Program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Water Project Navigators Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) **DISADVANTAGED COMMUNITY.**—Except as otherwise defined by the Secretary of the Interior (acting through the Commissioner of Reclamation) based on current methodologies, the term “disadvantaged community” means a community (including a city, town, county, or reasonably isolated and divisible segment of a larger municipality) with an annual median income that is less than the statewide annual median income for the State in which the community is located, according to the most recent decennial census.

(2) **ELIGIBLE ENTITY.**—The term “eligible entity” means—

(A) a State, Indian Tribe, acequia, land grant-merced, local government, water supplier, or municipal water district located in an eligible State;

(B) any State, regional, or local authority located in an eligible State, the members of which include 1 or more organizations with water or power delivery authority;

(C) a nonprofit conservation organization located in an eligible State;

(D) an agency located in an eligible State that is established under State or Tribal law for the joint exercise of powers; or

(E) a combination of entities described in subparagraphs (A) through (D).

(3) **ELIGIBLE STATE.**—The term “eligible State” means—

(A) a State or territory described in the first section of the Act of June 17, 1902 ([43 U.S.C. 391](#); 32 Stat. 388, chapter 1093);

(B) the State of Alaska;

(C) the State of Hawaii; and

(D) the Commonwealth of Puerto Rico.

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

(5) MULTI-BENEFIT WATER PROJECT.—The term “multi-benefit water project” means any project in an eligible State that—

(A) enhances the overall resilience of water supplies to climate-related impacts, including through activities—

(i) to increase water use efficiency;

(ii) to reduce consumptive use of water;

(iii) to promote system conservation;

(iv) to reduce water supply-demand imbalances;

(v) to promote water recycling and other advanced water treatments to augment water supplies;

(vi) to improve management or delivery of water resources; or

(vii) to encourage sustainable surface water or groundwater management; and

(B) provides benefits to communities and ecosystems, including through activities—

(i) to conserve or enhance fish and wildlife habitat;

(ii) to improve water quality;

(iii) to improve watershed health and function;

(iv) to enhance recreational opportunities;

(v) to promote rural economic development; or

(vi) to address risks to communities and infrastructure from climate change.

(6) NATURAL FEATURE.—The term “natural feature” means a feature that is created through the action of physical, geological, biological, and chemical processes over time.

(7) NATURE-BASED FEATURE.—The term “nature-based feature” means a feature that is created by human design, engineering, and construction to provide a means to reduce water supply and demand imbalances or drought or flood risk by acting in concert with natural processes.

(8) PROGRAM.—The term “Program” means the Water Project Navigators Program established under section 3(a).

SEC. 3. WATER PROJECT NAVIGATORS PROGRAM.

(a) ESTABLISHMENT.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior (acting through the Commissioner of Reclamation) (referred to in this Act as the “Secretary”) shall establish a program to support the development and implementation of multi-benefit water projects within eligible States, to be known as the “Water Project Navigators Program”.

(b) **AUTHORITY.**—In carrying out the Program, the Secretary may award grants or cooperative agreements to eligible entities to support the creation or continuation of multi-benefit water project navigator positions.

(c) **CRITERIA AND GUIDELINES.**—

(1) **IN GENERAL.**—The Secretary shall develop criteria and guidelines for awarding grants and cooperative agreements under the Program that consider—

(A) the potential of the eligible entity to accelerate development and implementation of multi-benefit water projects within—

(i) the jurisdiction or service area of the eligible entity; or

(ii) in the case of an eligible entity that is a nongovernmental applicant, an area in which the eligible entity has a demonstrated history of productive engagement with the community and stakeholders;

(B) any history of development of multi-benefit water projects by the eligible entity; and

(C) any potential multi-benefit water projects the eligible entity has not yet implemented due to lack of capacity.

(2) **PRIORITIZATION.**—The criteria and guidelines developed under paragraph (1) shall include prioritization criteria for awarding grants or cooperative agreements, which shall include prioritizing applications from eligible entities—

(A) that would provide benefits for Indian Tribes, disadvantaged communities, and other eligible entities with limited project development resources and capacity;

(B) that would provide support for local job creation and retention;

(C) with a demonstrated intent and ability to incorporate improvements to the condition of a natural feature or nature-based feature in multi-benefit water projects designed under the Program;

(D) with demonstrated support from multiple stakeholders, including Indian Tribes, representatives of irrigated agricultural production, hydroelectric production, municipal and industrial water users, local governments, community-based organizations, and nonprofit conservation organizations;

(E) that would provide benefits for areas experiencing severe long-term drought; and

(F) with the capability to work in coordination with other projects that have been funded under, or help advance the objectives of, other Department of Interior programs, including a program authorized under—

(i) section 9504 of the Omnibus Public Land Management Act of 2009 ([42 U.S.C. 10364](#));

(ii) section 6002 of the Omnibus Public Land Management Act of 2009 ([16 U.S.C. 1015a](#));

(iii) section 1109 of the Consolidated Appropriations Act, 2021 ([33 U.S.C. 2330c](#));

(iv) title IX of division D of the Infrastructure Investment and Jobs Act ([43 U.S.C. 3201 et seq.](#)); or

(v) section 50233 of [Public Law 117–169](#) (commonly known as the “Inflation Reduction Act of 2022”) (136 Stat. 2053).

(3) **PUBLIC COMMENT.**—Before finalizing the criteria and guidelines developed under paragraph (1), the Secretary shall make the criteria and guidelines available for public comment.

(4) **PROHIBITION.**—The Secretary may not award a grant or cooperative agreement under the Program that would fund activities to meet existing environmental mitigation or compliance obligations under Federal

or State law.

(d) DUTIES OF NAVIGATORS.—A multi-benefit water project navigator funded under the Program shall assist the eligible entity in planning, developing, and implementing multi-benefit water projects, including—

- (1) grant writing;
 - (2) project management;
 - (3) technical assistance, such as feasibility, design, preliminary environmental review, and engineering;
- and
- (4) any other necessary activities.

(e) DURATION OF GRANTS AND COOPERATIVE AGREEMENTS.—

(1) LIMITATION.—Subject to paragraph (2), a grant or cooperative agreement under the Program shall be limited to a period of not more than 3 years.

(2) CONTINUATION AND EXTENSION.—At the discretion of the Secretary, the Secretary may issue a continuation grant or extend a cooperative agreement awarded under the Program for not more than 2 additional years, with additional funding to be awarded, as determined to be appropriate by the Secretary, if the recipient of the grant or cooperative agreement has demonstrated satisfactory performance with implementation of the proposal under the initial grant or cooperative agreement, as determined by the Secretary.

(f) CONTINUOUS ENROLLMENT.—The Secretary shall—

- (1) make funding opportunities for the Program available on a regular basis; and
- (2) allow applications for grants or cooperative agreements under the Program to be submitted and evaluated multiple times per year.

(g) COST SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (3), the Federal share of the cost of any activity awarded a grant or cooperative agreement under the Program shall not exceed 75 percent of the cost of the activity carried out under the grant or cooperative agreement.

(2) FORM OF NON-FEDERAL COST SHARE.—The non-Federal share of the cost of an activity awarded a grant or cooperative agreement under the Program may be in the form of cash or in-kind contributions.

(3) REDUCTION; WAIVER.—With respect to a grant or cooperative agreement awarded to an Indian Tribe, acequia, land grant-merced, disadvantaged community, or any other eligible entity working in partnership with or on behalf of those entities, the Secretary may reduce or waive the non-Federal share of the cost of any activity that is the subject of the grant or cooperative agreement if the reduction or waiver would further a compelling Federal interest, as determined by the Secretary.

(h) COORDINATION.—In administering the Program, the Secretary shall coordinate with other Federal, Tribal, State, and local government technical assistance programs to enhance multi-benefit water project development.

(i) COMPLIANCE.—A multi-benefit water project navigator funded under the Program shall comply with all applicable Federal and State laws in carrying out the duties of the multi-benefit water project navigator under the Program.

(j) REPORT TO CONGRESS.—Not later than 5 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that describes—

- (1) the ways in which the Program assists the Secretary in—

(A) reducing basin-wide water supply-demand imbalances; and

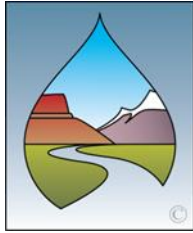
(B) enhancing drought and ecosystem resilience; and

(2) the benefits that the Program provides, including, to the maximum extent practicable, a quantitative analysis of the multiple benefits advanced under the Program.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act \$15,000,000 for each of fiscal years 2024 through 2029, to remain available until expended.

Tab H – Challenges of Small and Rural
Water Systems
(WSWC Position #478)



POSITION STATEMENT
of the
WESTERN STATES WATER COUNCIL
in support of
RURAL WATER INFRASTRUCTURE NEEDS & PROJECTS
Arlington, Virginia
April 6, 2022

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

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

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

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

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

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

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

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

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

¹ [Bureau of Reclamation Implementation of the Bipartisan Infrastructure Law \(usbr.gov\)](https://www.usbr.gov/ruralwater/docs/Rural-Water-Assessment-Report.pdf).

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

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

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

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

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

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

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

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

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

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

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

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

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

Tab I – WaDE/WestDAAT/WestCAT Update



Water Data Exchange – Western States Water Data Access & Analysis Tool Progress Report

Ryan James, WaDE Data Analyst/Hydroinformatics Specialist
Tony Willardson, Executive Director

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WSWC Duke BHP Foundation Year 3 Report
Western States Water Council - Water Data Exchange

Ryan James, WaDE Data Analyst/Hydroinformatics Specialist

Tony Willardson, Executive Director

Introduction

The Water Data Exchange (WaDE) Program¹ and Western State Water Data Access and Analysis Tool (WestDAAT)² are committed to assisting the Western States Water Council (WSWC) Member States in publicly sharing water rights, supply, and use data through a streamlined and standardized service that enables regional analyses to inform water resources management, planning and policies. Since 2011, the WSWC has nurtured WaDE Program development with financial support from federal agencies and philanthropic organizations. The WaDE Program's overarching goal is to provide a standardized water data-sharing platform for state and other public agencies that makes data findable, accessible, interoperable, and reusable (FAIR).

This Year 3 progress report for the period ending September 2024 is submitted under our 2021-2025 subcontract with Duke University, supported by the BHP Foundation. The BHP objectives and strategy under the contract with Duke are summarized below, and Table A1 summarizes the quarterly activities and progress for each WSWC deliverable. This report also summarizes challenges the Water Data Exchange (WaDE) team faced, lessons learned, and strategies to address these challenges. It also describes the continuing development of the Western States Water Data Access and Analysis Tool (WestDAAT) and summarizes outreach events and users since its release in the Spring of 2023.

Further, this report provides a brief update of the WaDE Program's status covering the following areas: (1) Summary of WaDE activities & objectives; (2) WestDAAT user traffic update; (3) WaDE/WestDAAT future objectives; (4) Western Water Data Hub; (5) Plan-Template for State Water Use Data Access and Analysis; (6) State High Level Overview Factsheets in the Context of WaDE; (7) Exploring Federal Data Integration into WaDE; and (8) Key Outreach and Coordination Activities.

Of note, WaDE and WestDAAT development over the past year has been funded by three grants with funds from: (1) a Broken Hill Proprietary (BHP) Foundation grant through Duke University; (2) the Walton and Water Foundations; and (3) a Bureau of Reclamation Applied Science WaterSmart grant and financial assistance agreement.

¹ WaDE: <https://westernstateswater.org/wade>

² WestDAAT: <https://westdaat.westernstateswater.org/>

1. Summary of WaDE Actives and Objectives

Update on Data Actives

- Aggregated water use data from the Great Lakes Commission data has been added to WaDE.³
- Site-specific public supply water use data from American Samoa has been added to WaDE.⁴
- Colorado water use records related to water rights have been removed from WaDE after a consultation meeting with Colorado on the nature of their timeseries data, which were site specific only and could not be disaggregated to apply to specific water right records. Colorado requested we refrain from correlating water use records with water rights at this time until they are able to do so.
- Water use permit data for the State of Minnesota was added to WaDE, but subsequently removed by request of the State. There were concerns over possible confusion related to the riparian nature of Minnesota's permitting system compared to western water rights under the Prior Appropriation Doctrine (that assigns senior rights to the use of water based on the date the water is first put to use).
- Existing water right, water supply, water use and overlay records are continually monitored and updated, with documentation found on the WSWC WaDE webpage.⁵

Current Water Data Sharing

The WaDE Program's database offers data access originating from 222 unique datasets across the WSWC's 18 states in a consistent format and with standard terminology. Any one state may have multiple datasets. WaDE gathers the following four categories of data: (1) water rights data; (2) water supply data, which includes (a) site-specific historical reservoir and streamgage data, (b) data on groundwater pumping, and (c) available aggregated water supply estimates at a watershed scale; (3) water use data, including (a) historical site-specific withdrawals related to water rights, (b) site-specific state public-supply water use, and (c) aggregated withdrawal, demand, delivered water, and consumptive use data at a watershed scale; and lastly (4) administrative and regulatory spatial overlays related to water rights. See Table 1 for a summary of WaDE-supported datasets that are shared through the Application Programming Interface (API) and WestDAAT.

Currently, only water rights data are accessible through WestDAAT.

See Appendix A for more information on WaDE infrastructure.

³ Great Lakes WaDE Data:

https://github.com/WSWCWaterDataExchange/MappingStatesDataToWaDE2.0/tree/master/GreatLakes/WaterUse_AggregatedArea

⁴ American Samoa WaDE Data:

https://github.com/WSWCWaterDataExchange/MappingStatesDataToWaDE2.0/tree/master/AmericanSamoa/WaterUse_PublicSupply

⁵ WaDE Data Documentation: <https://westernstateswater.org/wade/wade-data-summary/>

Table 2: 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 / API	WestDAAT
1	Water Rights	Owner, priority date, point of diversion, place of use, purpose of use, permitted flow or volume, and water source name and type.	18	43	Yes	Yes
2	Water Supply	Site-specific historical reservoir and streamgages or groundwater pumping	12	40	Yes	No
		Aggregated water supply, such as runoff in streams, reservoirs, or groundwater	2	4	Yes	No
3	Water Use	Site-specific historical withdrawals related to water rights	4	5	Yes	No
		Site-specific state public-supply water use	5	34	Yes	No
		Aggregate withdrawal, demand, delivered water, consumptive use	9	68	Yes	No
4	Overlay	Administrative & Regulatory Overlays	17	26	Yes	No

Challenges and Lessons Learned

- The WaDE team has encountered a number of challenges. These experiences will provide valuable lessons for the rest of the project. The WestDAAT software environment is complex and requires software development expertise to update it. The WaDE team has had to rely on IT contractors to make updates to WestDAAT, which can be costly and take time.
- The WaDE team identified a limitation in the WaDE database design correlating recorded water use timeseries records and how they may relate to a water right. This limitation involves the possible complex many-to-many-to-many relationships between water use records, water rights, and sites, which is heavily dependent on a data provider's own water use record architecture. Site-specific data can come in any of the following structures:
 1. Recorded water use may be a summary specific to a single site (such as a diversion serving more than one water right), and the site's total recorded water use cannot be disaggregated by users, uses, or water rights. This is not an issue if the specific site serves only one water right;

2. Recorded water use is a summary related to multiple sites, and that total recorded water use cannot be disaggregated by any individual water right applied to the sites of interest;
 3. Recorded water use may be a summary report specific to a single water right, but that water may be applied to many sites (place of use) and it is therefore not possible to disaggregate water use by each place of use.
- At this time WaDE supports use case #3 or water use recorded and summarized in a report specific to a singular site, but that water use cannot be disaggregated if applied to many sites or for different purposes (such as a right for a homestead for domestic use, stockwater and irrigation).
 - This is not an issue if there is only a one-to-one relationship between sites (diversion and place of use for a water right). The issue and its suggested solution are documented on GitHub.⁶ The current budget does not allow the WaDE team to alter the database schema.
 - The WaDE team discovered a data download feature bug in WestDAAT related to very large place-of-use polygons geometry data. Geometry data in WaDE is stored in well-known text (WKT) format, which is a text markup language for representing vector geometry objects as simple character strings. However, these character strings can be lengthy in certain cases. Data download from WestDAAT is provided in csv file format, which have a character limitation of 32,767 characters per cell. Geometry data can exceed this limitation in the event the provided geometry is very large or complex in shape. The download csv files can have complicated and hard to read file structures. At this time, this feature bug has not been resolved.
 - Possible solutions include: (1) providing alternative download file formats that support larger character strings; (2) separate geometry data from the sites.csv file into it's own geometry.csv file (which would require an update to the WaDE database schema structure to allow this type of relationship to be stored). The current budget does not allow this feature bug to be fixed, but will be explored more in the future.
 - As noted earlier, data from the Minnesota Department of Natural Resources had been mapped, documented and included in WaDE, but was subsequently removed. Priority dates are a key feature of western water rights and essential metadata in WaDE's current architecture, but is not compatible with administration of eastern riparian water use permitting systems.
 - The WSWC's mission and vision do not support the inclusion of non-WSWC council member states' /eastern states' and regions' data long-term as a part of WaDE. WaDE's open-source code could be replicated and revised to present permitting data for other states and regions. The U.S. Geological Survey already recommends the use of WaDE architecture to share states' water use data.

⁶ Tracking water use for many sites GitHub Issue: <https://github.com/WSWCWaterDataExchange/WaDE2.0/issues/170>.

- Given declining philanthropic support for WaDE, the WaDE Program Manager decided to take a position with the State of Utah.

The WaDE team's year-3 experiences will provide valuable lessons for the rest of the project.

- The WaDE team hired an independent contractor to build a prototype extension to WestDAAT dedicated to visualizing and querying historical water supply and water use data available in the WaDE database. Meanwhile, the WSWC paid for the WaDE Hydroinformatics Specialist to take a 20-week software training course during the summer and fall of 2023 offered by the IT contractor who developed WestDAAT. The training proved very valuable in better understanding the WestDAAT coding environment and the requirements to make major updates such as the WestDAAT prototype extension to visualize historical water supply and water use time series data.
- WestDAAT is being improved to include additional WaDE recorded data types of water use and overlay information (a.k.a., WestDAAT 2.0). See Sec 3 - WaDE/WestDAAT Future Objectives for more information. This will be a major improvement over the current prototype Rshiny applications for sharing and viewing this information.
- As more and more States participate in WaDE, greater standardization of data gathering, access, analysis and visualization will aid in identifying and addressing water resources management, planning, and policy choices across state lines.
- Future financial support for continuing to build out a comprehensive western regional water data hub is limited by the perceived benefits to philanthropic and federal supporters, as well as our member states.
- Greater emphasis needs to be placed on demonstrating the various users and uses of WestDAAT with increased outreach and engagement.
- Recruiting and retaining competent staff will be a continuing obstacle to improving and maintaining WaDE and States' related efforts to make their water data publicly available.

WaDE and WestDAAT are ground-breaking efforts that successfully demonstrate a growing capability to share water-related data regionally. However, building and maintaining public financial support for future efforts will require tailoring work to meet specific state and federal objectives and business process needs. Further, WaDE will need to address both individual state needs and the need for interstate review and analysis of regional water supplies and demands.

2. WestDAAT User Traffic Update

WestDAAT uses Google Analytics to anonymously measure users' interest in WestDAAT over time. Since the soft release in September 2022, WestDAAT has had 4,253 visitors from the United States, and 144 international visitors (Figure 1). Since its public release in April 25, 2023, WestDAAT has had an average of roughly 49 active users per week (Figure 2).

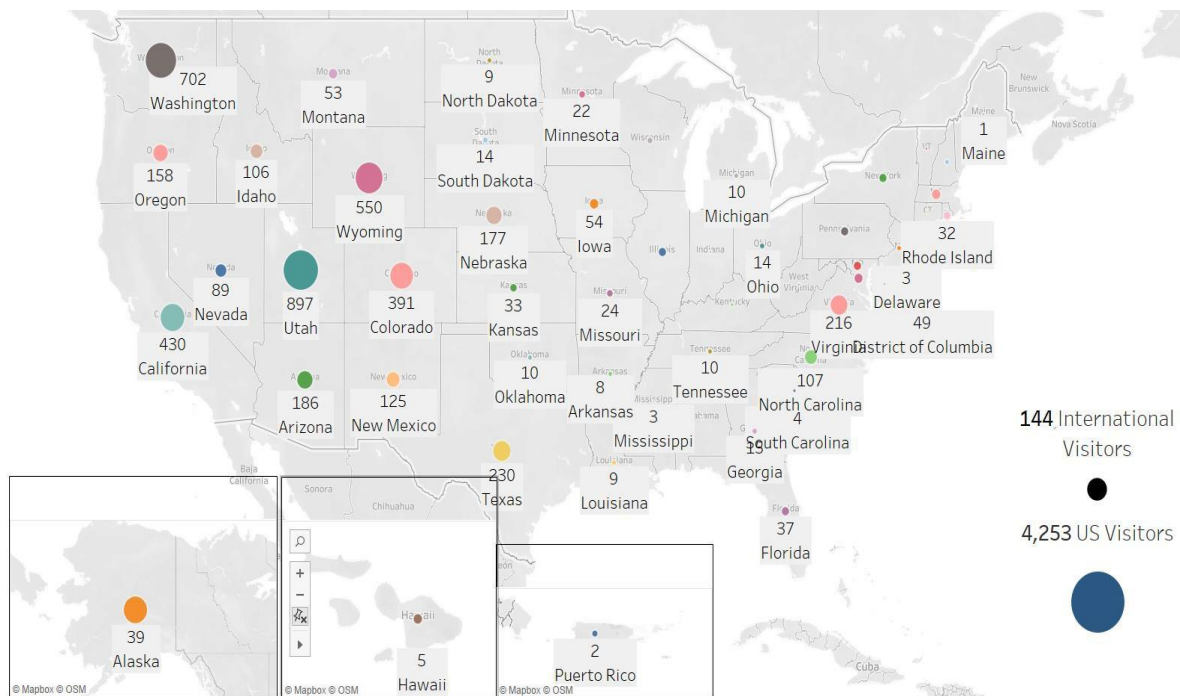


Figure 1: Geographic distribution of WestDAAT active visitors across the US from September 1, 2022, through September 19, 2024.

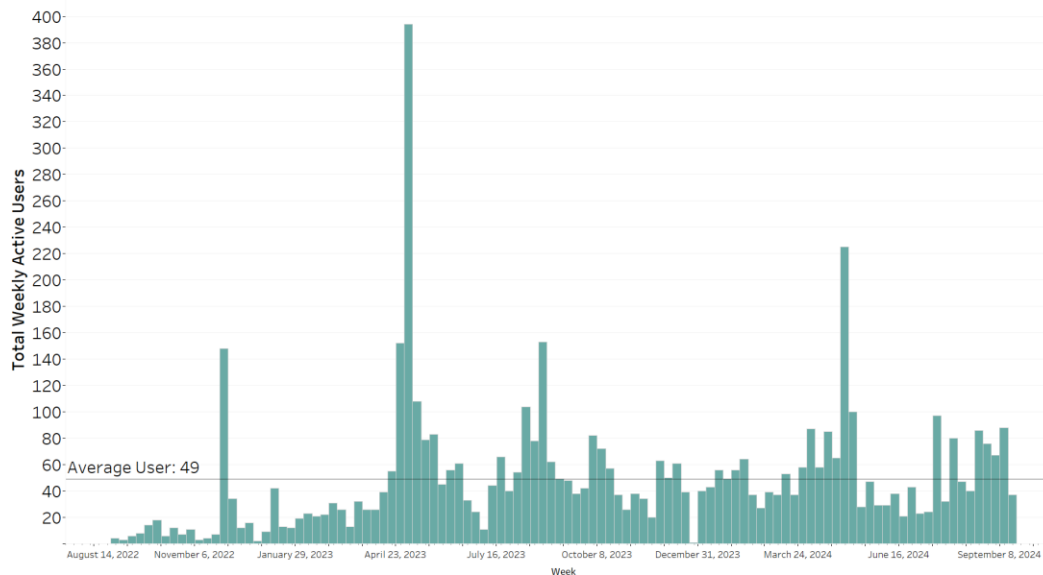


Figure 2: Distribution of WestDAAT active weekly visitors from September 1, 2022, through September 19, 2024. Spikes in visitor activity during key engagement events are evident. The last six months show an average of 49 visitors per week.

Figure 3, on page 8, shows a pie chart and table of the current count and distribution of 82 registered WestDAAT user accounts by user type. Registration is required to access WaDE's raw data, as compared to casual visitors. Roughly 75% of existing users are consulting firms and private entities, non-profit organizations and university researchers. The other 25% are state and federal agencies.

- State agency users: City of Phoenix in Arizona, California State Water Resources Control Board, New Mexico Office of the State Engineer, Texas Water Development Board, and State of Utah.
- Federal agency users: U.S. Department of Agriculture, and Department of the Interior's Bureau of Indian Affairs, Bureau of Land Management, Bureau of Reclamation, Fish and Wildlife Service, National Park Service, and U.S. Geological Survey, as well as Los Alamos National Lab.
- University users: in the West include Arizona State, Boise State, California (Berkley & Davis), CalTech, Nebraska-Lincoln, Northern Arizona, Texas A&M, Utah State, Washington State, Cornell, Duke, North Carolina-Chapel Hill, Penn State, Southern Illinois, Virginia Tech, and Yale.
- Non-profit uses: American Rivers, the Freshwater Trust, Lincoln Institute of Land Policy, the Nature Conservancy, and Vibrant Planet (a public benefit corporation).

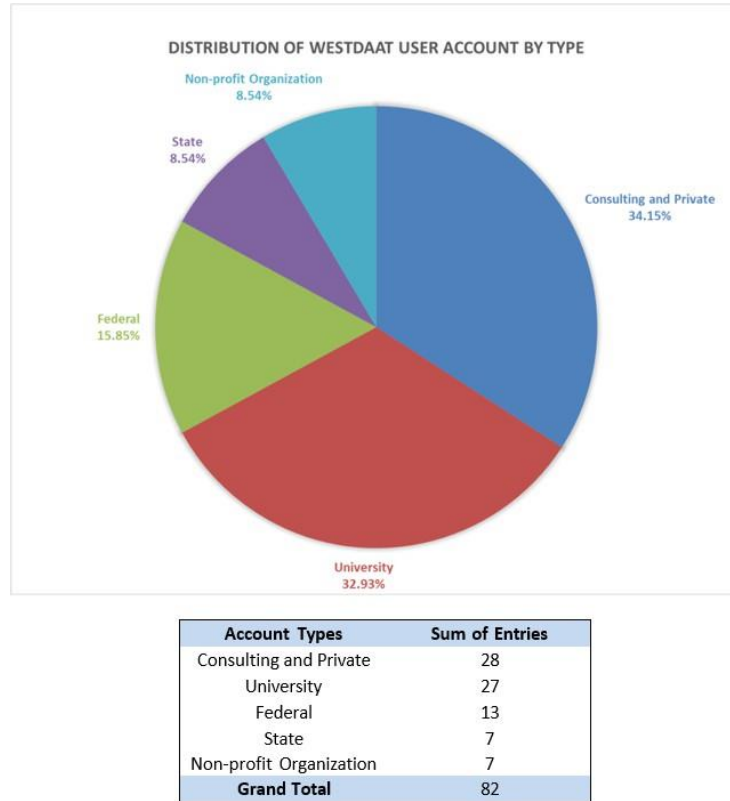


Figure 3: Registered WestDAAT User Distribution by Type

3. WaDE/WestDAAT Future Objectives

Administrative and Regulatory Overlays

WestDAAT is capable of displaying geospatial overlays paired to water right site information. The two types of overlays envisioned are administrative and regulatory. Regulatory overlays are geographic areas that may follow basin or aquifer boundaries where specific rules or requirements apply to water use. Administrative overlays are boundaries of districts or offices with authority over water. A total of 26 overlays have already been imported into WaDE (see Table 1). The WaDE team will continue to explore and incorporate more overlays. 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 the oversight agency. In the WaDE database, each overlay is mapped to water rights. Thus, administrative and regulatory overlays are geospatial metadata related to water rights that provide context to surface and groundwater water rights and water use across the West.

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 R-Shiny web application⁷ visualizing regulatory and administrative overlays across the West (Figure 4).

When funding allows, overlay data may be shared via WestDAAT. Users would be able to answer questions like the following: (1) What are the administrative or regulatory agencies or districts with authority over groundwater or surface water across the West? (2) What local or regional regulations exist in an area of interest? and (3) What water rights or water uses could be impacted by an administrative or regulatory decision? Filters could be used to identify an individual water right or water rights in a particular watershed, river basin, or special management area and subject to regulatory requirements such as water right calls, compact administration, conservation, and/or curtailment.

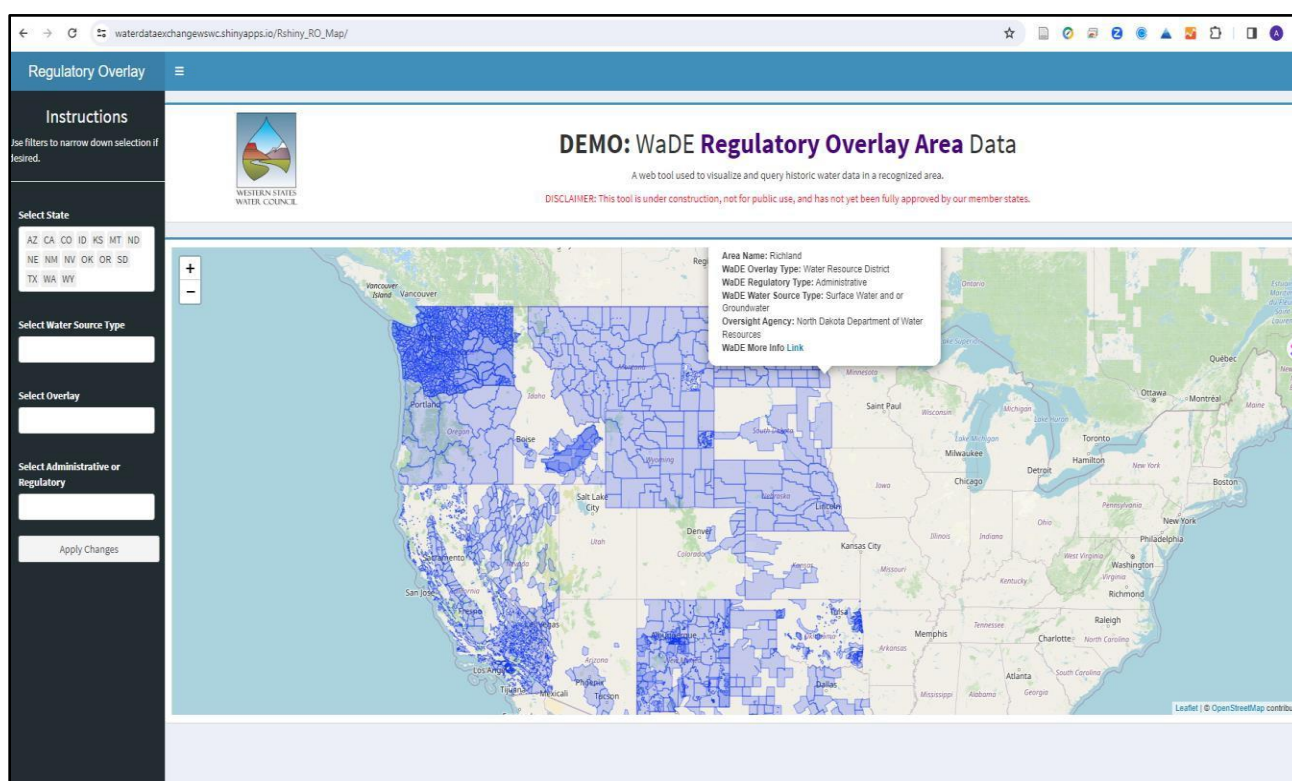


Figure 4: Screenshot of the prototype R-Shiny application homepage view for administrative and regulatory overlays.

Each overlay has a landing page with its metadata and a hyperlink to the oversight agency (see Figure 5).

⁷ DEMO: WaDE Overlay Data: https://waterdataexchange.wswc.shinyapps.io/Rshiny_RO_Map/

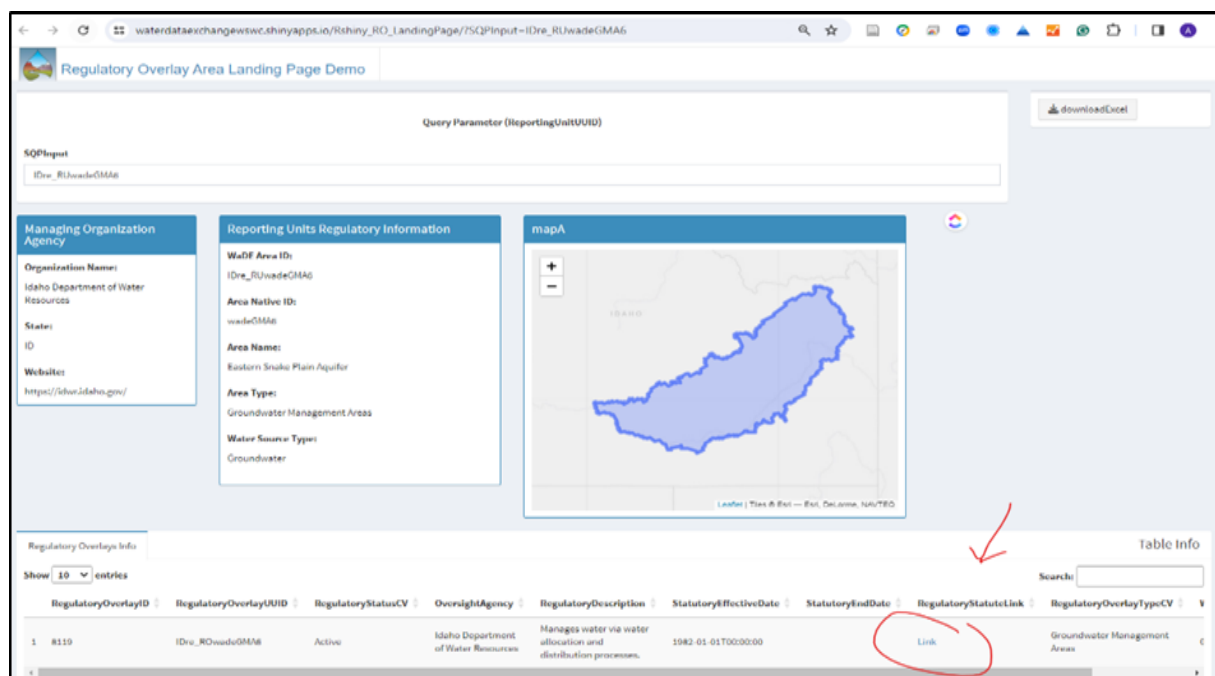


Figure 5: Prototype R-Shiny Application for regulatory and administrative overlay landing page showing specific metadata and providing an external link (when available) to each state of the agency.

Time Series Data

WaDE/WestDAAT may showcase state agency sourced water supply and use times series records and site information, alongside the existing water right site information (and listed geospatial overlay data mentioned above). Such water supply records include site-specific historical reservoir releases, streamgauge flow, and groundwater level or pumping measurements. Water use records include site-specific historical withdrawals related to an existing water right, and public-supply use related to geospatial areas.

A total of 12 water supply and 8 water use records have already been imported into WaDE. WaDE will continue to explore and incorporate more site-specific data as it becomes more readily available in machine-readable formats.

Thanks to work done by the WaDE team and 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 site-specific historical data for the Western United States (See Figure 6).

This prototype application is based on WestDAAT infrastructure and is available online.⁸

Sharing site-specific data in WestDAAT will allow users to more easily answer questions like the following: (1) Where are related points of diversion/return and their actual volume or flow values in a hydrologic system? (2) What is the annual time series for a given set of sites with known beneficial use categories, water source types, and/or methodologies? and (3) What responses may be appropriate given real-time changes to reservoir levels, streamgage heights, or longer-term changes such as groundwater levels.

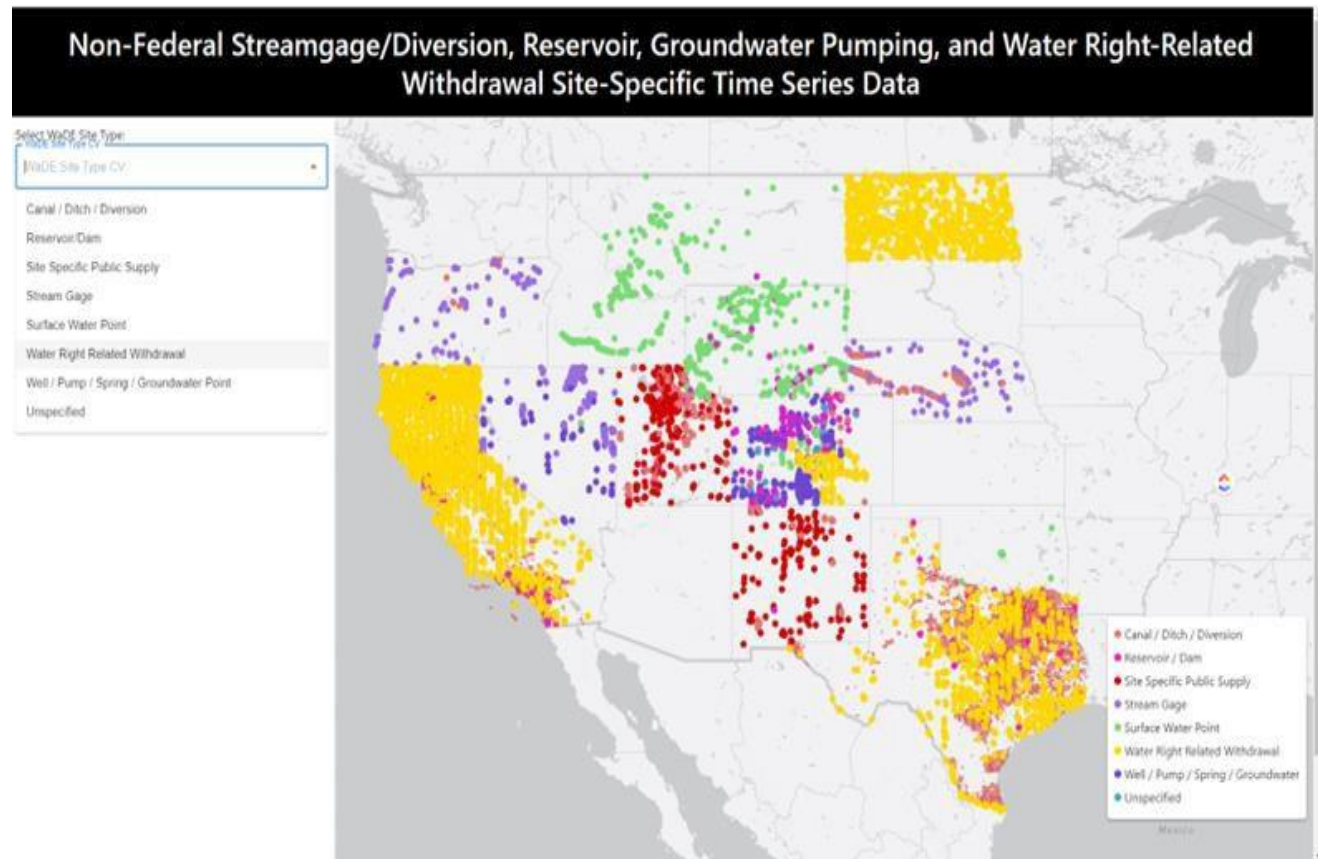


Figure 6: Non-Federal Western States Water Use and Supply Time Series Data

The WSWC has committed \$200,000 towards WaDE 2.0 updates to allow WestDAAT to illustrate site-specific time series data and plans to use remaining BHP Foundation funds to help accomplish related tasks. Further, a new WaterSMART financial assistance agreement signed by the U.S. Bureau of

⁸ Demo: WestDAAT on non-federal water supply and water use site-specific historical data:
<https://swcwaterdataexchange.github.io/demo-westdaat-ss/>

Reclamation on September 20, 2024 will fund development of a water conservation tool built on the improved WaDE 2.0 infrastructure to help facilitate quantifying consumptive water use.

4. Template for State Water Use Data Access and Analysis Plan

The WaDE Team has also assembled a water use access an analysis plan-template, using the USGS Water-Use Data and Research (WUDR) program as a base.⁹ The WUDR program provides financial assistance through cooperative agreements with state water resource agencies to improve the availability, quality, compatibility, and delivery of water-use data that is collected or estimated by States. The plan-template reviews and describes a State's existing water use program (including data infrastructure) and outlines recommendations for improving the water use data. Recommended improvements are provided in tier steps by recognized beneficial use (e.g., Public Supply, Irrigation, Mining, etc.) in 12 separate tables (see Table 2). Each table has its own metric for evaluation of progress towards higher and more complete tier structures, with Tier 1 being the lowest, and Tier 3 being the highest and most complete.

Table 3: Colorado's State Water Use Data Access and Analysis Evaluation

Water Use Category	Highest Tier Reached	Notes and Comments
1. Public Supply	Tier 1	Monthly withdrawals from named surface water and groundwater PODs.
2. Industrial	Tier 1	Annual withdrawals from industrial named surface water and groundwater PODs
3. Irrigation-Crop	Tier 2	Monthly withdrawals from individual irrigation sites by named surface water and groundwater PODs
4. Thermoelectric	N/A	N/A
5. Self-Supplied Domestic	N/A	N/A
6. Irrigation-Golf Courses	Tier 1	CO does have annual and monthly withdrawals for recreation (parks and golf courses) use PODs by water source name and type. But it's not clear what percent is park, and what percent is golf course
7. Livestock	Tier 1	Annual withdrawals for major facilities, reported by water source and by water type
8. Mining	N/A	N/A
9. Aquaculture	N/A	N/A
10. Hydroelectric Power	Tier 1	Annual and monthly withdrawals for thermoelectric use PODs by water source name and type
11. Wastewater Treatment	N/A	N/A
12. Water Use Database	Tier 2	CDSS data are entered electronically into a database.

⁹ WUDR: <https://www.usgs.gov/mission-areas/water-resources/science/water-use-data-and-research-wudr-program>

As a baseline, the WaDE Team first applied the plan-template for the State of Colorado to evaluate how accessible and complete water use data is. The plan also evaluates Colorado’s Decision Support Systems (CDSS) Rest Web Services.¹⁰

5. State Factsheets

The WaDE Team prepared a template-factsheet for state data providers. The template-factsheet showcases the data, at a high level, the WaDE program as integrated thus far. This includes water right, water supply, water use, and administrative and regulatory overlay data and information. The template-factsheet showcases analytic figures (e.g., maps of sites such as points of diversions and places of use), maps of reporting unit areas, distribution of water rights and water use by beneficial use, histograms on distribution of priority dates of water rights, a brief overview of the data (e.g., number of sites, type of data recorded, etc.), a summary of the data sources (e.g., where the data came from, file format), and any identified data gaps relevant to the WaDE data structure.

Factsheets for the following states have been completed: California, Colorado, North Dakota, Oklahoma, Oregon and Texas.

6. Exploring Federal Data Integration with WaDE

Bureau of Reclamation Water Rights

With BHP funding and a WaterSMART grant, WSWC staff have collaborated with the Reclamation staff leading the Water Rights Information Management System (WRIMS).¹¹ WRIMS is a centralized repository of information on Reclamation’s interests in water rights related to authorized Reclamation projects to ensure they are inventoried and legally protected. Developing this water rights information management system will streamline data collection and maintenance of Reclamation’s water rights, improve data quality 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. WestDAAT has been a game-changer in providing streamlined access to 2.5 million water rights data across the 17 Reclamation States (and Alaska). WRIMS has integrated information and geospatial data from WestDAAT for state water rights where Reclamation is recognized as an owner across the Western States.

¹⁰ CDSS: <https://dwr.state.co.us/rest/get/help>

¹¹ <https://www.usbr.gov/research/projects/detail.cfm?id=20088>

“Since the 1980s there's been this vision of having a single source shared water rights database. We've been incredibly grateful for the collaboration both in our ability to provide funding through WaterSmart and to leverage what the WSWC has done. I think it has been really impressive how well we've worked together. The WSWC has done great work through this project and saved us from re-creating the wheel and developing something someone has already developed.” Darion Mayhorn, Supervisor of The Operations and Maintenance Branch, Asset Management Division.

“Back in 2021, WSWC gave us a presentation of the work they were doing, and we knew immediately we could leverage the good architecture and code. It was impressive to see them collate all of those records together and tie them back to the originating data source. It was really nice for Reclamation to have a kind of guide to use going forward without having to re-create an entirely new solution as it removed a lot of the redundancy Reclamation would have had to do to curate and update our water rights inventory,” Jesus Hernandez, Enterprise Asset Information Strategy and Management.

WSWC and Reclamation have held coordination calls including two calls over the past year.

On November 16, 2023, WaDE staff and the WRIMS teams met virtually to discuss integrating the two tools, especially adding weblinks from WRIMS to WestDAAT, and identifying and classifying irrigation districts and canal companies that receive water from a Reclamation project. WaDE staff shared a summary of Reclamation contractors extracted from two public sources: “Reclamation Dams”¹² and Reclamation’s “Projects and Facilities Database.”¹³ The summary is available on GitHub.¹⁴

On March 15, 2024, WSWC staff and WRIMS staff discussed the latest updates for both WRIMS and WestDAAT. WSWC demonstrated the water rights classification filter with the owner’s name matching a Reclamation contractor. The WaDE team shared a copy of the data and answered questions about the WaDE application programming interface (API).

WestDAAT’s data mapping algorithm classified water rights owner names that included any of the following terms: “Bureau Reclamation (USBR),” “bor,” “bureau of reclam,” “bureau of reclamation,” “bureau reclamation.” Reclamation staff suggested expanding the term search to include these three additional terms: “usbor,” “usbr,” “usdoi bureau of reclamation.”

Figure 7 shows the distribution of 3,697 identified Reclamation water rights, where 2,509 of those records were already recognized by the States.

The WaDE team assisted Reclamation staff in identifying both state water rights for Reclamation-owned and operated projects, and irrigation district and canal company rights to water from Reclamation-owned projects, but for which Reclamation had little information on the specific water right itself (including owner name, amount, & location). The WaDE team identified 73 unique contractors that

¹² Reclamation Dams: <https://www.arcgis.com/home/item.html?id=1df76b35789f448094cec79c53c42555>

¹³ Projects and Facilities Database: <https://www.usbr.gov/projects>

¹⁴ Compiling Reclamation Contractor Names: <https://github.com/WSWCWaterDataExchange/WaDE-Side-Projects/tree/main/20230406%20Bureau%20Contractors>

exactly matched a water right owner name in the WaDE database within the same state. Sixty-four of those contractors are from Reclamation's Projects and Facilities Database and nine from Reclamation's Dam's shapefile. The 73 contractors hold 1,118 total water rights.¹⁵

Colorado remains a data gap for classifying water rights owners because the State does not have a machine-readable owner name in its water rights database.

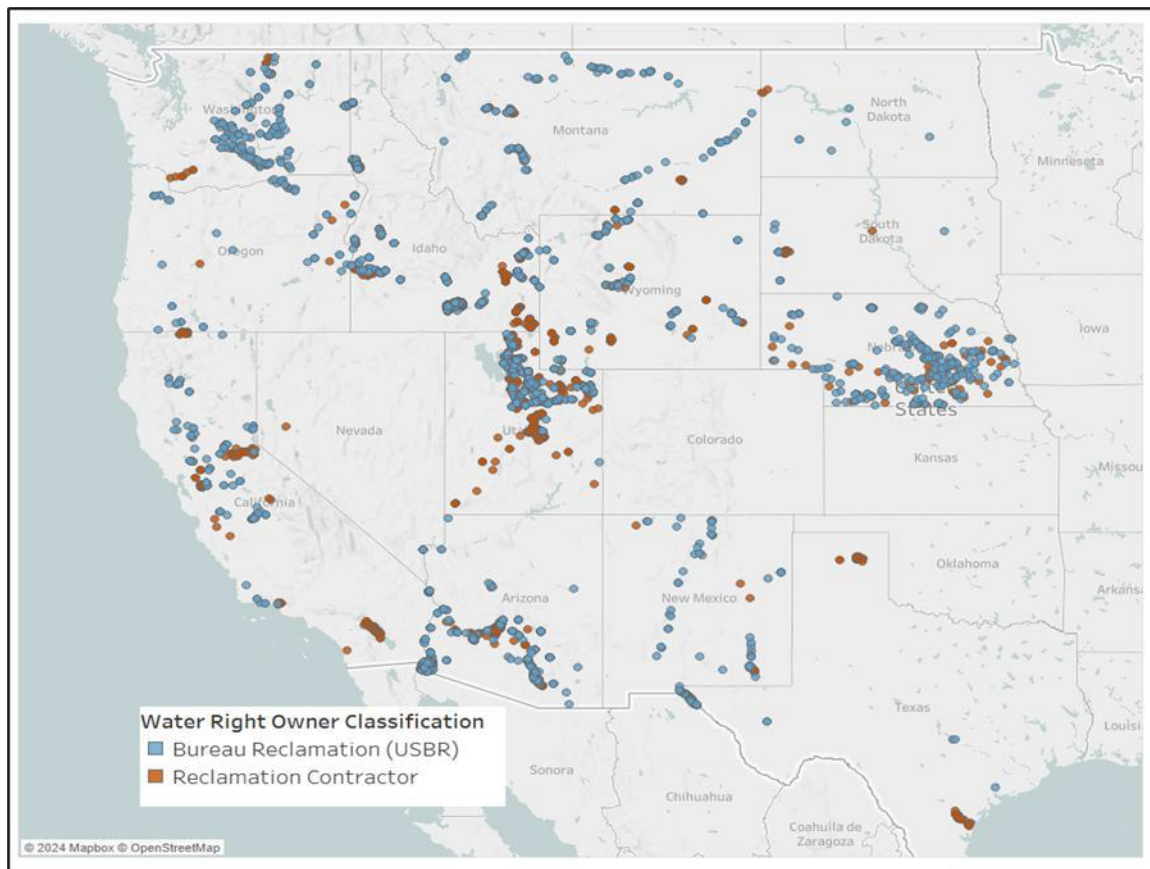


Figure 7: Interactive Tableau dashboard with Reclamation water rights and owner classification

WestDAAT has been useful to Reclamation as illustrated by the following statements.¹⁶ “From the Reclamation team, we want to thank the Western States Water Council (WSWC) for supporting and developing the Water Data Exchange (WaDE) Program and the Western States Water Data Access and

¹⁵ Compiling Reclamation Contractor Names: <https://github.com/WSWCWaterDataExchange/WaDE-Side-Projects/tree/main/20230406%20Bureau%20Contractors>

¹⁶ Quotes by Jesus Hernandez, Asset Management Division, Bureau of Reclamation. March 28, 2024

Analysis Tool (WestDAAT) Tool. Over the last few months, Reclamation has identified and verified over 1,350 water rights in four regional offices using WSWC data and mapping tools. We hope to complete our WRIMS data set in the next few months,” said Mr. Hernandez.

See Appendix C for screenshots of WRIMS and how it relies on WestDAAT.¹⁷

Mr. Hernandez added, “The Dam Safety and Infrastructure, Asset Management Division, Operations & Maintenance Branch has partnered with the Western States Water Council team and its WaDE 2.0 architecture and system. WaDE’s WestDAAT API has provided Reclamation access to the states’ engineers’ water rights, water supply, and water use data.”

“Previously, Reclamation regions were using GIS interns and duplicating work by manually finding the water rights diversion points and entering their own GIS layer. Meetings have been held between Western States and our regions to understand WaDE’s data ingestion from the state engineers’ websites and instead use WaDE’s geospatial information. The WaDE system has GIS components that are beneficial for the WRIMS database. The WRIMS team agreed it would be in the best interest to continue utilizing WaDE’s water rights data pertaining to Reclamation water rights.”

The WRIMS team has uploaded water rights information for the following regions: the Upper Colorado Basin; California-Great Basin; California-Pacific Northwest; and the Lower Colorado Basin.

The Tableau dashboard was created to provide better visualization and summarize Reclamation water rights as it is hard for WestDAAT to visualize just a few thousand water rights in a zoom-out view because it has 2.5 million water rights stacked in 20 layers.¹⁸

Hosted by the Western States Federal Agency Support Team (WestFAST), Reclamation and WSWC staff presented a webinar in June 2024 on the collaborative efforts to build our water rights databases.¹⁹

Internet of Water Inventory of Federal Water Data Sets

The WaDE team discovered that the Internet of Water (IOW)²⁰ has identified an extensive listing of federal data sets. This listing is separated out by the federal entity collecting the water data, which can be departments, divisions, agencies, river basin authorities, programs, etc. It also identifies the platform and refers to the online location where data are found and accessed, which can be websites, catalogs, maps, etc. Lastly, data categories are listed as infrastructure, water quality, water quantity, water use.²¹

¹⁷ See Figure 7 and Figures C1-C4 in Appendix C.

¹⁸ https://public.tableau.com/app/profile/wswc/viz/ReclamationWaterRights_17109708520770/Dashboard?publish=yes

¹⁹ YouTube WestFAST Webinar: Building a Water Rights Database - The Bureau of Reclamation and WestDAAT: <https://www.youtube.com/watch?v=hdo7veYPp3s>

²⁰ IOW: <https://internetofwater.org/>

²¹ IOW Inventory of Public Water Data: <https://internetofwater.org/public-data-inventory/>

The WaDE team will use this information to further explore opportunities to collaborate with federal water data providers related to water use (Irrigation, Hydropower, Utilities) and water quantity data related to water supply (Surface Water, Groundwater, Glacier/Snow, Reservoir, Soil). See Figure 8.

Challenges and Limitations to Presenting Federal Data in WestDAAT

Discussions have been held with our Western Federal Agency Support Team (WestFAST), and more specifically with the major federal land management agencies, the Bureau of Land Management, the Forest Service, and the National Park Service related to their water rights. To the extent that federal agencies have state-based water rights, such data can be explored and might be presented in a manner similar to that created through the collaborative partnership with the Bureau of Reclamation. However, federal law requires Reclamation to acquire rights to store and use water from the States, making such collaboration and management of water resources and related data unique.

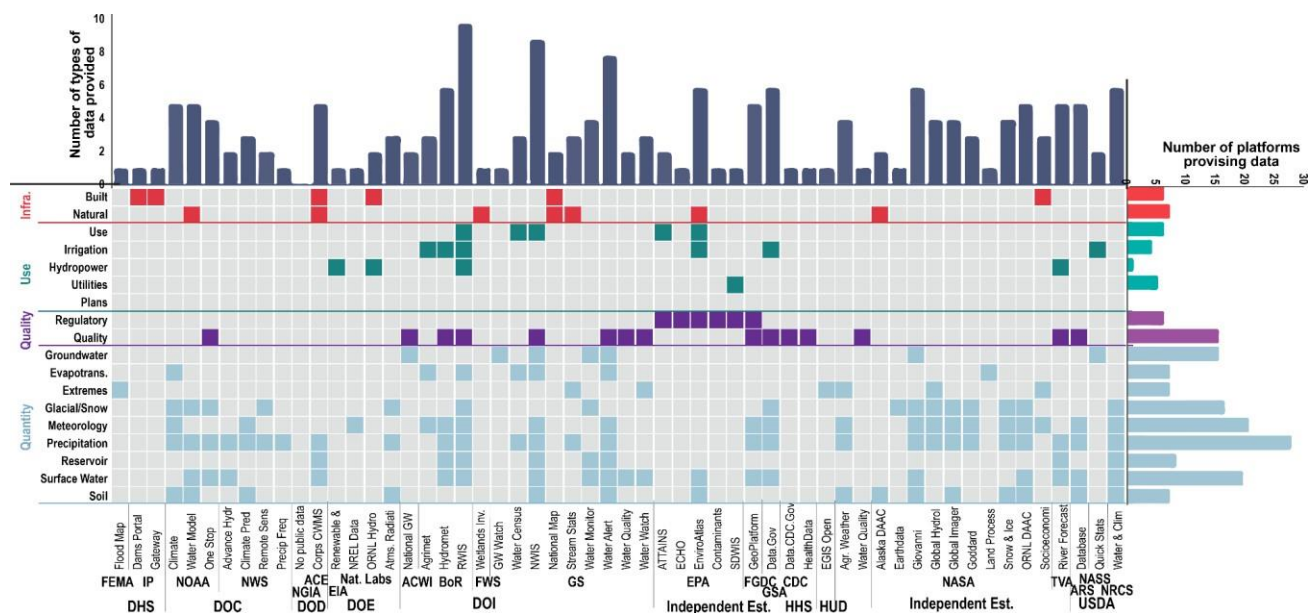


Figure 8: Heat map of water data collected by federal entities. The top chart shows the number of types of data collected by each entity, while the right-hand chart shows the number of entities collecting a particular type of data (Internet of Water, 2019).²²

²² Adapted from "Data Inventory White Paper" by Internet of Water, 2019, p. 6 (https://internetofwater.org/wp-content/uploads/2020/01/2019_08-Data-Inventory-White-Paper.pdf). Copyright 2019 by Internet of Water. Heat map: [IoW Inventory \(internetofwater.org\)](https://internetofwater.org)

The federal government may hold both state-law based water rights and federal reserved water rights for federally-managed lands.²³ Tribal water rights on reservations are also usually based on federal reserved rights. These rights are based on the primary purpose for which these lands were reserved, and in the West carry a priority based on the date of the reservation. Many of these reserved water rights were not explicitly acknowledged or quantified at the time of the reservation. Federal law²⁴ allows for the identification and quantification of all water rights as part of a basin-wide general stream adjudication, in state court, waiving federal sovereign immunity. Tribal water rights can also be part of such general stream adjudications. The logic behind such massive undertakings is to provide certainty for all water users, but such adjudications can take decades and cost tens of millions of dollars.

More and more federal reserved rights, including tribal reserved rights, have been quantified through negotiated settlements that are generally approved by the Congress. For States, addressing issues such as quantifying water rights for Tribes and for federal lands is important for determining the security of future water supplies, as tribal reservations and federally-managed lands make up a significant percentage of lands across the West and include vast amounts of water, often with early priority dates that are senior to many other water rights holders. Some tribal claims date to “time immemorial.” Negotiated settlements can provide certainty with greater flexibility to resolve competing water needs, but are also time consuming and expensive.

As a result of ongoing adjudications of both state and federal reserved water rights on various streams across the West, water rights data is often lacking or incomplete. Obviously, WaDE and WestDAAT can’t present unquantified federal water rights.

Further, state water rights are a private right to the reasonable beneficial use of a public resource, that can be lost or forfeited due to non-use or waste. Federal reserved rights can only be established and relinquished or limited by an act of Congress as public rights to use of the nation’s waters for a public purpose. Federal reserved rights are not lost due to non-use, with one exception, and that is if the United States fails to make its claims, or claims on behalf of a tribe, in a state general stream adjudication. Otherwise, federal reserved rights continue to exist whether or not they are actively claimed or used.

The WSWC would not attempt to estimate and include unquantified federal reserved rights claims or volumes related to unadjudicated uses in WaDE or WestDAAT.

With respect to other federal data sets, even if available in machine readable formats, the capacity of WaDE is currently limited to accessing water rights data. However, working with our IT contractor, Don’t Panic Labs, the WSWC is working on WestDAAT 2.0 and features to allow incorporation of time-series data that could include flow and volume water supply and water use data at a cost of over \$200,000.

²³ E.g., National Park Service (NPS), Forest Service (USFS), the Bureau of Land Management (BLM), Department of Defense (DoD) facilities, and other federal lands.

²⁴ McCarren Amendment 43 USC § 666 (1952); see also *Winters v. U.S.* (1908) and *U.S. v. New Mexico* (1978)

Prioritizing resources will likely limit the presentation of such data to state generated data, while continuing to work in collaboration with our federal partners.

The WaDE team will not attempt, at this time, to incorporate state water quality data into WaDE. State water quality data is already ingested into the Environmental Protection Agency's (EPA) Water Quality Data portal.²⁵ As this data is already consolidated to a single publicly accessible database, the WaDE team feels duplicating his process is unnecessary.

The WaDE team also will not attempt to integrate, at this time, US Army Corps of Engineers data. The Corps is a major water control agency whose mission is focused on flood control, hydropower and navigation, which are non-consumptive uses. Environmental restoration is another Corps' purpose that is generally non-consumptive. The Corps does not obtain state water rights for its projects, and at the present has a limited role in providing a water supply for municipal purposes.

7. WaDE/WestDAAT Outreach and Coordination Activities

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; METER Group, Inc. USA; Montana Fish, Wildlife, & Parks; Northern Arizona University; Pennsylvania State University; Vibrant Planet, Virginia Tech; Walton Foundation; WaterCard; and the Wright-Ingraham Institute.

The WSWC Executive Director and/or WaDE Program Manager conducted the following coordination calls with different agencies and organizations: Bureau of Reclamation - Upper Colorado Basin; National Aeronautics and Space Administration (NASA) Western Water Applications Office (WWAO); Oak Ridge and Pacific Northwest National Laboratories; 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.

The 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.

On October 26, 2023 the WSWC Executive Director presented at the NIDIS Executive Council Meeting (virtually) and described the WSWC water conservation tool proposal.

²⁵ EPA Water Quality Portal: <https://www.epa.gov/waterdata/water-quality-data>

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

On February 20-23, 2024, the WSWC Executive Director attended the Family Farm Alliance Meetings in Reno, Nevada and presented to the FFA Board on WaDE and WestDAAT.

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

On March 12, representatives of the American Farm Bureau and Family Farm Alliance met with the WSWC Water Resources Committee in Washington, D.C. to discuss their interests related to gathering and presenting agricultural water use information. Their primary concerns are related to presenting personally identifiable information and an awareness of the importance of agriculture, recognizing it is the largest use of water in the West.

On April 25, the WSWC Executive Director co-chaired the meeting of National Integrated Drought Information System's Executive Council, under NOAA, in Washington, D.C. and provided an update on WaDE and WestDAAT.

On May 9, the WSWC distributed a North Dakota Department of Water Resources survey of the 17 western states to provide a comprehensive summary of data collection activities and current methods and infrastructure used to collect, store, and manage data.

On May 15, the WaDE Data Analyst participated in the 2024 American Water Resources Association (AWRA) conference for the Utah chapter, in Salt Lake City, Utah.²⁶ The agenda of the conference focused on water conservation and reuse, where participants reported on projects throughout Utah to meet these goals, with the WaDE Data Analyst gave a presentation on WestDAAT, and what it means for water conservation and water rights.

As noted earlier, on June 25, the WSWC Executive Director and WaDE Data Analyst participated in a Western States Federal Agency Support Team (WestFAST) webinar along with Bureau of Reclamation staff to present on collaborative efforts to build Reclamation's internal water rights database.²⁷ The WestDAAT team has worked closely with Reclamation to coordinate and enhance its existing water rights database as part of a 2022 WaterSMART grant that together with BHP funding helped support WestDAAT development.

²⁶ 2024 Utah Chapter AWRA Conference: <https://www.awrautah.org/event-info/2024-awra-utah-section-51st-annual-conference>

²⁷ YouTube WestFAST Webinar: Building a Water Rights Database - The Bureau of Reclamation and WestDAAT: <https://www.youtube.com/watch?v=hdo7veYp3s>

8. Conclusion

The development and deployment of WestDAAT has been a game changer enabling use by scores of entities otherwise unable to easily access state water rights data. The tool is relatively new, and its use is expected to increase as a result of further outreach and engagement. In addition, as the availability of machine-readable data increases and WestDAAT 2.0 is deployed with the capability to display time-series data and administrative and regulatory overlays, more applications will be developed that will benefit western water management, policies, and programs.

Western governors continue to support the gathering and use of state water data. Moreover, the success working with the Bureau of Reclamation on its Water Rights Information Management System has and will continue to serve as a catalyst for greater federal collaboration.

The support provided by the BHP Foundation (and other philanthropic institutions), as well as Reclamation, have made progress to date possible. WSWC member states have also made substantial investments in making more state water data available, and the WSWC has renewed its commitment to funding WaDE and WestDAAT. However, long-term sustainability for WestDAAT will continue to depend on the value of the data for pragmatic applications.

Imagination and innovation will be critical as the West addresses its water supply and use challenges, and the WSWC is building a firm foundation upon which to access and analyze data and metadata that will be critical for sound decision and policymaking.

Again, thanks to BHP and Duke for facilitating this work!

Appendix A: BHP Deliverables

Table A1: BHP Foundation WaDE Deliverables

<u>Quarter</u>	<u>Year 3 Work Plan Deliverable</u>	<u>Progress Update</u>	<u>Status</u>
Q1 October 2023 -to- December 2023	- Continue importing historical water right-related withdrawal data for four Western States (California, Colorado, North Dakota & Texas). - Update the prototype WestDAAT extension for site-specific time series data to include the imported data. - Evaluate including water use data for at least one eastern state or region where machine-readable data exists. - Complete detailed options for sustaining varying levels of WaDE maintenance through Year 5.	- The WaDE team imported water rights-related use data for California, Colorado, North Dakota & Texas. To do this, the WaDE team also remapped California and Texas surface water rights data to connect the diversion point 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. - The WaDE team updated the prototype WestDAAT extension for site-specific time series data to include the imported data. - The WaDE team evaluated water use data for the Great Lakes Commission and the Minnesota Department of Natural Resources.	Complete

		Both are available in machine-readable formats with minimum metadata requirements that fit into WaDE. The WaDE team also evaluated the public-supply water use data for American Samoa, which received a USGS Water-Use Data and Research (WUDR) grant to make their data publicly available and compliant with the WaDE data dictionary. The data will be imported over the next quarter. • The WaDE team completed detailed options for sustaining varying levels of WaDE maintenance through Year 5. The WaDE database now has 96 six different water rights, water use, and water supply datasets across the West. Maintaining them over the years requires a full-time position. The detailed options for sustaining varying levels of WaDE maintenance through Year 5 are provided in a separate document.	
Q2 Jan 2024 -to- Mar 2024	• Add Minnesota permitting and the Great Lakes Commission aggregate water use data to WaDE. • Develop and begin to implement an outreach plan to assess the potential value of and encourage greater use of WaDE and WestDAAT, approaching the agricultural sector and other communities and identifying challenges and opportunities related to integrating water rights and water use data. • Review state plans submitted under the USGS Water Use Data and Research (WUDR) program. • Identify and compare existing western state water use data plans	• The WaDE team met virtually with staff at the Minnesota Water Appropriations Permit Program to discuss sharing their water permits and water use data through WaDE. The WaDE team has already mapped their data into the database, and it is ready to be shared online. Per their request, the WaDE team sent an official data-sharing request for them to approve. The WaDE team also sent an official data-sharing request to the Great Lakes Commission for approval. • The WaDE team developed and began implementing an outreach plan to assess the potential value of and encourage greater use of WaDE and WestDAAT, approaching the agricultural sector and other communities and identifying challenges and opportunities related to integrating water rights and water use data. The outreach plan is provided as a separate document. As part of WestDAAT's outreach activities, the WSWC Executive Director and WaDE Program Manager demonstrated WestDAAT and WaDE data to the staff at the following agencies and organizations: Aqaix Nimbus; Audubon;	Complete

	and resources, including access, collection, metering, monitoring, and visualization capabilities, focused on water use and related water rights and permits.	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. The WSWC Executive Director presented about WestDAAT and integration opportunities with water use data to the Family Farm Alliance Meetings in Reno, Nevada, on February 20-23, 2024. WSWC Executive Director and WaDE Hydroinformatics Specialist participated in the OpenET Conference in Santa Ana Pueblo, New Mexico, on February 27-28, 2024. Appendix B provides an update on WestDAAT users. • The WaDE team reviewrf state plans submitted under the USGS Water Use Data and Research (WUDR) program. The WaDE team drafted a template or model for state water use data access and analysis plan and tested it using the State of Colorado. • The WaDE team also started identifying and comparing existing western state water use data plans and resources, including access, collection, metering, monitoring, and visualization capabilities, focused on water use and related water rights and permits.	
Q3 Apr 2024 -to- Jun 2024	• Prepare a model state water use data access and analysis plan. • Create a prototype factsheet for WSWC member states illustrating the availability of their water data. • Create 5-7 factsheets for WSWC States.	• A state water use accesses an analysis template was created. The template reviews the states' existing water use data infrastructure in the context of the beneficial use and tier data applications related to WUDR. We applied the template to Colorado and evaluated the current accessibility and completeness of water use data. We shared this information with both Colorado and USGS. • A Prototype state factsheet was created outlining data the WaDE program has integrated from the state providers. This includes water right, water supply, water use, and administrative and regulatory	Complete

		overlay data. Factsheets for the following states were created: CA, CO, ND, OK, OR, TX. The factsheets highlight where the data came from and any identified data gaps relevant to the WaDE architecture that were not provided.	
Q4 Jul 2024 -to- Sep 2024	- Working with WSWC's WestFAST team, identify and compile a preliminary list of relevant federal land and water management agencies water use data bases that might be imported into WaDE. - Scope the resources required and challenges to integrating state water use data now in WaDE and available federal water use data into the WestDAAT (expanding its visualization capabilities). - Submit a narrative summary of Year 3 activities and accomplishments.	- Working with the Bureau of Reclamation and WestDAAT, the WaDE team provided materially significant assistance in building out Reclamation's Water Rights Information Management System (WRIMS). - WestDAAT's dashboard is currently limited to providing state water rights data and the nature of federal reserved water rights makes it largely impractical to ingest even machine-readable data, if it exists. - WSWC staff and WestFAST agencies have and will continue to discuss any future opportunities, relying on IoW's 2019 Inventory. - Prioritizing resources, WSWC will not explore access to EPA or Corp of Engineers data at this time - The narrative summary was completed and a final copy submitted on October 10.	Complete

Appendix B: WaDE Infrastructure

The WaDE 2.0 Data System is a centralized cloud-based system where the WaDE team maps and imports Western States' water data into a SQL Server Database hosted in Microsoft Azure web services. The WaDE database is based on a standardized and scalable data dictionary for water rights, water supply, and water use data in the Western U.S. The WaDE data dictionary has the following seven fundamental metadata elements.

- Water right metadata - priority date, owner name, and permitted diversions by flow or volume
- Sites are the spatial location of a point of diversion or place of use associated with water data
- Variables reported or measured – water source, water use, beneficial use, and units
- Water source types - generally surface or groundwater
- Beneficial use includes agricultural, municipal, industrial, etc.
- Methods used to estimate or model the data value
- Organizations or data providers

WestDAAT, as a front-end user-friendly tool, is deployed as part of the WaDE system in three independent environments, which also include the Microsoft SQL Server database, APIs, and the web-browser-based front-end dashboard (i.e., WestDAAT). These separate environments allow the WaDE team to test any changes or data updates before going into the final product. First, the Quality Assurance (QA) or development environment is used to test how the system performs following new design changes using a sample of data. Second, the User Acceptance Testing (UAT) or staging environment is used to test the quality of data and user experience. Finally, the third or Production environment is the live service that is available to users (Figure A1).

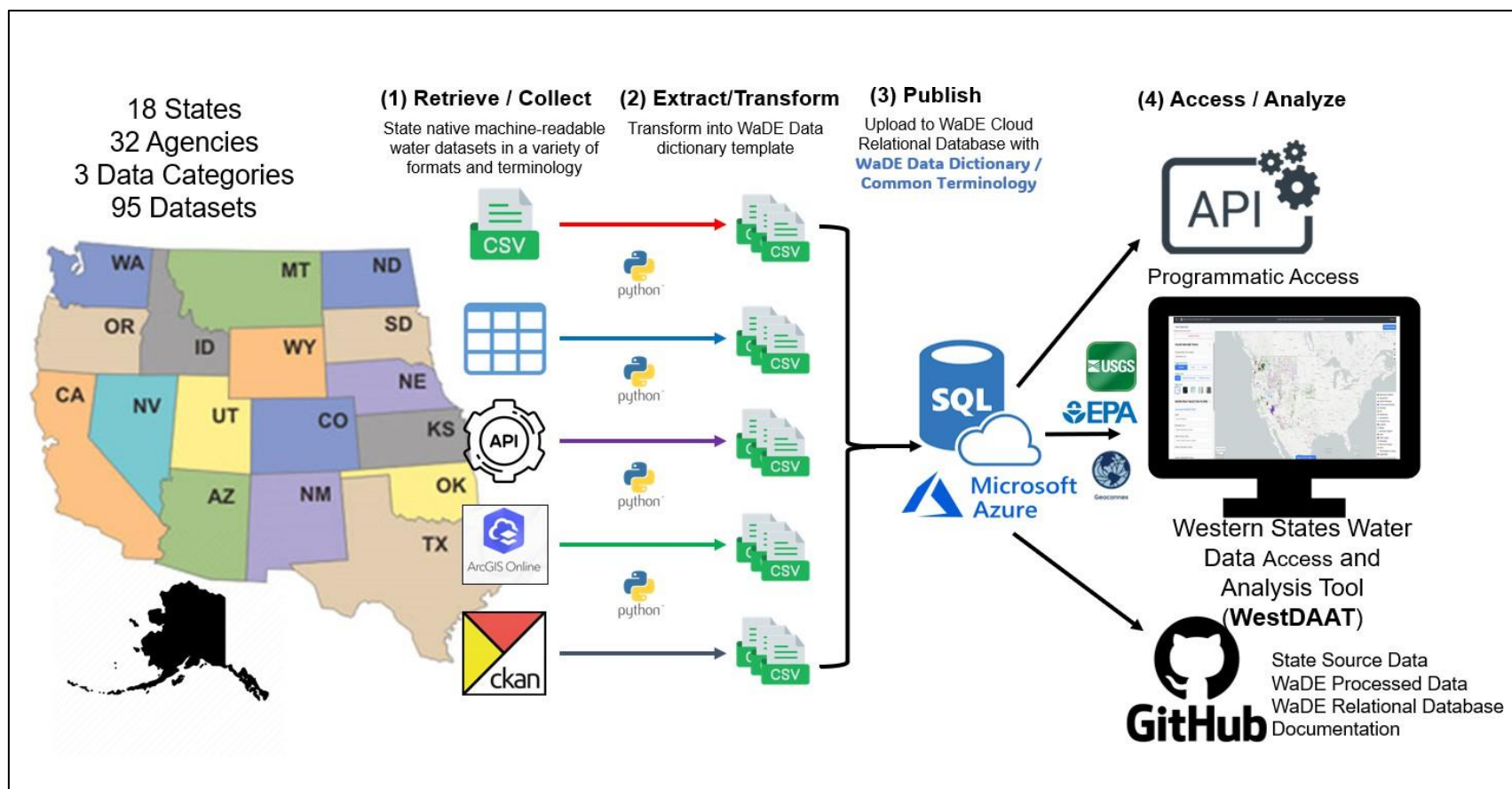


Figure A1: WaDE 2.0 architecture to streamline access to western states water rights, water use, and water supply data as FAIR through a streamlined and standardized service.

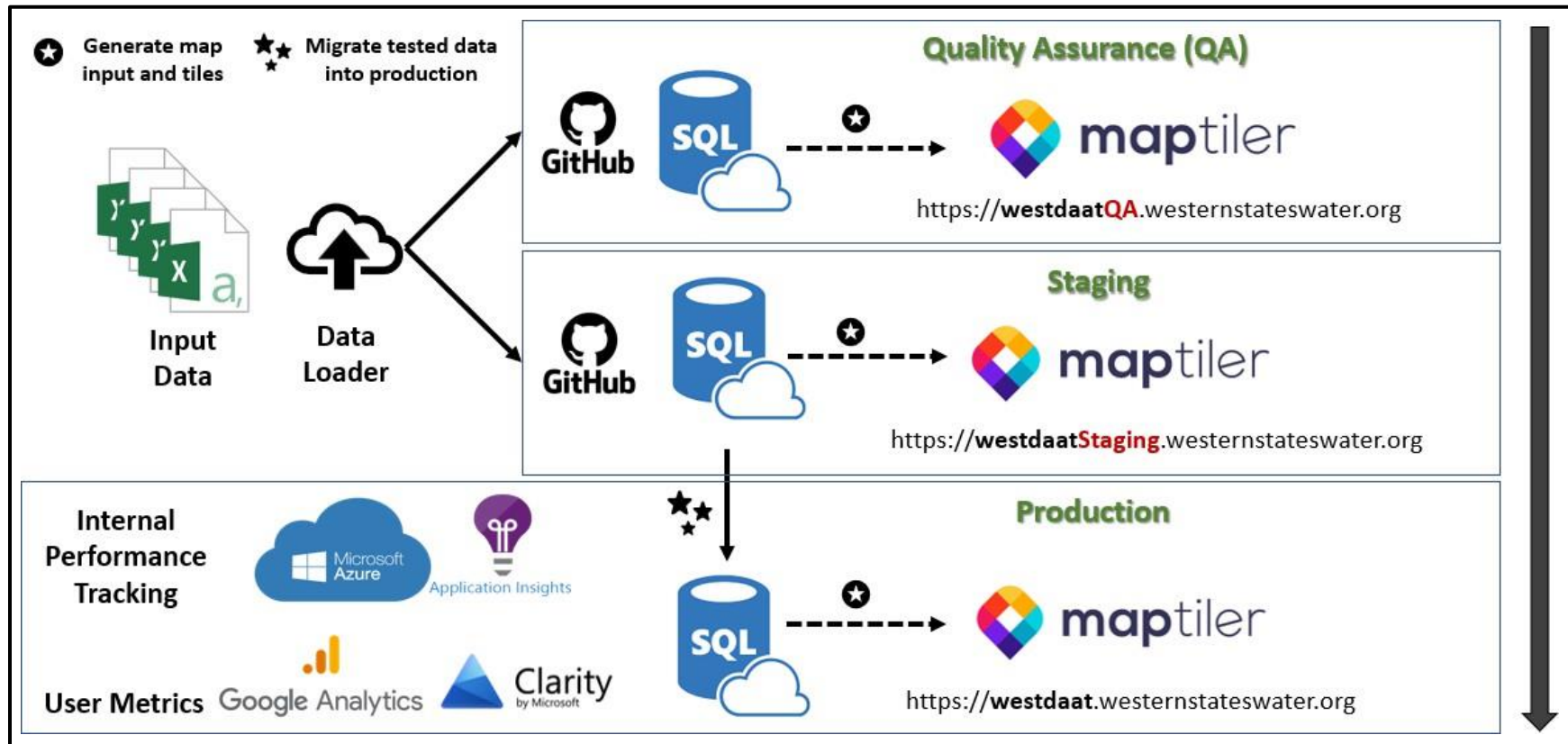


Figure A2: State-of-the-art scalable WaDE Data System based on the best IT practices deployed in three environments: Quality Assurance; Staging; and Production with open-source code tracked in GitHub at <https://github.com/WSWCWaterDataExchange>

Appendix C: Reclamation Water Rights Information Management System

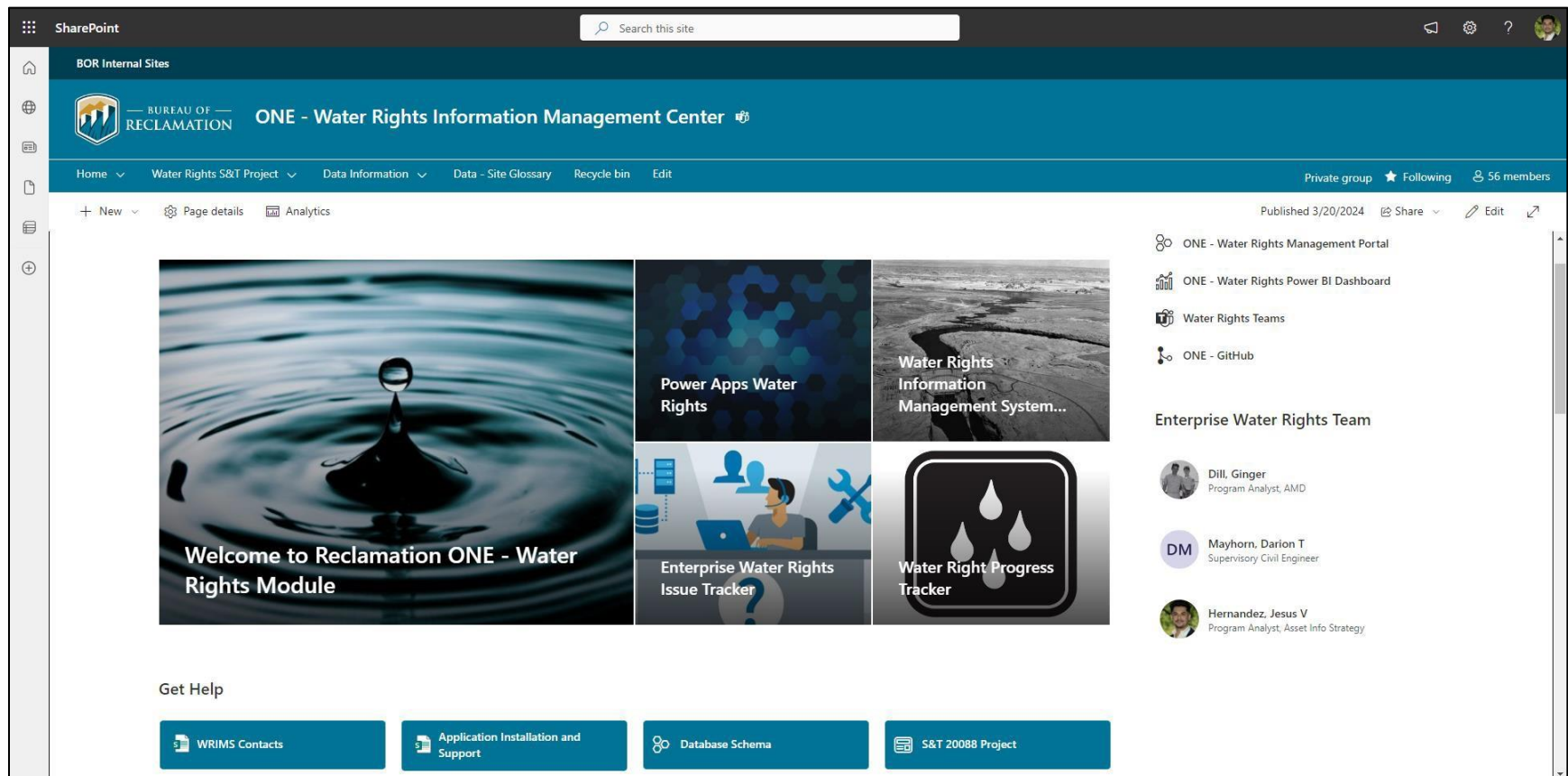


Figure C1: Screenshot of the Reclamation Water Rights Information Management System's homepage showing different aspects of the tool including the Water Rights Module.

WRIMS Home

Water Rights Center

Reclamation Wide WaDE GIS

Close Filter Reset All

Search Water Rights Number or Appl

State

County

Water Rights Type

Region

Office

Project

Legal Status

Filter Filing Date Between

3/28/2024 3/28/2024

Search

Refresh Export CSV

Water Rights Symbol	State Native ID	Project	Priority Date	Region	State	Office	Legal Status	Right
View Map CA:A000023	A000023	Canadian River Project	3/27/1915	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Licensed	Appr
View Map CA:A000234	A000234	Auburn-Folsom South Unit Project	1/19/1916	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Perfected	Unsq
View Map CA:A001465	A001465	Friant Division Project	9/26/1919	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Active	Appr
View Map CA:A002212	A002212	CVP, MISCELLANEOUS PROJECTS	2/17/1921	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Expired	Clain
View Map CA:A003660	A003660	Auburn-Folsom South Unit Project	10/4/1923	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A005618	A005618	Canadian River Project	7/23/1927	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A005625	A005625	Auburn-Folsom South Unit Project	7/30/1927	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A005626	A005626	CVP, MISCELLANEOUS PROJECTS	7/30/1927	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A005627	A005627	CVP, MISCELLANEOUS PROJECTS	7/30/1927	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A005628	A005628	Auburn-Folsom South Unit Project	7/30/1927	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A005638	A005638	Auburn-Folsom South Unit Project	7/30/1927	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A009363	A009363	Auburn-Folsom South Unit Project	8/2/1938	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A009364	A009364	Auburn-Folsom South Unit Project	8/2/1938	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A009365	A009365	Auburn-Folsom South Unit Project	8/2/1938	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A009366	A009366	Auburn-Folsom South Unit Project	8/2/1938	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A009367	A009367	Auburn-Folsom South Unit Project	8/2/1938	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A009368	A009368	Auburn-Folsom South Unit Project	8/2/1938	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A010588	A010588	Auburn-Folsom South Unit Project	1/5/1943	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A011331	A011331	Norman Project	3/25/1946	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Activ
View Map CA:A011332	A011332	Auburn-Folsom South Unit Project	3/25/1946	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A011343	A011343	Auburn-Folsom South Unit Project	3/25/1946	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A011761	A011761	Auburn-Folsom South Unit Project	3/7/1947	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A011762	A011762	Auburn-Folsom South Unit Project	3/7/1947	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A011989	A011989	Auburn-Folsom South Unit Project	7/14/1947	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A012716	A012716	Auburn-Folsom South Unit Project	9/27/1948	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A013103	A013103	Auburn-Folsom South Unit Project	5/19/1949	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A013370	A013370	Auburn-Folsom South Unit Project	10/1/1949	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A013371	A013371	Auburn-Folsom South Unit Project	10/1/1949	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A013372	A013372	Auburn-Folsom South Unit Project	10/1/1949	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq
View Map CA:A013629	A013629	Auburn-Folsom South Unit Project	3/10/1950	California-Great Basin	CALIFORNIA	California-Great Basin Region Office	Default Unspecified Legal Status	Unsq

Showing 1-30 of 90 Results

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Figure C2: WRIM's Water Rights Center showing a list of Reclamation water rights in the California-Great Basin region.

WRIMS Home

Water Rights Center
SharePoint Home

Reclamation ONE Controlled Glossary

WR Attribute - Water Source Type

The original source for the water described by the water right or permit. Name of the aquifer for groundwater sources or river basin/stream for surface water sources

WR Attribute - Water Rights Type

Reclamation water rights or permit's core data elements only includes the original state-assigned identification symbol, priority date, filing date, legal status, and original type ...

WR Attribute - Site Type

Location sites are used to define water rights or permits allocations points of use, and points of diversions, point of returns, and inundated storage sites.

WR Attribute - Legal Status

Reclamation water rights or permit's core data elements only includes the original state-assigned identification symbol, priority date, filing date, legal status, and original type ...

WR Attribute - Beneficial Use Ty...

Beneficial use is the use of that amount of water that is reasonable and appropriate under reasonably efficient practices to accomplish without waste the purpose for which the appr...

Attribute Type - WR Attribute - Water Rights Type

	WRAWRTypelD	Name	Term	Definition
View	1	Unspecified Water Right Type	Unspecified Water Right Type	Unspecified Water Right Type
View	2	MT_WaterResev	WATER RESERVATION	post 1973 - approved water reservation -M-
View	3	UT_SHAR	Water Company Shares	Water Company Shares
View	4	CA_WasteWC	Waste Water Change	
View	5	Vested	Vested	
View	6	Unspecified	Unspecified	
View	7	UT_UGWC	Underground Water Claim	Underground Water Claim
View	8	Unadjudicated	Unadjudicated	
View	9	OK_Term	Term	
View	10	All_TemporaryDonation	TemporaryDonation	
View	11	CA_TempPer	Temporary Permit	
View	12	MT_TempPer	TEMPORARY PERMIT	post 1973 - temporary permit -Q-
View	13	UT_TEMP	Temporary Application	Temporary Application
View	14	Temporary	Temporary	
View	15	OR_SWreg	surface water registrations	
View	16	All_SupersedingQuincyBasinPermit	SupersedingQuincyBasinPermit	
View	17	All_SupersedingPermit	SupersedingPermit	
View	18	All_SupersedingCertificate	SupersedingCertificate	
View	19	MT_StockWatPer	STOCKWATER PERMIT	post 1973 - approved provisional permit for stockwater -P-
View	20	CA_Stp	Stockpond	
View	21	CA_StatDivUse	Statement of Div and Use	
View	22	MT_StatmtCl	STATEMENT OF CLAIM	pre 1973 - claim of existing water right -A-B- OR -W-
View	23	Special	Special	
View	24	All_ShortTerm	ShortTerm	

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Figure C3: WRIM’s controlled glossary page showing WestDAAT metadata tables and their content such as Water Right Type.

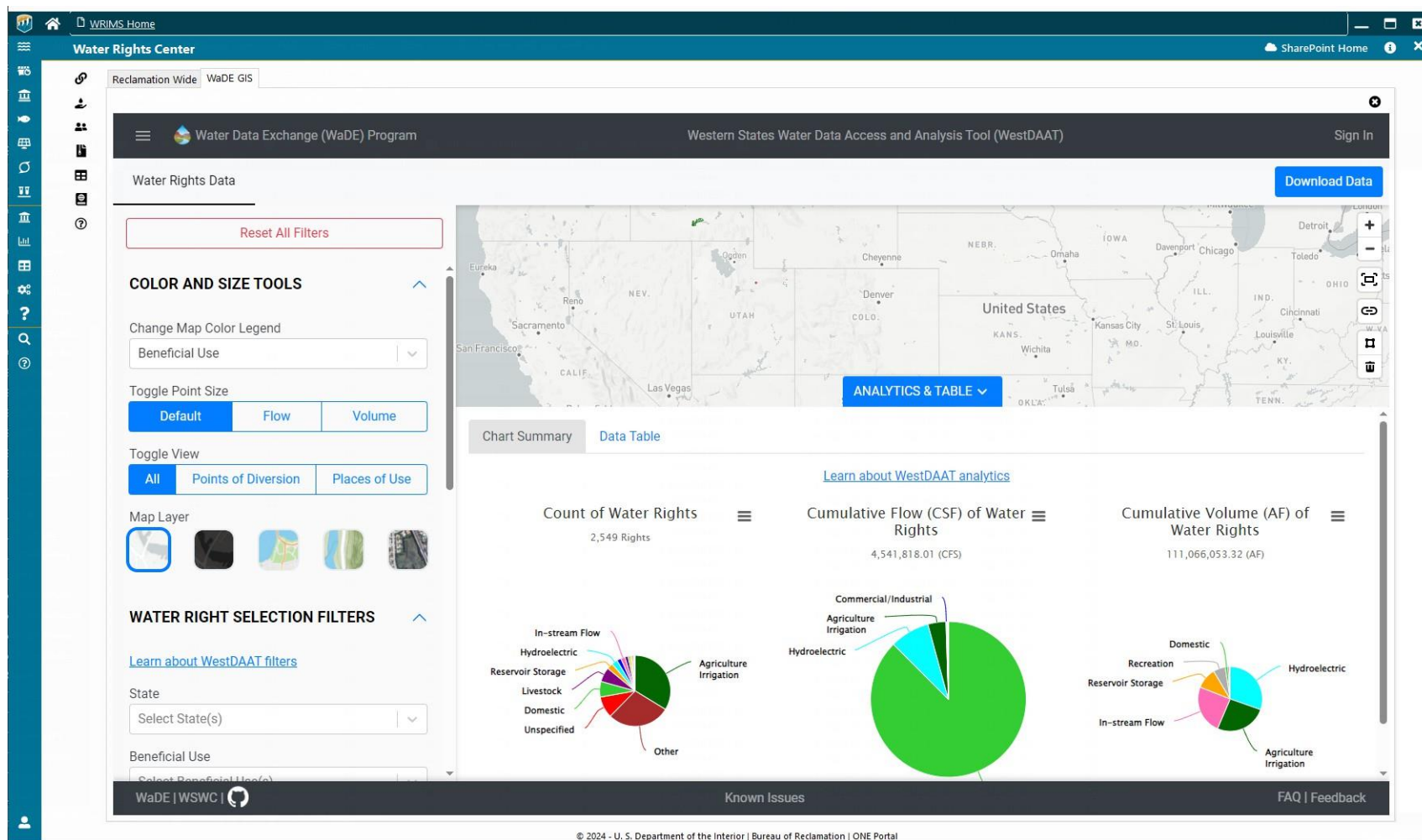
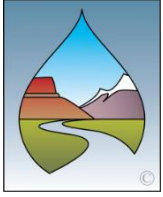


Figure C4: Screenshot of the Reclamation Water Rights Information Management System showing it uses WestDAAT's Geographic Information System (GIS) interface within the tool to visualize Reclamation water rights.



WESTERN STATES WATER COUNCIL

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

Web Page: www.westernstateswater.org

Water-Use Data and Research (WUDR) Workplan Template

Tony Willardson, Executive Director

Ryan James, Data Analyst

May 07, 2024

The USGS Water-Use Data and Research (WUDR) program¹ provides financial assistance through cooperative agreements with State / Territory water resource agencies to improve the availability, quality, compatibility, and delivery of water-use data collected or estimated by agencies. Agencies can receive funding by submitting completed workplans.

Workplans

A work plan is a custom document that outlines the agency's existing water use programs, details needed improvements, and how those improvements will be achieved. Workplans have no specific format or length, and figures and tables are accepted. Examples of past awarded WUDR workplans are available online.² Workplans are submitted at grants.gov³ and must be approved prior to agencies receiving funds for competitive awards. Workplans need to accomplish the following:

- Describe agency's current water-use program, how data is collected, and how the data is accessible.
- Outline agency priorities for improving the water-use program.
- List proposed steps to address the priorities, preferably in respect to the baseline standard (see below).

Workplan Award Funding Information

The USGS WUDR program will provide financial assistance, through cooperative agreements with water resource agencies to improve the availability, quality, compatibility, and delivery of water-use data that is collected and/or estimated by agencies. Funding is for State / Territory water resource agencies only. Before applying for a funding award, the agency must have an approved workplan which outlines State's / Territories priorities for improving water-use data. Awarded funding works as follows:

¹ WUDR Program: <https://www.usgs.gov/mission-areas/water-resources/science/water-use-data-and-research-wudr-program>

² Completed State Workplan Examples: <https://www.usgs.gov/mission-areas/water-resources/science/water-use-data-and-research-program-completed-state-workplans>

³ WDUR Workplan Submission: <https://grants.gov/>

- A non-competitive amount of \$26k per agency is available for agencies that have not completed / plan on completing a workplan. These funds can be used to support any activity that results in workplan development. Agencies may prepare workplans without requesting funding and may apply for future competitive awards after the workplan is approved.
- Agencies may use contractors for carrying out projects, but contact wudr-coordinator@usgs.gov for specific questions.
- If a Workplan is accepted, a competitive project funding between \$24k -to - \$125K per project proposal is available for the agency.
- Maximum funding from WUDR is a competitive \$250k over a project's lifetime. Once this maximum funding is reached no additional funding is made available for the agency.
- Once the non-competitive \$26k amount is awarded, the agency of record would be able to start drawing money out for salaries to work on the plan. Whatever is drawn from that grant counts as part of the \$250K total that an agency can receive for both the non-competitive and competitive grants.

WUDR Baseline Standards for Water-Use Data

The USGS has identified baseline goals (Tier 1) and additional levels of data (Tier 2 and Tier 3) for all major categories of water use. These goals are provided to assist water-resource agencies in determining areas in which to focus proposed work. Goals listed for each Tier are available online.⁴ Not all major categories contain goals beyond Tier 1 or may contain additional elements needed to reach additional Tier levels. Terminology definitions for USGS defined water use is available online.⁵ Data collected with WUDR funding must be made available to the USGS.

For the most part, the baseline goal of Tier 1 includes the following:

- Facility or system withdrawals for the following **categories**: Public Supply, Self-Supplied Industrial, Irrigation-Crop, Thermoelectric, Irrigation-Golf Course, Livestock (major facilities), Mining, and Aquaculture.
- Withdrawals, deliveries or returns **by water source**: groundwater, surface water, reclaimed wastewater, wastewater effluent, and/or recycled water. For groundwater sources the aquifer should be identified.
- Withdrawals **by water type**: fresh or saline

The following Tables 1 – 12 (see below) are made available for agencies to use to outline a State's / Territories available water use information and data, as made clear by the USGS. For agencies submitting Workplans for funding, agencies must provide related information, describe the level of completion, and list availability by USGS or the public they have achieved per Tier, and current or future plans on how the agency will proceed in reaching the additional Tiers and how the WUDR funding could assist. Agencies may have proceeded further in high level of Tiers but could still focus their efforts on achieving lower Tier goals with Workplans with WUDR.

⁴ Baseline WUDR Standards: <https://www.usgs.gov/mission-areas/water-resources/science/summary-baseline-standards-water-use-data>

⁵ Water-Use Terminology: <https://www.usgs.gov/mission-areas/water-resources/science/water-use-terminology>

Table 1: Public Supply

Tier 1 Goals	Tier 1 State Availability	Tier 1 Comments & Data Location	Tier 2 Goals	Tier 2 State Availability	Tier 2 Comments & Data Location	Tier 3 Goals	Tier 3 State Availability	Tier 3 Comments & Data Location
Monthly withdrawals, reported by system and water source and water type.	- Monthly withdrawals from named surface water and groundwater PODs (Tier 1).	[link]	Site-specific annual and monthly withdrawals (by intake and/or well or well field) reported by water source, and by water type.			Interbasin transfers.		
Deliveries to domestic users from public-supply systems, and populations served.	N/A	N/A	Quantity of water purchased between systems and source(s) of water.			System uses (internal and other non-revenue uses) and losses.		
Report system information relevant to HUC-8 and county, and groundwater withdrawals with aquifer designation.	N/A	N/A	Quantity of water sold between systems.			Improve population served estimates.		
			Reporting and/or verification of water deliveries for domestic, commercial, industrial, thermoelectric, and other use.			Use of reclaimed wastewater for public or landscape irrigation.		
						Site-specific daily withdrawals (added June 2020).		

* **(A)** = Available: information currently accessible or will be with database upgrade. **(P)** = Partial, some information is accessible. However, information may be in several different locations / database and require additional integration / correlated with other criteria listed. **(NA)** = Not Available, information not readily available.

Table 2: Industrial

Tier 1 Goals	Tier 1 State Availability*	Tier 1 Comments & Data Location	Tier 2 Goals	Tier 2 State Availability*	Tier 2 Comments & Data Location	Tier 3 Goals	Tier 3 State Availability	Tier 3 Comments & Data Location
Annual withdrawals by facility reported by water source, by water type, and industry classification.	- Annual withdrawals from industrial named surface water and groundwater PODs (Tier 1)	[link]	Site-specific (by intake and/or well) annual and monthly withdrawals reported by water source, by water type, and industry classification.			Site-specific daily withdrawals (added June 2020).		
Groundwater withdrawals reported with reference to aquifer.	N/A	- the groundwater POD water source is named, but I don't know if that is a named aquifer.	Deliveries from public supply to industrial facilities, and deliveries from other sources, such as treated wastewater.			Site-specific consumptive use estimates.		
						Site-specific discharges to surface water or land application.		

* (A) = Available: information currently accessible or will be with database upgrade. (P) = Partial, some information is accessible. However, information may be in several different locations / database and require additional integration / correlated with other criteria listed. (NA) = Not Available, information not readily available.

Table 3: Irrigation - Crop

Tier 1 Goals	Tier 1 State Availability*	Tier 1 Comments & Data Location	Tier 2 Goals	Tier 2 State Availability*	Tier 2 Comments & Data Location	Tier 3 Goals	Tier 3 State Availability	Tier 3 Comments & Data Location
Aggregate annual withdrawals reported by water source, by water type, acres irrigated, and method of irrigation.	- see Teir 2		Site-specific withdrawals by well or diversion from surface-water feature, or delivery from reclaimed wastewater.	- Monthly withdrawals from individual irrigation sites by named surface water and groundwater PODs (Tier 2)	[link]	Site-specific daily withdrawals (added June 2020).		
Aggregate areas may be sub-county levels, but			Monthly withdrawals reported by water	N/A	N/A	Consumptive use and conveyance loss estimates by		

are feasible to summarize to county or watershed.			source, type, acres irrigated, crop, and method of irrigation.			aggregate area (sub-county, watershed (HUC8 or up to HUC12).		
						Site-specific return flows.		

* **(A)** = Available: information currently accessible or will be with database upgrade. **(P)** = Partial, some information is accessible. However, information may be in several different locations / database and require additional integration / correlated with other criteria listed. **(NA)** = Not Available, information not readily available.

Table 4: Thermoelectric

Tier 1 Goals	Tier 1 State Availability*	Tier 1 Comments & Data Location	Tier 2 Goals	Tier 2 State Availability*	Tier 2 Comments & Data Location	Tier 3 Goals	Tier 3 State Availability	Tier 3 Comments & Data Location
Site-specific, annual and monthly withdrawals, and net power generation reported by cooling-system type (once-through or recirculating), by water source and by water type, and the source of the information (plant, govt. agency, etc.).	N/A	Cooling for coal and gas fired powerplants	Site-specific annual and monthly consumptive use.			Site-specific daily withdrawals (added June 2020).		
Site-specific return flows								

* **(A)** = Available: information currently accessible or will be with database upgrade. **(P)** = Partial, some information is accessible. However, information may be in several different locations / database and require additional integration / correlated with other criteria listed. **(NA)** = Not Available, information not readily available.

Table 5: Self-Supplied Domestic

Tier 1 Goals	Tier 1 State Availability*	Tier 1 Comments & Data Location	Tier 2 Goals	Tier 2 State Availability*	Tier 2 Comments & Data Location	Tier 3 Goals	Tier 3 State Availability	Tier 3 Comments & Data Location
Self-supplied domestic	N/A	N/A	Studies of actual metered domestic					

populations, by HUC8 and county, and by water source.			withdrawals, monthly by source.					
			Improve estimates of self-supplied populations by utilizing property data and/or public water supply service areas, or other methods.					

* **(A)** = Available: information currently accessible or will be with database upgrade. **(P)** = Partial, some information is accessible. However, information may be in several different locations / database and require additional integration / correlated with other criteria listed. **(NA)** = Not Available, information not readily available.

Table 6: Irrigation - Golf Courses

Tier 1 Goals	Tier 1 State Availability*	Tier 1 Comments & Data Location	Tier 2 Goals	Tier 2 State Availability*	Tier 2 Comments & Data Location	Tier 3 Goals	Tier 3 State Availability	Tier 3 Comments & Data Location
Site-specific annual and monthly withdrawals reported by water source, by water type, and acres irrigated.	- CO does have annual and monthly withdrawals for recreation (parks and golf courses) use PODs by water source name and type. But it's not clear what percent is park, and what percent is golf course (Tier 1)	[link]	Consumptive use estimates, by course, reported monthly or annually.					
Groundwater withdrawals designated by aquifer.	N/A		Acres irrigated by system type, by course.					

* **(A)** = Available: information currently accessible or will be with database upgrade. **(P)** = Partial, some information is accessible. However, information may be in several different locations / database and require additional integration / correlated with other criteria listed. **(NA)** = Not Available, information not readily available.

Table 7: Livestock

Tier 1 Goals	Tier 1 State Availability*	Tier 1 Comments & Data Location	Tier 2 Goals	Tier 2 State Availability*	Tier 2 Comments & Data Location	Tier 3 Goals	Tier 3 State Availability	Tier 3 Comments & Data Location
Annual withdrawals for major facilities,	- Annual withdrawals for major facilities, reported by water source and by water type (Tier 1).	[link]	Site-specific annual and monthly			Improved and verified coefficients for		

reported by water source and by water type.			withdrawals for all facilities reported by source of water, and by water type.			water use per head for animal type, confined or open-range, seasonal variability, and other variables.		
			Site-specific animal counts and animal type.			Water withdrawals from sources supported by USDA programs to protect streams.		

* **(A)** = Available: information currently accessible or will be with database upgrade. **(P)** = Partial, some information is accessible. However, information may be in several different locations / database and require additional integration / correlated with other criteria listed. **(NA)** = Not Available, information not readily available.

Table 8: Mining

Tier 1 Goals	Tier 1 State Availability*	Tier 1 Comments & Data Location	Tier 2 Goals	Tier 2 State Availability*	Tier 2 Comments & Data Location	Tier 3 Goals	Tier 3 State Availability	Tier 3 Comments & Data Location
Annual withdrawals reported by HUC-8 and county, by source of water, and by water type.	N/A	- No recorded mining use in CO.	Site-specific annual and monthly withdrawals.			Evaluation/reporting on water use by process (commodity processing, dewatering, dust suppression, etc.).		
			Site-specific commodity identified.			Reporting on return flows/discharge of water from dewatering.		

* **(A)** = Available: information currently accessible or will be with database upgrade. **(P)** = Partial, some information is accessible. However, information may be in several different locations / database and require additional integration / correlated with other criteria listed. **(NA)** = Not Available, information not readily available.

Table 9: Aquaculture

Tier 1 Goals	Tier 1 State Availability*	Tier 1 Comments & Data Location	Tier 2 Goals	Tier 2 State Availability*	Tier 2 Comments & Data Location	Tier 3 Goals	Tier 3 State Availability	Tier 3 Comments & Data Location
Annual withdrawals reported by HUC-	- see Tier 2	- No withdrawal by area.	Site-specific annual and	N/A	CO nearly has (Tier 2) with site-specific annual and monthly withdrawals, but they			

8 and county, by source of water, and by water type.			monthly withdrawals.		don't list the Site-specific facility information (method, species cultured, etc.)			
			Site-specific facility information (method, species cultured, etc.)					

* **(A)** = Available: information currently accessible or will be with database upgrade. **(P)** = Partial, some information is accessible. However, information may be in several different locations / database and require additional integration / correlated with other criteria listed. **(NA)** = Not Available, information not readily available.

Table 10: Hydroelectric Power

Tier 1 Goals	Tier 1 State Availability*	Tier 1 Comments & Data Location	Tier 2 Goals	Tier 2 State Availability*	Tier 2 Comments & Data Location	Tier 3 Goals	Tier 3 State Availability	Tier 3 Comments & Data Location
Site-specific, annual and monthly water use (water use to spin turbines) by water source and water type, and the source of the information (plant, govt. agency, etc.).	- Annual and monthly withdrawals for thermoelectric use PODs by water source name and type (Tier 1)	[link]						

* **(A)** = Available: information currently accessible or will be with database upgrade. **(P)** = Partial, some information is accessible. However, information may be in several different locations / database and require additional integration / correlated with other criteria listed. **(NA)** = Not Available, information not readily available.

Table 11: Wastewater Treatment

Tier 1 Goals	Tier 1 State Availability*	Tier 1 Comments & Data Location	Tier 2 Goals	Tier 2 State Availability*	Tier 2 Comments & Data Location	Tier 3 Goals	Tier 3 State Availability	Tier 3 Comments & Data Location
Site-specific, annual and monthly return flows from public wastewater treatment and	N/A	- No recognized treatment use in CO.	Site-specific discharges to surface water or land application.					

industrial facilities.								

* **(A)** = Available: information currently accessible or will be with database upgrade. **(P)** = Partial, some information is accessible. However, information may be in several different locations / database and require additional integration / correlated with other criteria listed. **(NA)** = Not Available, information not readily available.

Table 12: Water-Use Database

Tier 1 Goals	Tier 1 State Availability*	Tier 1 Comments & Data Location	Tier 2 Goals	Tier 2 State Availability*	Tier 2 Comments & Data Location	Tier 3 Goals	Tier 3 State Availability	Tier 3 Comments & Data Location
Monthly and annual withdrawal data are reported to the state agency and stored in an electronic format.			Withdrawal data are entered electronically into a database. Automatic QA/QC checks are integrated into the electronic database and/or data entry routines.			Withdrawal data include water source, water type and location (county and HUC-12). Data are made available for export by the state agency or for download.		

* **(A)** = Available: information currently accessible or will be with database upgrade. **(P)** = Partial, some information is accessible. However, information may be in several different locations / database and require additional integration / correlated with other criteria listed. **(NA)** = Not Available, information not readily available.

Western States Water Council
Executive Committee & Other Members
WaterSMART Grant Discussion
August 21, 2024

PARTICIPANTS (via Zoom):

ALASKA	Christina Carpenter Tom Barrett Kevin Petrone
CALIFORNIA	Jeanine Jones
COLORADO	Lauren Ris
IDAHO	Mathew Weaver
KANSAS	
MONTANA	Anna Pakenham Stevenson
NEBRASKA	Jesse Bradley
NEVADA	Adam Sullivan
NEW MEXICO	
NORTH DAKOTA	
OKLAHOMA	Julie Cunningham Sara Gibson
OREGON	Racquel Rancier Arron Fellows Jordan Beamer
SOUTH DAKOTA	Nakaila Steen
TEXAS	Jon Niermann Kim Nygren Kathy Alexander
UTAH	Teresa Wilhelmsen
WASHINGTON	Ria Berns
WYOMING	Jeff Cowley Chris Brown

STAFF

Tony Willardson
Michelle Bushman

Jon Niermann, Western States Water Council (WSWC) Chair, welcomed those in attendance.

We began a conversation on the Water Data Exchange (WaDE) Program at our recent WSWC meeting in North Dakota. More specifically, about building more functionality in WaDE. We have grant funding to cover part of that project and the remainder of the funding would have to come out of the WSWC funds. That raises the question as to whether there's value for the WSWC to fund this. The purpose of this meeting is to allow Tony a little bit more time to explain what this additional functionality is, for each state to determine really how valuable it will be to their program, and if there is interest in committing WSWC funds toward it.

I don't know that Texas needs to find value specifically for the State of Texas in order for me to support it, but I would want to see that it has value to most of the membership. That's the way I'm viewing it. You can look at it through whatever lens you like, but again, the purpose is just to have Tony lay out what the new functionality would be and to give us an opportunity to ask questions, to really understand it, and then we can take that back and decide really what the value is to our particular state. Does anybody have anything to add or amend to that sort of scope of the meeting?

Teresa Wilhelmsen: Is today for the states to vote, or will the vote be in October during our Fall meeting?

Jon Niermann: I'm not sure when we're going to have to vote. Today is to gather information, ask questions, give us something to take back, and powwow internally within our state, and really kind of assess what the value is to us.

Tony Willardson: I will mentioned that the Bureau of Reclamation (USBR) is pressing us for our financial commitment. I think they are getting pressure to get all of their money out the door as soon as possible and so there is some urgency. To get a sense of where the states are today would be helpful. I assume that it's going to take USBR some time to write the financial agreement. I'm sure they will want to make that obligation before the end of the fiscal year this September.

I should mention, that we made a presentation to Utah on some of the things that we're doing. There may be some aspects where it would be helpful and others where it wouldn't be. As many of you will recall, we had a lot of discussion over the beginning of Wade a decade ago. I still remember New Mexico saying, "Why do I want to give Texas our data on the Rio Grande? They'll just use it to sue us." We've tried to point out, that all this data is publicly available. We're just trying to make it more accessible westwide. We went through these kind of growing pains with WaDE. Ultimately, the WSWC is going to have to make a decision long-term, or longer term than the next year or two covered by this proposal.

Jon Niermann: Yes, this is part of a broader conversation about the WSWC's work on WaDE. Today we're just focused on this project and the new functionality that's been proposed. We have an hour scheduled for the meeting. Let's get through the nuts and bolts of what it is, ask questions, and then at the end of the meeting we can provide some feedback to Tony. Although, I guess we

could do that any time. I think it would be helpful to at least provide some feedback about how the WSWC membership is thinking and feeling about the utility of this project. Tony, it might help if you provide just some quick introductory remarks about WaDE before we get into this particular proposed project.

Tony Willardson: Some of you may and others may not be aware that we really began this process back around 2009 with some federal stimulus funds that were directed towards the Western Governors Association from the Department of Energy to look primarily at electricity transmission planning. Two questions were of interest to the governors. One dealing with wildlife corridors and the other with water use related to water for energy generation. We subcontracted with WGA to look at water use for energy (and other purposes) and water availability. We worked closely with the Department of Energy and primarily Sandia National Lab in New Mexico, which prepared a “snapshot” of water availability westwide.

It became evident that there was no one place to look for westwide water use data. Earlier the WSWC had begun a discussion among our States on water rights data. That goes back as far as 1995, and for a number of years we had annual meetings looking at how states were dealing with managing water rights data and information. So that was really the genesis of our work on water data.

Some of you may know Dwayne Young. He was our WestFAST liaison from EPA. He helped States migrate their water quality data sets from their old STORET system to a WQX system. Dwayne is still working at EPA. He actually helped us build the architecture for Wade. With some guidance from Dwayne, we were able to get a couple of EPA Exchange Network grants. One that involved Texas and some surrounding states. Another that involved California, Nevada and South Dakota. We helped manage those grants and build the databases.

As this process evolved, we had a number of funders come to us and offer us money. I will talk a little bit more about who some of those funders, but their support was unsolicited. Heretofore, nearly all of the WSWC's WaDE related expenses have been reimbursed

This is not the first time that we've asked for a funding commitment. Our first WaterSMART grant was for \$200,000 and we did give them a letter of commitment that we would meet that matching requirement. We were in discussions at that time with other philanthropic funders, which did come through, but sometimes it took months before we actually got their money. The WSWC fronted the money until we got reimbursed. That's a possibility here with this \$200,000 commitment. That's some of the background.

Jon I made the presentation about WestCAT at the council meeting in Fargo. We've since made a presentation to Utah state agency folks about the tool and what it can or can't do. I wanted to talk a little bit more about how it will fit with WaDE and WestDAAT, the total effort, and then where we are with the financial side of things. Hopefully you can all see what I'm sharing on my screen. This is about our WaterSMART 2 proposal. I'm proposing that we commit up to \$200,000 from our reserves to help the total required \$400,000 match.

Consistent with the WaterSMART grant purposes and regional goals WestCAT would:

- Promote federal, state, local, and regional water security and drought resilience activities

- Empower individual farmers to participate in conservation programs and benefit financially
- Allow communities to promote conservation savings and protect long-term farming activities
- Streamline voluntary, temporary, in-state, and compensated water conservation applications

In addition, some of the project benefits would be to:

- Maintain WSWC's reputation for promoting cutting edge decisionmaking tools
- Demonstrate the WSWC's commitment to WaDE, WestDAAT and WestCAT
- Make it easier to find funding partners and seek further financial support
- Continue our collaboration with USBR and other agencies and entities
- Affirm WGA's support for using state data to address regional water conservation challenges
- Better define individual state needs and resources
- May provide opportunities for further financial support of state water data programs

WestCAT would be to streamlined voluntary, temporary in-state tool for evaluating compensated water conservation applications. We worked with the Upper Colorado River Commission (UCRC) in designing WestCAT. UCRC has operated a similar program over the last two years, and jointly developed ideas that would help streamline their application process.

Again, I want to emphasize that this is all voluntary, as Wade has always been. States may choose or choose not to participate or to use the tool. It will be available, and it would be available for them to use and modify.

We think there are others, such as local governments and other entities, that it might benefit as well. The Council has developed a reputation through Wade and WestDAAT for promoting and developing cutting edge tools. I shared previously some of the comments from the Bureau of Reclamation and how they have used WestDAAT. We have worked with them to identify their own water rights that are recognized by the States.

Approving this funding would demonstrate our commitment to WaDE. Again, as I said, aside from funding related efforts upfront, for which we were reimbursed, we have not made a financial commitment in the past. WaDE, WestDAAT and WestCAT should all be viewed as part of a larger effort. One of the questions that's been raised by one of our financial supporters, primarily the Walton Foundation, has been: What are States putting into this?

I'll talk a little bit more about what contributions we've had from outside supporters, but making this \$200,000 commitment will make it easier for me to go back to some of our partners, past and present and future, and seek further financial support. Such support may offset the \$200,000 commitment that we would be making.

We'll continue to collaborate with USBR and other agencies and entities. We have talked with, not only USBR, but also the Bureau of Land Management (BLM) about their water rights. In the past, we've worked with the Forest Service on some of their water rights, use WaDE. There are any number of entities that, if it were not for Wade and WestDAAT, would likely be coming to you as individually, looking for the same data.

The other important part, I think, of making this commitment, is that we're reaffirming WGA's support for using state data to address regional water challenges. Their recently readopted resolution on water resources specifically mentions and calls out WaDE. As you all know, WGA sent a letter of support for this application last October. I've reached out and shared that letter with many of you, as well as support letters from ten of our States.

As we have worked through WaDE, and as we'll continue updating WestDAAT and creating WestCAT, we have and we'll be able to better define individual state needs and resources.

We have had some conversations with Teresa and Candice that helped us better understand how some of the programs have operated or might operate in the State of Utah, as well as how the UCRC program operated. I think Utah is on the cutting edge of recognizing, encouraging and accounting for saved water conservation. The Utah State legislature [last March] actually directed the State Engineer to accept, review and approve a saved water application that quantifies savings. Teresa, I don't know that's in the form of a certificate, but the State Engineer can assure that a water user has saved a certain amount of water, which has to be accounted for. I think Utah's the first state to actually do that, and it may provide some opportunities for further financial support and assistance from state programs.

Of note, as we developed WaDE, we were looking at how we could help our member states with their data needs. We provided about \$17,000 to help the State of Montana with one of their projects, with funds that were available from philanthropic sources. Another about \$7,000 or so went to the State of New Mexico. We hired interns that helped the State of Wyoming clean up some of their water right database points of diversion. Were they in the right quarter quarter section? Also, we provided some assistance to the State of Utah to help develop some visual tools for their water resources planning.

These are some of the goals and some of the potential project benefits.

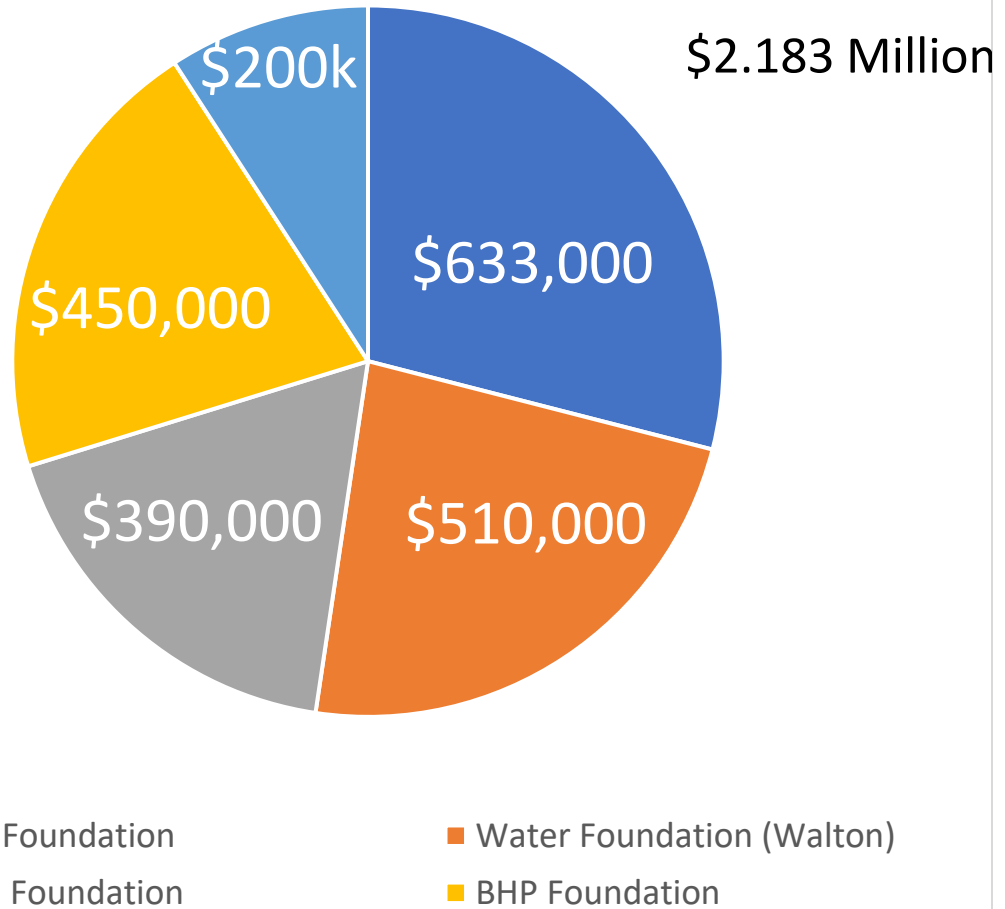
Next, I want to show you where we are as far as our funding sources. We have received a little over \$2 million for WaDE and WestDAAT over the last four or five years. Does not include some of the EPA funding that we got early on.

Our major funding has come from:

- \$633,000 from the Moore Foundation,
- \$390,000 from the Walton Foundation
- \$510,000 from the Water Foundation (money passed through from the Walton Foundation)
- \$450,000 from the BHP Foundation
- \$200,000 from a USBR WaterSMART grant (#1)

We are currently about half way through a five year agreement with the BHP Foundation, and \$75,000 remains to be obligated. All the other funds have been expended. I should mention that the last \$200,000 was our initial WaterSMART grant to help build WestDAAT.

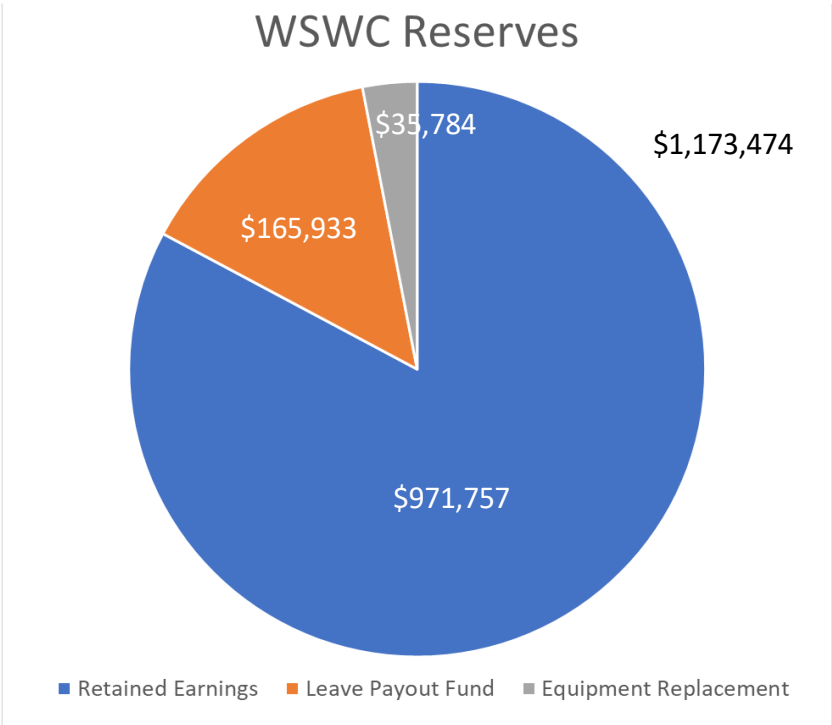
WaDE/WestDAAT Funders



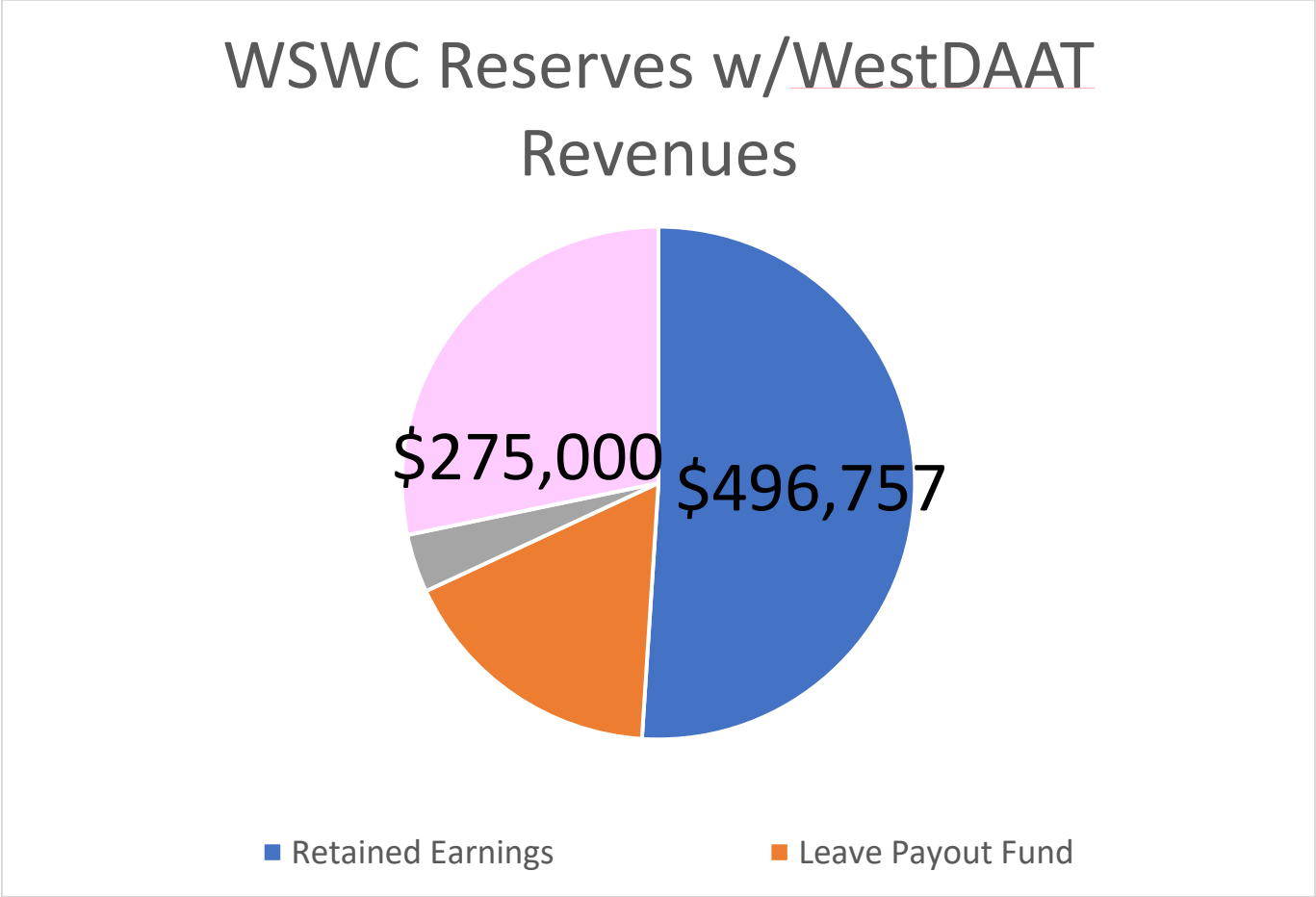
Looking at our financial reserves, as of June 30, our retained earnings from our balance sheet was \$971,757 and in addition to that we have additional funds set aside to meet our leave payout obligations and for equipment replacement.

The leave payout fund \$165,933 covers annual and sick leave payment upon termination or retirement. When I retire, my annual leave and sick leave are covered. Further, we have health reimbursement accounts for myself and Cheryl under this account, as well as for other employees eligible in the future.

We have \$35,784 in an equipment replacement fund. We have actually found out they're no longer going to service our Xerox copier, so we're going to be looking at a new copier. As many of you know, we own our office space, so any required equipment maintenance, repair or replacement, such as air conditioning and heating, would also come out of that fund.



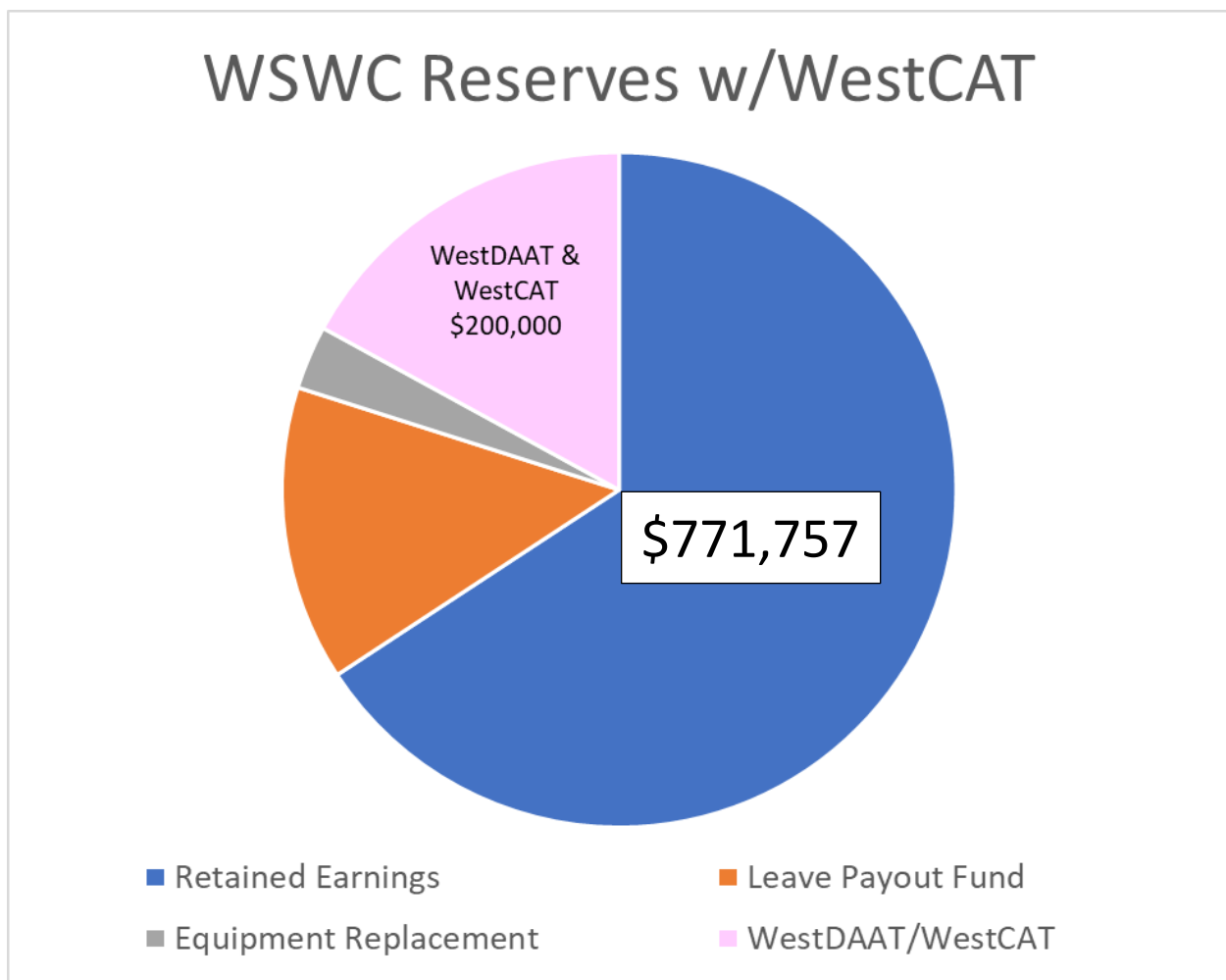
The next pie chart is a depiction of the reserves compared to the reimbursements that we have received under our different grants.



This \$275,000 estimate includes our overhead charges, our personnel costs and travel reimbursements. The personnel reimbursements included are for my time, Michelle's time, and other office staff time not budgeted for WaDE, but budgeted for our core WSWC functions. It does not include Adel Abdallah's or Ryan James's time, which is budgeted under WaDE.

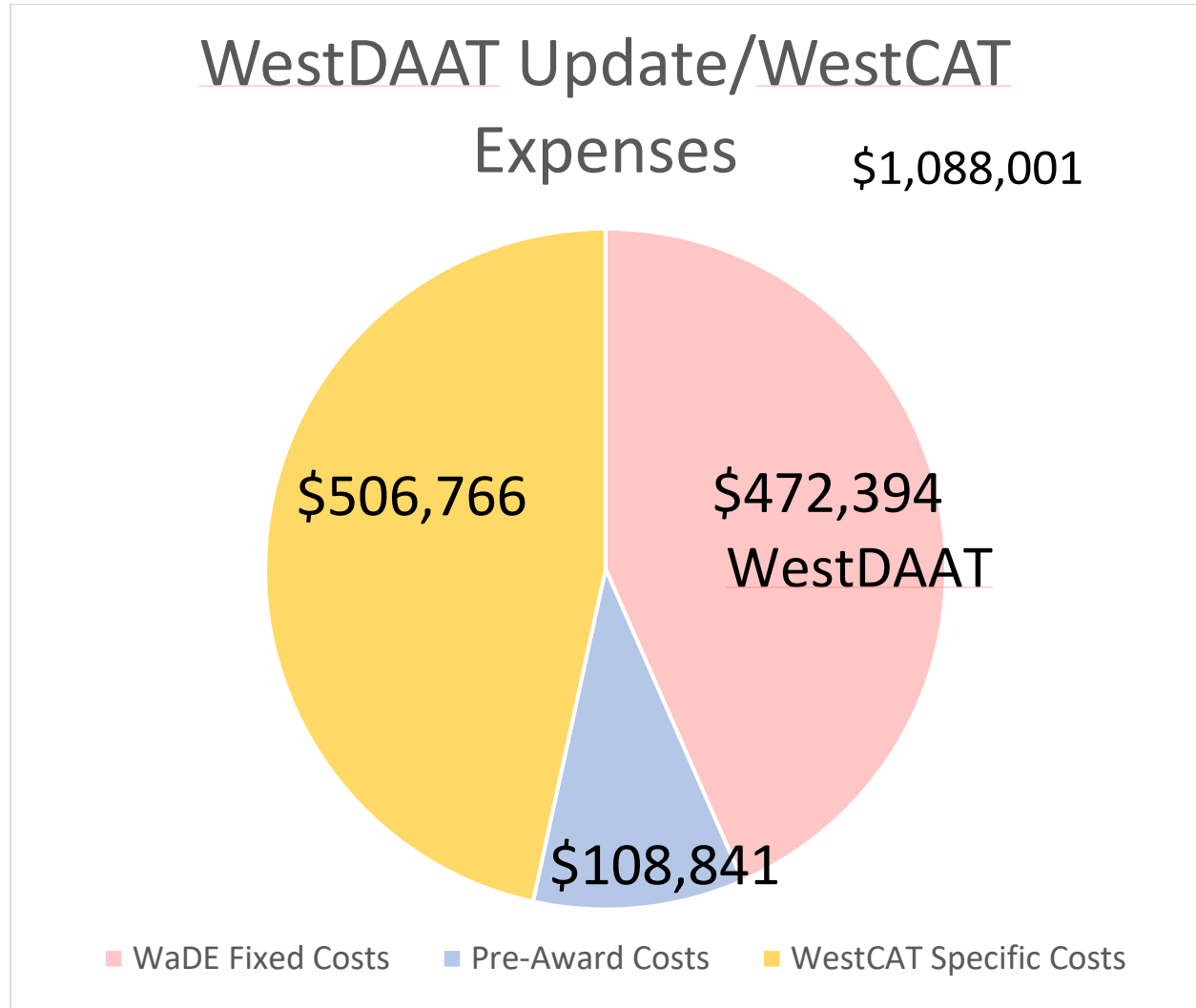
So you can see a little over 28% of our unrestricted reserves are a result of our previous WaDE funding agreements. So committing \$200,000 could be viewed as less than what we've already received. These are funds that would not have been in our reserves had it not been for these philanthropic funds and the earlier WaterSMART grant.

Committing this \$200,000 would still leave us with more than one year's WSWC operating expenses in reserve.



Since the Fargo meetings, as we have been working with our IT contractor Don't Panic Labs (DPL) on WesCAT it has come to light that there are a number of needed updates to WestDAAT. There is some software that's no longer going to be maintained that we have to replace. We have to make some other adjustments and do things a little differently. DPL estimates that these changes will cost around \$210,000 and this could be part of our cost share under our WaterSMART #2 agreement with the Bureau of Reclamation. Our proposal does allow us to use some budgeted monies to update WestDAAT and to continue to improve the

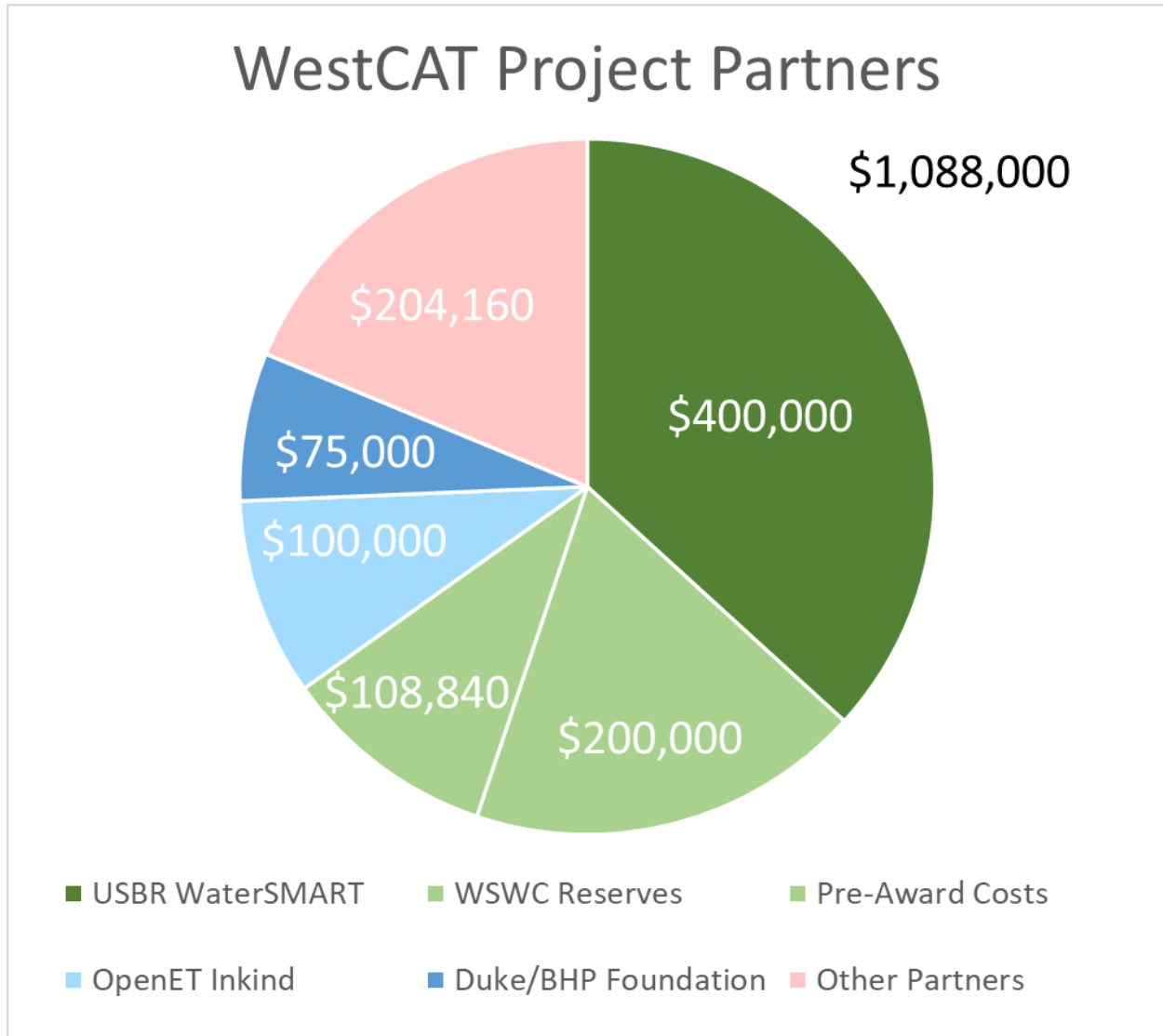
database that we use. WestDAAT is the foundation for WestCAT. This cost of \$210,000 was not included in our WaterSMART #2 proposal, so the total cost for both will likely exceed a million dollars.



In the figure above, I've designated the WaDE/WestDAAT expenses as fixed costs as likely to be incurred with or without the WaterSMART #2 grant. These costs include our base WSWC salary cost, overhead costs, software and licensing costs, as well as some travel expenses. Again, we've already committed to this spending over the next two years, regardless of whether or not we build the tool. The total estimated cost would be over \$472,000.

Now related to WestDAAT, Ryan James, our IT data specialist, and I have a mutual commitment to support his position and employment at least through this fiscal year. You may remember last year that he took some specific training from our IT contractor to enable him to be able to help with WaDE/WestDAAT maintenance. We paid for that training, and Ryan took personal time off [half-time for nearly six months]. So he took the training on his own time, and we mutually agreed that he would continue to work for us at least through June of 2025, if not beyond that. I've added his salary for FY 2025-2026 into the WestCAT cost calculations. I estimate total WestCAT related cost alone to be a little over \$506,000. Reclamation has already recognized WestCAT pre-award costs of \$108,000 that include the cost paid to our IT contractor to

designing WestCAT tool, as well as related WaDE staff time. [This money may be used as an in-kind match, together with other funds, as estimated in the pie chart below]



With a \$200,000 WSWC commitment from funds we already have in reserve from program reimbursements (that we would likely spend on WestDAAT updates), we can take advantage of the \$400,000 WaterSMART grant to build WestCAT. Again, we may also be able to use the pre-award costs of \$108,000 as part of our match, depending on others' commitments.

In discussions with the OpenET Coalition, they appear willing to committing \$100,000 in kind for their staff time (towards the remaining \$200,000 required match). Interestingly, we asked about their contributing the ET data as well for WestCAT. We spoke with Forrest Melton, who is now with NASA, and he said that any data contribution would only amount to dollars, not thousands of dollars, and it would not be a significant amount of money. The OpenET contribution would actually be their manpower collaborating with us on development of the tool, connecting our application programming interfaces (APIs), and related user outreach.

The BHP Foundation will contribute \$75,000 towards WestDAAT updates. [Since the call we have reached out to them and received a formal letter of commitment.] This money would be used solely for WestDAAT updates that will be necessary to actually develop and operate WestCAT. [All together, these funds are more than sufficient to meet our required match.]

However, that may leave an additional \$204,000 [to build out WestDAAT]. We have already, with NIDIS, with NASA and others. We cannot match federal funds with federal funds for the \$400,000 WaterSMART grant, but we can use federal resources for WestDAAT updates and may find other philanthropic resources to lessen the WSWC's financial burden.

We would expect to go back to the Walton Foundation and the Water Foundation for more funding and seek other monies that would help close any gap.

I just have one more observation. In my judgement, this WaterSMART proposal and our \$200,000 commitment will not threaten the council's ability to meet our other commitments.

It will not require raising member state dues or assessments.

As I noted before, this proposal is consistent with our past practice in that we funded the earlier grant cost share commitment upfront and were later reimbursed by partners. Again, it may or may not ultimately be that we have to use the \$200,000 from our reserves to match the WaterSMART funds, assuming we can get commitments from other partners.

We can also leverage our pre-award costs and our fixed costs as part of our match.

As I've noted, we will be spending about \$472,000 over the next two years on WaDE and WestDAAT, whether or not we enter into this WaterSMART agreement.

We're not making an upfront payment, but leveraging our in-kind contributions, and this proposal will help assure that we will be able to operate over the next couple of years and maintain our current staff.

Once we have signed a cost-share commitment letter, we can then complete the financial assistance agreement with the Bureau of Reclamation. They're anxious to get that done as soon as possible, and certainly before the end of September.

John, with that, I'm happy to answer any questions.

Jon: Thanks Tony. Let's jump to the questions in chats.

Racquel Rancier: Tony, do you know who is interested in using the tool, and do we know who is currently using WaDE/WestDAAT? I don't know that Oregon Water Resources Department (OWRD) will use the tool, but I do see the "common good" argument if it makes conservation more acceptable across the West. I do get concerned that folks think ownership information is accurate. We generally have to pull that ourselves from county records.

Tony: WestCAT can be tailored to meet different needs. It's primarily a tool to facilitate the water conservation application process. We are not creating the open ET data. We're not dictating any model that you would use to measure conservation savings. In fact, it allows for different models

to be included. As we said, it would not be available this year, but in the future. We think it would help simplify some things that are being done by the Upper Colorado River Commission and others. Raquel, we're going to have a call with some of your folks as it looks like you are considering developing a similar tool. We'd like to see how we could help with that.

I've mentioned before that New Mexico has a long-standing program for actually acquiring and retiring water rights in the Pecos Basin to meet their obligations to Texas. This could be used for a similar program. Processing temporary conservation saving applications is what we envision, but it is possible it could be used to review permanent retirements or transfers.

Any state that is looking at any particular area where they have to bring water supplies and water demands into equilibrium could benefit from using this tool.

I've made a presentation to the Family Farm Alliance (FFA), and the WSWC had discussions in DC at our March meetings with FFA and the American Farm Bureau. They are concerned about some of the data being publicly available. That's really up to the State that would use it, or the entity using the tool. I've argued that this is a way of securing another source of income for the farmers, where they could monetize some of their water rights on a temporary basis. Again, with a review and oversight by the State or other entities.

In southwest Kansas, the groundwater is part of the Ogallala that's declining, and something is going to have to happen there. It could be used in that area, or essentially any area statewide to encourage water conservation.

In Texas, it could be used by groundwater management districts that may be looking to bring their water use in line with the safe yield of the aquifer.

It could be used by a conservation organization such as The Nature Conservancy, or others trying to acquire water for instream flows. It is possible it could be used by some of our federal friends, maybe the Natural Resource Conservation Service.

A lot of this may be "if you build it, they will come." That is something we've experienced with WestDAAT. We've built it and now have found more entities are using it. We probably haven't done a great job of demonstrating some of that for members and hope to in the future at some of our WSWC meetings.

Michelle Bushman: The second question that Raquel asked was, "Who's using the WaDE data in WestDAAT?" As I've encountered various federal partners and some others, WestDAAT is being used by several of them. The stream restoration project is one that we've been working on with WestFAST. There have been contractors working with federal agencies trying to implement and take advantage of some of the BIL funds and IRA funds to do some stream restoration work. We've talked to them about water rights and the importance of respecting those water rights as they implement their stream restoration work. They're actually using WaDE data to identify who has those water rights along the stream. They are reaching out to those individuals to make sure that those water rights are taken care of. They are managing the timing of work so that those who are irrigating, or whatever they're doing with the water, that their concerns are addressed.

We have had a brief presentation from Vibrant Planet, who is using it. We're starting to collect information from such organizations that are saying, "Thank you so much for having this data so

readily available.” It’s allowing them to do their work going forward. Tony, do you recall what Vibrant Planet was specifically working on? I think it was diversions.

Tony: Actually, there have been a number of academic interests and regional interests, including in the Southeast, who have looked at what we are doing and whether they could use it in tracking diversions and related obstructions to fish passage in their area. In our briefing materials from our West Fargo meeting, under Tab K, there is a report on WaDE, which includes a report on the traffic and who is using the information. We currently have scores of account users - not just folks who visit the WestDAAT website. Users actually downloading the data have to create an account. Currently, we have 48 accounts, which allows them to use and download the data. Those account users come 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. They are from cities, consulting firms, federal agencies, nonprofit organizations, States and universities. I don’t remember the name, but the USBR has a program and we get roughly the same number of hits as they do for their data access tool. [*RISE is a Reclamation open data system for viewing, accessing, and downloading Reclamation's water and water-related data. RISE provides access to a range of data types (geospatial, time series, and other) from multiple data domains (e.g. water, hydropower, biological, water quality, and infrastructure/assets)*].

Jon: We have a couple more questions in the chat, but first I want to take Raquel’s first question and turn it back to the members. For the folks on the call, who of you are interested in using the tool, planning to use the tool, or have notions about how to use the tool, and what does that look like in your state?

Ria Berns: Washington is definitely interested in seeing a fuller demonstration of WaDE and the WestCAT tool at a future Council meeting. I see the common good argument, which Tony is making, and I am also trying to better assess how it can support folks in Washington. This can be separate from today’s discussion.

Tom Barrett: Alaska has not used the OpenET tool yet.

Lauren Ris: In talking briefly with the technical folks we have on staff, their feeling is that this would largely be redundant to the work that we’re already doing in Colorado. It probably wouldn’t add much value at this point. Do we know who the contractor would be for this work?

Michelle: For building the tool itself, it would primarily be Don’t Panic Labs (DPL), which has previously worked on WaDE/WestDAAT and is already familiar with the code and framework.

Tony: Lauren, when you say what work you already do in Colorado, can you expand on that a bit?

Lauren: I’m still trying to get up to speed on the modeling work that we have available to us in Colorado. We do have a whole technical team that’s focused primarily on interstate issues, and works closely with the UCRC. The feedback they gave me was that they already felt like they have a deep bench on this and quite a bit of expertise in modeling work, that’s already been done in Colorado, so they didn’t think that this would be super valuable.

Tony: You’re talking about the modeling of the consumptive use?

Lauren Ris: Yes.

Tony: One of the letters of support we got came from James Ecklund, the former Director, Colorado Water Conservation Board. He is also a landowner on the West Slope who participated in the UCRC program. One other aspects of this is that he has explored a way to close the gap between what the farmer may be willing to take to reduce his water use and what the entity, such as UCRC may be willing to pay? He created a group called WaterCard, with the thought of looking at corporate entities that could be brought in that have conservation goals and objectives. They may be willing to put up money to meet that gap. Modeling is input as part of the tool. We are not modeling. We are using what OpenET is providing. The tool itself is more a process for accepting the applications, providing information to the applicant, reviewing that application, and simplifying that process. That's the biggest benefit, which Sara Larsen has pointed to, given her experience with UCRC. Not the modeling, but actually the processing of the applications.

Lauren: We're familiar with the work that James is doing. He's no longer with the State of Colorado, and doesn't speak for where we're headed as a State on these matters.

Tony: Yes, I understand that.

Jeff Cowley: Tony, in reading through some of the other documents you sent along, and being intricately involved in the SCPP program, I see this may cause a few issues for us. We're definitely not opposed to landowners, or water users getting more information and being able to analyze their fields to figure out what their water is worth. One thing we saw in the last couple years with SCPP is the contractor we have hired uses some scientifically based ideas when they draw their other polygons to find the effective precipitation and carry over moisture in the soil. We can analyze what's actual irrigation added water. There are folks out there that will draw 5,000 polygons until they get the answer they want, and then they'll bring that number to us. It will be an arbitrary number that they kept messing with until they got a number they wanted, as opposed to scientifically based. So, I see it may cause us some issues. Again, we're not opposed to landowners, water right users, getting better information, but it may cause us some issues with SCPP when they do their version versus our version.

Tony: I just looked at the UCRC summary report from the last year and it was interesting, because water users were paid based on the estimates. Then there was a review done of what the actual savings were, using the same modeling or metrics, some were close, some were not anywhere near close.

Jeff: Last year was an extraordinary snow and rain year. So that one's an anomaly.

Tony: It is very difficult to determine what the effective precipitation was and what your actual consumptive use was from irrigation. It's not perfect. I expect that as the States move forward, as we move forward, that there will be revisions, and we will learn as we go.

Teresa Wilhelmsen: I do appreciate Tony reaching out to us here in Utah and taking the time to talk with us about some of the tools that we have developed here and are trying to finish up. I do want to echo and completely support what Jeff said about really agreeing that data should be open and publicly available for folks to use. That's our goal here in Utah. But as we explained to Tony when we sat down with him, we have a tool that we've been working on with our water rights data and also using OpenET. We actually did a demonstration yesterday with Candice and her crew.

It's not released yet as it's still in beta at this point, but this WestCAT tool seems to be a duplication. I think also what Jeff is trying to explain is the problem of if we have two different sources of information. Especially with Utah's saved water statutory authority that I now have to quantify that saved water. This tool could be used as just another argument, if it does go [before a court] for a de novo review of a decision of the State Engineer on saved water, that could contradict the amount that we calculate for that saved consumptive use. So I'm a little hesitant here with it. I think the part of the tool that is an application tracker may be helpful to some. We wouldn't use that here, but that might be something. Perhaps there could be a disclaimer on the data that says it does not warrant the accuracy of the data, or something that helps protect the States and the decisions that we make in the different States. I just want to put that out to the group.

Jeff: Thanks.

Tony: Actually, there were some things I learned about the UCRC process. My understanding was that that UCRC program included a review by the State Engineer. But that was not the case. A big part of the tool, again, is it is voluntary. No one has to use it. It's not information that we would gather and provide regionally. It would only be available to those who are interested in using the tool. We already provide a disclaimer on the water rights data that we have in WaDE, which comes directly from our individual member states. We update that roughly about every six months to try to keep it as current as possible. We would not warrant any of this data as being the actual final word. I would assume that for anyone using the tool, as part of a review process, it would have to be approved by the State. Our hope would be that it would simplify the process for the States. We certainly don't want to make any more work for our States. Again, the OpenET data is available to anyone. Currently in California, they use OpenET and a farm model I believe for required reporting on their groundwater use.

Jon Neirmann: Thanks Tony. In trying to keep up with the comments, Jeanine weighed in said California is unlikely to use this tool. Like Colorado they have their own existing tools, and have far more staff resources and expertise to support their work than the WSWC does.

Jon: Ria, I want to say that I really identify with your comments and I'll just paraphrase those. I do see a common good argument that this tool, and WaDE generally is of value, but as you articulated, I'm trying to figure out how it's going to be helpful to the people of the State of Texas. It may be when we get to the end of this that there is sort of a common, good value, but not so much value to the members of the WSWC. Or over time, members of the WSWC might figure out that this actually is useful for us. It's hard to say

Tony: To some extent that's the same thing we've faced with WaDE and WestDAAT. You know what your water rights are in your State, but anyone looking at it regionally, or across a basin where there is more than one State, it provides more of a standardized view. I would not envision that there would not be some problems. With the UCRC, as I understand, it took 12 years before the four states determined how they were going to measure consumptive use, or depletions, within the Upper Basin States.

Anna Packingham Stevenson: I think we talked about this a little bit during the Council meeting, about the necessity to have the OpenET data, to actually facilitate the tool being used. I know OpenET is available. The State of Montana just made a multi-million dollar investment in it. Like we heard from California, getting the data for the State to actually use for historical consumptive use analysis can be expensive. I just want to flag that as well. It appears that the tool will not be

usable for States that have not invested those millions of dollars into those data sets. Another concern for the State of Montana, is our regulatory framework is going to be different for how those water savings are calculated and utilized. I would be concerned for the State of Montana, if we have people with an expectation that this framework -- that this would result in cost savings, and then the State would be coming up with something different. Just that confusion piece is something that is still a concern for Montana. We are 100% in support of OpenET and 100% working towards getting on a comfort level with this. But getting ahead of the States on that messaging is something that we also have concerns with as well.

Tony: In talking with Forest, at least with the UCRC program, there were 80 some applications. I don't know exactly what they paid for the OpenET data, but it also depends on what you want. We would be looking for probably monthly OpenET data. It would not be daily OpenET data. I believe in California, with some of the operations there to improve the irrigation efficiency, they are probably using daily ET. So that makes a big difference on what the cost would be for the data. As I said, for any entity that wanted to use the tool, if it's less than 100 applications, that would not be a significant cost to get the OpenET data. The other part, again, is you can put whatever model you want in it. You can use OpenET with the tool or whatever you are using to estimate the consumptive use. The tool does not dictate what you use for that. It simply includes the model you are using, or you choose to use.

Adam Sullivan: I'm seeing some upside for Nevada. There are a number of different ideas that are being floated about incentivizing conservation, including compensated conservation that will work better if DWR keeps it at arms-length from a local process where we can be supportive. Our support is essentially staying out of the way of a good idea and let it carry out at the local level. This is the kind of tool that I think I could help promote for those local efforts. They could have access to the information, separate from DWR. As you were walking through it, just different ideas popped up where I thought this would be helpful for us because it's always working within the Prior Appropriation Doctrine domain. We don't want to interfere with good ideas. It can be challenging. I hope I explained that well enough, but I like it.

Jon: Thanks Adam. I'm going to put my staff on the spot, Kim or Kathy, what are your thoughts or impressions? You can say that you haven't formed any yet, if that's the case.

Kathy Alexander: Like some of the others, we already have a Texas-based tool for water rights administration that our users are using pretty heavily to support any regulatory interactions they have with us. Like some others have mentioned, our regulatory structure may be different, and so it may not be as useful in a Texas-specific context as it might be in other places.

Jesse Bradley: Nebraska would be unlikely to use this tool since we have implemented our own tools and programs. Additionally, following the discussion at the spring DC meeting and hearing about concerns from the Family Farm Alliance and other, we would be hesitant to see parcel level consumptive use data distributed through a widely accessible public platform.

Tony: It sounds like it would be a good idea for us to spend some time at one of the Council meetings to look at what states are doing and what tools they are using.

Jeff: As to the second part of Jesse's comment, we've heard the same issue from the Family Farm Alliance about providing the landowner's name and their actual consumptive use. We talked a little bit this morning about the appropriate safeguards in the tool so that Farmer Joe logs

in and can look at his stuff and not Farmer Fred's. I don't know how we do that. How do we protect that data and in the same breath acknowledge that OpenET is out there. You can get it that way. It's just the WSWC is going to package it up and hand it to people. The Family Farm Alliance and some of those other folks really don't like that idea.

Tony: I would say that information would only be available to the individual, or the organization that is using the tool. In other words, I do not believe that other applicants could see what was being offered by any individual farmer. As you said, the name and the name of the diversion, or the water right, is already available through WestDAAT. You can get the OpenET data, so it's all publicly there.

Jon Neirmann: I'm going to propose for those who have to get off the call that we try to schedule another call in the next few days. For folks who aren't able to make whatever time we select, we will gather their input, whether it's in an email or sidebar phone call, whatever. That's the process going forward to move us toward a decision on this. Expect a Zoom invite.

To just summarize a little bit of what I think I heard – I did not hear overwhelming support among the membership that this tool is going to be useful to them. I heard from a few states that it was not going to be useful to them because they have their own tool. In fact, it may even be counterproductive in that you could now have two different answers to the same question – one coming from a state tool, the other coming from a WaDE tool. There are also concerns about how much information the tool would provide, getting to the concerns of the Family farm Alliance.

We didn't hear from every State and so it's possible that States may discover a use for it. Later, Adam suggested a use for the tool that I think was really kind of more akin to the common good argument to borrow Ria's way of framing of it. It seems like there are others, perhaps not WSWC members, who may use it, or have an interest in using it. There appears to be, in my mind, some value to this thing. We're just not sure. I'm not sure that it's valuable to the membership. That was my impression of what we heard today. I'll open it up to invite anybody to add anything. I think after that, we should continue the conversation and then make a decision about whether to move forward on this particular project. So any comments?

Mathew Weaver: I do think with specific administrative processes where we have ET tools in place, I could see a concern with having two datasets. I think there is cause to be a little bit concerned about that. I also like the comment that Adam made. There's a lot that goes on in the State of Idaho that the Department of Water Resources is not directly involved in, and it's great when water users find their own solutions to problems! I can think of places like in the Lemhi Basin and the Potlatch River Basin in Idaho, where I know these types of negotiations go on, solutions are found, and the DWR never has to get directly involved. We don't have specific tools, or data sets built for many of the areas in Idaho. I can see how the public, or other people managing water use outside of my department, strict administrative processes, might find a lot of value in this.

One concern I have generally, is I would hate to see this group become protective, or to take positions that block the transparency of water data. I do think one of the problems we have in Idaho is that people aren't fully aware of all of the physical realities of how we use water in this State. I heard the Family Farm Alliance adopt, where, yeah, we know the data is out there, but we want to make it as hard as possible for people to get it so that they have less understanding of how water is being used on the land. I'm just really concerned about that mentality and how it could

possibly set back water administration in Idaho, if that were to become a predominant way of thinking.

Jon Neirmann: I appreciate your comments Matt. Any other closing thoughts? We have a lot to consider here. I'm going to propose that we take it up in the next meeting to be announced soon. Hopefully we can have a critical mass for that, and if not, at least solicit input via email or sidebar conversations. So great conversation. Thanks everybody for joining this meeting. Tony and Michelle, I will follow up with you about scheduling.

Western States Water Council
Executive Committee & Other Members

Second WaterSMART Grant Discussion
September 16, 2024

PARTICIPANTS (via Zoom):

ALASKA	Tom Barrett
CALIFORNIA	Jeanine Jones
COLORADO	Lauren Ris
IDAHO	Mathew Weaver
KANSAS	Earl Lewis
MONTANA	
NEBRASKA	Jesse Bradley
NEVADA	Cathy Erskine Melissa Flatly
NEW MEXICO	Tanya Trujillo
NORTH DAKOTA	
OKLAHOMA	Julie Cunningham Sara Gibson
OREGON	Racquel Rancier Arron Fellows
SOUTH DAKOTA	Nakaila Steen Eric Gronlund
TEXAS	Jon Niermann Kathy Alexander
UTAH	Candice Hasenyager
WASHINGTON	Ria Berns
WYOMING	Jeff Cowley Chris Brown Brandon Gebhart

STAFF

Tony Willardson
Michelle Bushman

Jon Niermann, Western States Water Council (WSWC) Chair, welcomed those in attendance.

In regards to the email that Tony circulated that proposes approval of the budget, including the Water Smart grant with nine separate provisions, I thought what we could just go around and share our thoughts and comments and questions.

I am concerned that we have created expectations with how we sort of set ourselves up for this WaterSMART grant. We may have provided assurances to different parties and if we don't approve this budget with the money for this WaterSMART grant, it might be viewed as really an abrupt about face. That could affect our relationship with some of our stakeholders such as the Western Governors' Association (WGA), or perhaps our own governors, or the Bureau of Reclamation (USBR). I'm also concerned about what it signals about our plans, or commitments around the Water Data Exchange (WaDE) program. I think we need to develop a plan for WaDE. I don't know if it makes sense for the WSWC to continue to build this tool or not. I think if we were not to approve the WaterSMART piece of this budget, that would foreclose options.

Provision three, suggesting creation of an Executive Committee Subcommittee to oversee WestCAT development, as Tony outlined, really jumps out at me. I would broaden the scope of that and really have the subcommittee look more generally at what the WSWC ought to do with Wade. Is that something the WSWC continues with or not? Those are my thoughts.

Julie Cunningham: I feel the same way. Admittedly, I am not really understanding, knowing or keeping track of where we are in the development of all these different products. I know Oklahoma was involved early on with getting our initial data into the system. I don't even know where we are, as far as keeping that up, or the commitment of doing that. Overall, I totally agree with you in keeping those commitments with the USBR and down the road making sure we are developing those more innovative products and tools. Looking at OpenET, I don't know much about it as we've not considered it. It sounds like from the last meeting that the other states weren't really familiar with the goals of this new project and the conservation tool. I really like the idea and I think it's our role to have a subcommittee set up to really look at these things, especially when the WGA is interested in investigating and moving in that direction. As far as staying relevant to the Western Governors and vetting these things thoroughly, I think that is totally in our strike zone.

Tanya Trujillo: I agree with Texas and Oklahoma that we should investigate a broader background about these programs. How are we contributing? What are our collective goals from them? And not pull the plug during this next round. I'm supportive of the recommendation, and will confess, I'm still trying to figure out who has been participating within our state's team and technical staff to try to get feedback.

Candace Hasenyager: Utah's still concerned about some of the duplication of work that's going on here in Utah. The estimates of consumptive use of water rights are best determined by the state engineer, and we are concerned that WestCAT appears to be trying to interpret the data with a very broad brush and determination of what consumptive use could look like. We've been in discussions with Tony and he has articulated that this will likely require some sort of registration. Its use is

expected to be voluntary and discreetly used within geographic areas. We can have some information and disclaimers put on the data recommending or clearly stating that it could or should not be used without state authorization, so that people kind of know what they're getting into, and saying that the state could have a different number or opinion. That's our biggest concern. The state's going to come up with one number, and this tool is going to come up with another. Then there will be some conflict. I think with what Tony has articulated, with some safeguards to it, we're supportive of using the budget for this, but think it is really important to have some kind of group involved in vetting the process.

Ria Burns: I'll just echo a lot of the recommendations that have been made in terms of moving forward with the proposal to provide funding from our reserve funding. I do think pulling back at this point when we've made these commitments, either advertently or inadvertently, seems challenging for our relationships. I will second what Candice just shared. I don't want to be playing defense! I think that's going to continue with this tool without a lot of strategy and clarity, in terms of who we're developing the tool for, is critically important.

Racquel Rancier: One concern that Oregon has is that we have very limited IT staff. I think what we've all been discussing is that really all of this – WaDE and WestCAT – is for the greater good, but it's not necessarily something that is being used by our own agencies. At the moment, obviously, we're very concerned about our ability to provide our own data through our own mechanisms that we need to manage water on a day-to-day basis. I think it would be helpful for us to have a better understanding of how much time is anticipated to be involved in this. I agree with the proposal in terms of the broader program oversight, as well as having our IT shops involved. At the same time, I am trying to minimize any staff time on our end that we would put towards the program.

Another concern, which may be a future topic, is just a better understanding of how we as a body provide recommendations to WGA and are there other mechanisms. Does the staff of the WSWC also counsel the Western Governors? My perception has been that we provide recommendations to Western Governors. However, given how this proposal has gone, it sounds like maybe we're not the only ones providing recommendations to Western Governors? That's just a question in terms of the process. Not wanting to play defense, we want to make sure everyone looks good, but also that we're all rowing in the same direction. I think that's just a question that came from my standpoint. Oregon will support the proposal today. We just have some of those concerns on the back end.

Jon Niermann: Tony or Michelle, do you have an answer to Racquel's question about our engagement with WGA?

Tony Willardson: I can answer briefly, John. Many of the governor's resolutions were originally written by the WSWC. In more recent years, they have moved more towards what they call their Staff Advisory Council (SAC), [*comprised on the governors' personal staff*]. As it relates to this project, and to the governor's [*letter of*] recommendation. It really comes from one of their positions where they support federal use of state data. That's a basic premise of the governors, that where there is information available from the states that the federal agencies should be using that data. The governors just recently readopted their water resources position [*Policy Resolution 2024-07*], which specifically calls out WaDE and the governor's support for WaDE. I think we've mentioned that WaDE really started with a request from the governors for us to work with them.

Jon Niermann: Raquel, did that answer your question?

Racquel: Yes, thank you.

Earl Lewis: I want to echo a lot of what folks have said. John, where you started out, I agree that we ought to support the program as it's laid out today, especially with a subcommittee's oversight of not only this, but kind of where's WaDE going in the future. Let's see how we can make it better going forward. The only other concern I would add is I know we're taking \$200,000 out of our reserves, and we have the ability to do that this year. I want to make sure that whatever comes out of that subcommittee, that it has some long-term staying power. We don't want to end up in a situation of needing to increase state resources and dues in order to support this in the long term.

Jeanine Jones: I think the fact that we are having so many calls and discussions on this subject really tells me that we don't really understand as a group, what we're doing here. What this really suffers from is the lack of planning, strategy, budget, timeline, deliverables, objectives, and all those things that we normally use to manage programs. That's why I have a lot of concerns about this because I'm not seeing any structure here. We're talking about spending a significant amount of money, it would be nice to know what that buys. Also, I'd like to see a transition plan for this over the long-term to an entity that is capable of managing this, because clearly, the WSWC doesn't have the staff expertise and enough bandwidth to do it. A subcommittee is a good step in the short-term, but this needs a lot more management attention.

Jon Niermann: Thanks, Jeanine. I will not necessarily count you as a yes vote, but what you said certainly resonates with me. I agree.

Jeff Cowley: Brandon Gethard, our State Engineer is in the office here with me. I shared our concerns about this at our last meeting. Given the nine points that Tony put out, we can probably support this. However, we still have questions over the access to this program, and the purpose. It will create different data from state programs or federal programs, which can be problematic. Some folks have mentioned that some oversight is needed, seeing how this is developed and built, so that we understand it better – we would definitely be on board with being involved in that development. Like Jeanine just said, this is the first time I remember us having so many conversations about a project. There's something here, we just need to dig into it all.

Lauren Ris: Being the new kid on the block, I appreciate the conversation. I will say that Colorado still shares some of the concerns that Candice (Utah) mentioned. I think part of the concern is redundancy with efforts already going on in Colorado as it relates to modeling consumptive use. The fear is around the outcome if we have two different numbers to a question? Given the points that Tony put out, especially the provision around having state authorization prior to use, I don't want to stand in the way of this moving forward, if that's the direction of the group. I think we do share a lot of the concerns that have already been expressed.

Jon Niermann: Matt Weaver is having microphone issues and so I'm going to read his comment: "Supportive of the budget expenditures with Tony's outline provisions." Thanks for that Matt.

Jesse Bradley: With what was just said, I think Nebraska can support this moving forward. But definitely agree that having oversight on the process and making sure we understand and can kind of control the information and data and what's available out there, would be really important to Nebraska.

Tony Willardson: John, I would mention that, and I think I shared with you an email from Anna Pakenham Stevenson (Montana), that given the suggested provisions, she is supportive. Adam Sullivan (Nevada) as well [*has communicated his support*].

This has helped us get members' views as well. We did have discussions with Lauren (CO) and her staff and Raquel (OR) and her staff. I think it may be helpful for us to do that with our other states, so that you know what data we have that is already in WaDE and in WestDAAT. We may have created an erroneous view that when we were talking about was integrating the OpenET data with all of WestDAAT. We are not talking about doing our own separate consumptive use estimates for each water right that is in WestDAAT. That would be well beyond our scope. The tool is intended to be used on a discrete basis. The provisions were intended to address some of the concerns that have been raised.

Nikaila Steen: South Dakota shares a lot of the same concerns with the cost of the new tool and things of that nature, but also agree to the provisions outlined in the budget.

Jon Niermann: Tony, under provision nine, that talks about expanding education and outreach efforts to enhance transparency and minimize misunderstandings, I would like to include outreach to state agency staffs to the extent that they'll take you up on the offer.

I'm hearing sufficient votes to move forward with the budget, with the WaterSMART funding, which includes the nine provisions that Tony has outlined. Are there any objections or concerns with authorizing Tony to move forward with this budget? Hearing none, Tony, I think we're good to move forward with the approved budget and for you to sign a letter to the Bureau of Reclamation acknowledging approval.

Michelle, if you would please send the meeting notes out to the group and include with that, a request for nominations for the subcommittee that's going to take up this broader question about the path moving forward. Jeanine, I really appreciated your comments and would be grateful if you would be willing to serve on that subcommittee. I really appreciate all the comments. We needed to really hash this out, but do so with the luxury of time and not with a particular budget item breathing down our necks. Tony, myself, and I'm sure Michelle are available offline if anyone wants to talk. Thanks for being engaged on this topic and for your time dialing in today.

Adjourned.

Tab J – Water Supply and Conservation as a Primary Purpose of Corps Projects



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

August 14, 2024

The Honorable Tom Carper, Chair
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

The Honorable Shelley Moore Capito, Ranking Member
Committee on Environment and Public Works
United States Senate
Washington, DC 20510

The Honorable Sam Graves, Chair
Committee on Transportation & Infrastructure
U.S. House of Representatives
Washington, DC 20515

The Honorable Rick Larsen, Ranking Member
Committee on Transportation & Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Carper, Graves and Ranking Members Moore Capito, and Larsen:

The Western States Water Council (WSWC) is a bi-partisan government entity created by the Western Governors in 1965 that represents eighteen states. Our members are appointed by and serve at the pleasure of their respective Governors, advising them on water policy issues. I'm writing regarding our interest in Section 121 of H.R. 8812, to "include water supply as a primary mission of the Corps of Engineers in planning, prioritization, designing, constructing, modifying, operating, and maintaining water resources development projects."

The WSWC's 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. Water in the West is an increasingly scarce and precious resource. Water must be recognized as a critical public policy priority given the importance of the resource to our public health, economy, food security, environment, and western way of life. A secure and sustainable water future will be determined by our ability to maintain, replace, expand and make the most efficient use of critical water infrastructure. We must preserve and improve existing infrastructure, as well as encourage and support innovative water supply strategies and new storage options to better balance supplies with demands.

Elevating the consideration of water supply as a co-equal mission of the U.S. Army Corps of Engineers (Corps) projects with water supply authority offers opportunities for greater federal-state cooperation and collaboration. Water supply storage for later delivery is key to the West's economic prosperity, environmental needs, and our quality of life. Water supply infrastructure is critical to meet our drinking water, as well as other municipal and industrial, irrigation, hydropower, flood control, and fish and wildlife habitat needs. The WSWC supports collaboration and leadership at all levels of government – 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.

An integrated, collaborative, and grassroots approach to water resources management is critical to the environmentally sound and efficient use of our water resources. States, federal agencies, tribes, and local communities should work together to identify water problems and develop optimal solutions at the lowest appropriate level. The Corps operates and maintains approximately 740 dams nationwide that provide multiple benefits to many communities, and are critical in many watersheds. Cooperatively operating water projects to

protect life and property by reducing flood risks, while at the same time maximizing water supply storage, including carryover storage, impacts billions of dollars of economic investments in the West.

The WSWC supports the use of innovative and forecast informed reservoir operations by the Corps and other 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. Elevating the water supply mission would further such actions.

The federal government, including the Corps, 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.

We appreciate the limitations in Section 121(b)(2)(D), and emphasize the critical importance of not interfering with the “authority of a State to manage, use, or allocate the water resources of that State.” 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. The WSWC opposes any and all efforts that would diminish the primary and exclusive authority of states over the allocation of surface water, or affect or interfere with any interstate compact, decree or negotiated water rights agreement.

Further, the WSWC supports legislation to require the Corps to comply with substantive and procedural state law as it relates to development, use, control, appropriation, storage, and distribution of the states’ surface waters, including natural flows, similar to requirements placed by the Congress on the U.S. Bureau of Reclamation in Section 8 of the Reclamation Act of 1902.

Thank you for your attention to this matter.

Sincerely,

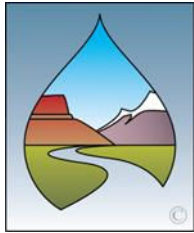
A handwritten signature in cursive script that reads "Tony Willardson".

Tony Willardson
Executive Director

Attachments:

WSWC Positions: #476, #509 and #511.

cc: Western Members of the Senate Committee on Environment and Public Works and the House Committee on Transportation and Infrastructure



**POSITION
of the
WESTERN STATES WATER COUNCIL
regarding
STATES' WATER RIGHTS AND NATURAL FLOWS
Deadwood, South Dakota
September 16, 2021**

WHEREAS, the Western States Water Council strongly supports preservation of the States' inherent right to develop, use, control, and distribute water; 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; and

WHEREAS, States are in the best position to protect 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, the Flood Control Act of 1944 specifically declared the policy of Congress to recognize the interests and rights of the Missouri River Basin States in determining the development of the watersheds within their borders and likewise their interests and rights in water use and control, and to preserve and protect to the fullest extent established and potential uses of the rivers' natural flows, those flows being the natural flows that would pass through the states in the absence of the U.S. Army Corps of Engineers dams; and

WHEREAS, the federal government has long recognized the right to use water as determined under the laws of the various states; and

WHEREAS, the various states have the authority and duty to manage permitting of stored water to supplement natural flows; and

WHEREAS, federal agencies in the western states, such as the Bureau of Reclamation, generally recognize western water laws and natural flows through reservoir operations, with releases from storage that supplement natural flows, and water service contracts that supplement natural flow; and

WHEREAS, representatives of the U.S. Army Corps of Engineers have indicated that all waters entering its Missouri River mainstem reservoirs are stored waters to be allocated and controlled by the U.S. Army Corps of Engineers without recognition of the States' rights to natural flows being separate from the captured floodwaters stored within those reservoirs; and

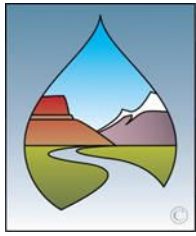
NOW, THEREFORE, BE IT RESOLVED, that the Western States Water Council urges the U.S. Army Corps of Engineers to recognize and proceed in conformity with State law related to the development, use, control, appropriation, storage, and distribution of the States' surface waters, including natural flows.

BE IT FURTHER RESOLVED, that the Western States Water Council supports legislation to require the U.S. Army Corps of Engineers to comply with substantive and procedural state law as it relates to development, use, control, appropriation, storage, and distribution of the States' surface waters, including natural flows, similar to the U.S. Bureau of Reclamation.

BE IT FURTHER RESOLVED, that any policy of the U.S. Army Corps of Engineers to require storage contracts to access natural flows within a reservoir boundary would be a violation of the States' rights to develop, use, control, and distribute surface water.

BE IT FURTHER RESOLVED, that the Western States Water Council opposes any and all efforts that would diminish the primary and exclusive authority of States over the allocation of surface water.

*(formerly Position No. 431, October 26, 2018, 388, October 9, 2015,
and 348, October 12, 2012)*



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
to Support the Use of
FORECAST INFORMED RESERVOIR OPERATIONS and INNOVATIONS
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 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

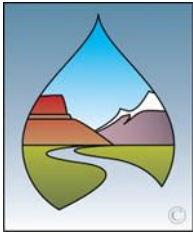
WHEREAS, USACE Engineer and Research Development Center (ERDC) developed a Forecast Informed Reservoir Operations (FIRO) screening process and has tested it in the South Pacific Division; and

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.

Revised and Readopted
(see former Position No. 460, March 25, 2021, and No. 417, March 14, 2018)



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
in support of
WATER INFRASTRUCTURE FUNDING
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.

Revised and Readopted
(see former Position No. 462, March 25, 2021, and No. 419, March 14, 2018)



August 16, 2024

The Honorable Thomas R. Carper
Chairman
Committee on Environment
and Public Works
U.S. Senate
Washington, DC 20510

The Honorable Shelley Moore Capito
Ranking Member
Committee on Environment
and Public Works
U.S. Senate
Washington, DC 20510

The Honorable Sam Graves
Chairman
Committee on Transportation
and Infrastructure
U.S. House of Representatives
Washington, DC 20515

The Honorable Rick Larsen
Ranking Member
Committee on Transportation
and Infrastructure
U.S. House of Representatives
Washington, DC 20515

Dear Chairmen Carper and Graves and Ranking Members Capito and Larsen:

The National Water Supply Alliance (NWSA) is dedicated to advancing the interests of water supply providers before Congress and federal agencies whose actions impact water supply storage and projects. Our members include state, regional, and local governments, as well as wholesale water providers and utilities who rely on water supply stored in federal facilities maintained by the U.S. Army Corps of Engineers (USACE).

NWSA strongly supports the passage of the 2024 Water Resources Development Act (WRDA). NWSA appreciates the commitment and effort by the Senate and House Committees to consistently produce bills that ensure WRDA provides regular and timely improvements to the Nation's water resources infrastructure.

Two provisions in the bills are of particular interest to NWSA:

- (1) H.R. 8812, Water Resources Development Act of 2024, Section 121, Water Supply Mission; and
- (2) S. 4367, Thomas R. Carper Water Resources Development Act of 2024, Section 217, Non-Federal Interest Preparation of Water Reallocation Studies, North Dakota.

Section 121. NWSA strongly supports the Section 121 language and urges the Senate-House conference committee to include the provision in the final bill. This section will add water supply to USACE's primary missions. This addition will help ensure USACE devotes adequate staff,

President, Katherine Zitsch, PE, BCEE
Vice President, Brad Brunett, Brazos River Authority
Secretary, Jennifer Verleger, Esq, PE, North Dakota Water Resources
Treasurer, Andrew Dehoff, PE, Susquehanna River Basin Commission
Past President, Dan Buhman, PE, Tarrant Regional Water District

Director, Darren Gore, PE, Murfreesboro Water Resources
Director, George Otstott, Northeast Texas Municipal Water District
Director, Glenn Page, PE, City of Gainesville, GA
Director, Matt Unruh, Kansas Water Office
Dave Mitamura, Executive Director

resources, and operational tools to examine and implement critical water supply uses at USACE projects while not impinging on other reservoir purposes.

Our Nation faces significant and evolving water supply challenges. Our infrastructure is aging, our populations are growing, and we are experiencing droughts of increasing severity, frequency, and duration. We and our federal partners must become more nimble and more adaptable. Despite the significant benefits the USACE Water Supply Program provides and the exceptional efforts of USACE staff, the USACE water supply program receives only a tiny fraction of the staff devoted to other mission areas. Additional resources dedicated to water supply are desperately needed and long overdue.

Elevating water supply as a primary mission is not about adjusting funding in the construction account. Section 121 does not alter authorized purposes established by Congress, nor does it change the balance among authorized purposes, either in a general sense or at any particular reservoir. Further, the operational balance among purposes at specific projects will continue to be set by USACE on a project-by-project basis, just as it always has, using detailed studies and careful consideration of all stakeholder needs and Federal interests. Finally, and importantly, Section 121 would not affect the existing authority of states to manage, use, or allocate water resources.

Section 121 directs USACE to consider water supply on par with other authorized purposes, and not to the detriment of the other purposes. It will reduce the bureaucratic, regulatory drag that effectively deprioritizes water supply across the Nation. It provides clear congressional direction that water supply should not be dismissed or put aside due to terminology. Indeed, USACE studies at projects across the Nation have shown that enormous water supply benefits can be achieved with little, if any, effect on other authorized purposes. This provision simply instructs USACE to focus on the long-overdue study and implementation work associated with water supply at its reservoirs.

These changes are badly needed. The lack of priority USACE gives to water supply at its reservoirs results in unreasonable delays or exclusion of water supply projects entirely. For example:

- To meet growing demand for water in Colorado's Front Range and on northeast Colorado farms, Congress authorized USACE to study a reallocation of water supply storage space in Chatfield Reservoir in WRDA 1986. **Eighteen years later**, USACE published a notice of intent to prepare an Integrated Feasibility Report/Environmental Impact Statement. And in 2014 — nearly ten years after the notice of intent was published and **almost 30 years after the study was authorized** — the feasibility report was completed and a record of decision approving the reallocation was signed.
- Similarly, in 2007 a reallocation of water storage to meet the water needs for 850,000 people in southwest Missouri was requested from Stockton Lake. It took seven years to get reallocation studies funded and started and seven more years to complete the studies. **Seventeen years after the request for reallocation, southwest Missouri is still awaiting final approval from USACE.**
- Despite recent direction from Congress, critical Forecast-Informed Reservoir Operations (FIRO) studies are delayed or deprioritized by USACE because it does not consider water supply to be a "primary mission."



- Section 7001 of WRRDA 2014 required USACE to submit an Annual Report to Congress on feasibility reports and project modifications to be considered for authorization under future WRDAs. Yet USACE excludes water supply projects from consideration and relegates them to the appendix on the grounds that water supply is not considered to be one of USACE's primary mission areas.

Experience with other USACE program areas, such as ecosystem restoration, has shown that mission priorities can and should evolve to meet the Nation's changing needs. All agencies and organizations, USACE included, naturally emphasize and devote resources to programs that fall within their priority mission areas, while less attention and fewer resources are devoted to programs that do not. It is time for USACE to recognize the key role it plays in meeting the Nation's water supply needs and for its budget and staff to be allocated accordingly.

Section 217. Another key authorization for conference committee consideration is found in Section 217 of S. 4367. Section 217 would allow non-federal sponsors to conduct water supply reallocation studies, in compliance with USACE requirements. The current language in Section 217 restricts this authority to the State of North Dakota. NWSA urges the Senate-House conference committee to revise the language of Section 217 to allow non-federal sponsors to conduct water reallocation studies nationwide.

Non-federal sponsors may more easily find the funds and resources to prioritize a water reallocation study because it is of critical importance to the non-federal sponsor, but studies conducted by the USACE must compete with all other USACE priorities. Restricting this benefit to only entities within North Dakota limits others across the Nation from the flexibility of providing the funds and resources to complete a study. This section provides an additional tool for more efficient development of reallocation studies under USACE procedural rules. Storage space in federal reservoirs operated by USACE is a critical part of our Nation's water supply system. According to a 2017 report by the USACE Institute for Water Resources, the water supply storage space in USACE projects is sufficient to store enough water to meet the household needs of approximately 100 million people.

NWSA urges the Senate-House conference committee to include both sections in the final bill. Section 121 of H.R. 8812 and a revised version of Section 217 of S. 4367 provide the direction from Congress for USACE to strengthen its support of the water supply program without impinging on other project purposes.

NWSA is an independent advocacy group representing users of water supply and conservation storage at USACE reservoirs. We are available to support Congress as you stay true to a biennial, bipartisan, and bicameral approval of WRDA.

Thank you for your commitment to water resources policy and focusing attention on the Nation's water supply needs.

Sincerely,

A handwritten signature in blue ink, appearing to read "Katherine H. Zitsch".

Katherine Zitsch
President
National Water Supply Alliance

A handwritten signature in blue ink, appearing to read "Dave Mitamura".

Dave Mitamura
Executive Director
National Water Supply Alliance

August 16, 2024

The Honorable Thomas R. Carper
Chairman
U.S. Senate
Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Shelly Moore Capito
Ranking Member
U.S. Senate
Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Sam Graves
Chairman
U. S. House of Representatives
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building

The Honorable Rick Larsen
Ranking Member
U. S. House of Representatives
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building

Dear Chairman Carper, Chairman Graves, Ranking Member Capito, and Ranking Member Larsen:

Thank you for your work on the Water Resources Development Act of 2024 (WRDA). The strong bipartisan support this legislation enjoys is testament to your leadership and the importance of water infrastructure nationwide. We write today to request your support to maintain Section 121 of H.R. 8812 in the final conference version of WRDA 2024.

Section 121 would establish water supply as one of the core missions of the U.S. Army Corps of Engineers (Army Corps) Civil Works Program. Formally establishing this priority would not supplant its current primary mission areas, which include navigation, flood control, ecosystem restoration, and recreation. Rather, Section 121 would enhance work already underway to provide water supply and help prepare states, communities, and regions for future water supply challenges brought on by growing populations and climate variability. Section 121 specifically stipulates that it will not affect Army Corps authority under section 6 of the Flood Control Act of 1944 or section 301 of the Water Supply Act of 1958.

The Army Corps is one of the nation's largest water suppliers with 6.2 million acre-feet of contracted water supply. Across America, 136 Army Corps reservoirs provide municipal and industrial water supply, and 46 reservoirs provide irrigation water supply. The Army Corps estimates that the water supply space in Army Corps projects is sufficient to meet the household needs of approximately 100 million people. The nation has benefited from these projects, but the dual challenges of population growth and climate variability require that more be done. A 2019 studyⁱ from the United States Department of Agriculture found that 47 percent of the water basins supplying most of the nation with freshwater could face shortages by 2071. Given the interconnected nature of water and the goods and services tied to it, these water shortages will affect the entire country. Mitigating these shortages will require a multipronged approach that includes water recycling and reuse, conservation, and the thoughtful utilization of infrastructure like Army Corps Civil Works projects.

Section 121 would help ensure that the Army Corps engages in meeting critical water supply needs. It would not affect existing authorities of the Army Corps with respect to navigation, hydropower, flood control, recreation and ecosystem restoration. It would not affect how the Corps balances among competing purposes at federal projects, much less suggest the Corps should favor water supply over other project purposes. Instead, the Corps will continue to balance among the various project purposes just as it does today. Section 121 would not authorize the Secretary to initiate any new water resources development projects or modify any existing project without authorization from Congress. In addition, Section 121

specifically states it would not affect the authority of states to manage, use, or allocate water resources. Section 121 is a common-sense, forward-thinking provision that is needed to avoid future water shortages and build smart, modern, resilient infrastructure.

We represent a broad nationwide coalition of water managers, utilities, locally elected officials, irrigation districts, the business community, and non-profit organizations. We urge you to include Section 121 in the final conference version of WRDA 2024. Thank you for considering our request and for your work to meet the water infrastructure needs of our nation.

Respectfully,

Association of Metropolitan Water Agencies

National Water Resources Association

National Water Supply Alliance

U.S. Chamber of Commerce

WaterReuse Association

Association of California Water Agencies

CC:

The Honorable Mark Kelly

Chairman

Subcommittee on Transportation and Infrastructure

The Honorable Kevin Cramer

Ranking Member

Subcommittee on Transportation and Infrastructure

The Honorable David Rouzer

Chairman

Subcommittee on Water Resources and Environment

The Honorable Grace F. Napolitano

Ranking Member

Subcommittee on Water Resources and Environment

ⁱ Brown, Thomas C.; Mahat, Vinod; Ramirez, Jorge A. 2019. Adaptation to future water shortages in the United States caused by population growth and climate change. Earth's Future: 7.
<https://research.fs.usda.gov/treesearch/58041#:~:text=Abstract,are%20likely%20in%20some%20regions>.

Tab K – Federal Water Resources Legislation

WSWC Water Resources Committee

Pending Congressional Legislation

10-23-2024

a. [H.R.7792](#) / [S. 4236](#) (117th) - Water Data Act/Water Data and Security Act

Introduced on May 17, 2022, in the last Congress in the House by Rep. Melanie Stansbury (D-NM) with 20 co-sponsors (including 2 Rs) and in the Senate by Martin Heinrich and (D-NM) with Ben Ray Lujan (D-NM).

In the House, the bill 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. Natural Resources held a hearing on 6/16/2022.

The House bill would require federal departments and agencies involved in water resources management to jointly develop and implement a National Water Data Framework and establish an interagency council, advisory committee, and grant program.

Specifically, the bill requires the departments to jointly develop and implement a National Water Data Framework for integrating, sharing, and using water data to support water resources management and access. The departments must (1) develop and adopt common national standards for water data, (2) integrate water data and tools through common approaches to data infrastructure and platforms, and (3) harmonize and align water data policies and programs.

The bill further requires these departments to establish an interagency Water Data Council to support the development and implementation of the framework.

The bill also requires the Department of the Interior to establish an Advisory Committee on Water Information to advise Interior, the departments, and the council on the framework. The advisory committee members must include those involved in water-related activities across different sectors (e.g., state and local governments, Indian Tribes, water agencies, private sector entities, and nonprofit organizations).

The bill authorized \$15M/year through 2027 for the above.

Finally, the bill requires Interior to establish a Water Data Grant Program in coordination with the Council for nonfederal entities to carry out the purposes of this bill – and authorized \$25M/year through 2027.

Reintroduction of the House bill in this Congress is pending.

The Senate bill would have also required the Department of the Interior to develop and implement an integrated water resources management plan (i.e., the Basin Plan) for the Rio Grande Basin and reauthorizes an irrigation infrastructure grant program for Rio Grande Pueblos tribes. A hearing on S. 4236 was held on May 20, 2022.

b. [H.R. 2429](#)/S. 1119 - Open Access/Evapotranspiration Data Act

Identical bills were introduced on 3/30/2023 by Rep. Suzie Lee (D-NV) with four bipartisan co-sponsors (including 3 Utah Rs) and by Sen. Catherine Cortez Masto and Sen. John Hickenlooper. S. 1119 was reported by the Senate ENR Committee and placed on the Senate Calendar.

The bill directs the U.S. Geological Survey (USGS) to establish an Open Access Evapotranspiration (OpenET) Data Program that supports the operational distribution of satellite-based evapotranspiration data generated to sustain and enhance water resources. Under the program, the USGS must provide for the delivery of evapotranspiration data to advance the quantification of evaporation and consumptive water use and to provide data users with estimates of evapotranspiration data across large landscapes over certain periods of time.

c. [H.R. 4356](#) / [S. 2927](#) - WaterSMART Access for Tribes

Introduced 6/23/2023 by Rep. Melanie Stansbury (D-NM) and seven other Democrats, and referred to the Natural Resources Committee. A hearing on the Senate bill was held by ENR on 9/11/2024. The bill would amend the Omnibus Public Land Management Act of 2009 to increase Tribal access to water conservation and efficiency grants. It also provides that the Secretary of Interior may reduce or waive the non-Federal share (and increase the Federal share accordingly) of the cost of any infrastructure improvement or activity that is the subject of that grant or other agreement if the Secretary determines that contribution of the non-Federal share would result in a financial hardship for the Indian tribe.

d. [H.R. 4385](#)/S. 4242 - Drought Preparedness Act

Introduced in the House on 6/27/2023 by Rep. Joe Neguse (D-CO) and cosponsored by Rep.s Juan Ciscomani (R-AZ) and Susie Lee (D-NV). The bill passed the House by voice vote on 2/5/2024. Introduced in the Senate on 5/20/2024 by Sen. John Hickenlooper (D-CO), together with Sen.s Cynthia Lummis (R-WY) and Ron Wyden (D-OR). A hearing on S. 4242 was held on 9/11/2024 in the Natural Resources Committee.

This bill reauthorizes through FY2028 the Reclamation States Emergency Drought Relief Act of 1991, which allows the Bureau of Reclamation to provide drought assistance to Hawaii or certain western states.

e. [H.R. 5770](#) / [S. 4245](#) - Water Monitoring and Tracking Essential Resources Data Improvement Act

Introduced on 9/27/2023 by Rep. Joe Neguse (D-CO), together with Rep.s Juan Ciscomani (R-AZ) and Dina Titus (D-NV). The bill passed the House of 7/8/2024. It was sent to the Senate and referred to the ENR Committee, which held a hearing on the bill on 9/11/2024.

This bill reauthorizes through FY2028 the United States Geological Survey's (1) Federal Priority Streamgauge network—previously known as the National Streamflow Information Program—that tracks the amount of water in streams and rivers; (2) groundwater monitoring program, including the National Groundwater Monitoring Network; and (3) grants for water estimation, measurement, and monitoring technologies and methodologies.

f. [S. 4458](#) - Rural Water Supply Program Reauthorization Act

Introduced on 6/4/2024 by Senator Mike Rounds (R-SD), with Senators Amy Klobuchar (D-MN) and Tina Smith (D-MN), it was referred to Senate ENR, which held a hearing on the bill on 9/11/2024. There is no House counterpart.

The bill extends the authority of the Reclamation Rural Water Supply Act of 2006 through 2032.

g. [S. 4576](#) - Colorado River Basin System Conservation Extension Act

Introduced on 6/18/2024 by Senator John Hickenlooper (D-CO), with co-sponsors John Barrasso (R-WY), Mitt Romney (R-UT), Michael Bennet (D-CO) and Cynthia Lummis (R-WY). The ENR Committee held a hearing on the bill on 9/11/2024. There is no related House bill.

The bill amends Section 206 of the Energy and Water Development and Related Agencies Appropriations Act (2015) and extends the authority to fund pilot projects through grants through September 30, 2025, and requires a report to the House/Senate Appropriations Committees by September 30, 2026. The bill notes the Secretary of the Interior shall not fund pilot projects in the Upper Colorado River Basin without the participation of the Upper Colorado River Division States, acting through the Upper Colorado River Commission.

Tab L – WSWC Landsat Support Letter



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

August 16, 2024

Michael Brain
Principal Deputy Assistant Secretary for Water & Science
U.S. Department of the Interior
1849 C Street, NW
Washington, DC 20240

via email:
michael_brain@ios.doi.gov

Pam Melroy
Deputy Administrator
National Aeronautics and Space Administration
300 E. Street, SW
Suite 5R30
Washington, DC 20546

pamela.a.melroy@nasa.gov

Dear Mr. Brain and Ms. Melroy:

The Western States Water Council (WSWC) is a bi-partisan government entity created by Western Governors in 1965 that 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. The WSWC strongly supports Landsat Next. We urge you to give this investment a high priority in your FY2026 budget requests.

As we address the results of decades of drought in the West and continuing climate uncertainty, adequately and expeditiously funding preparations for the launch of Landsat Next and its operations is critical. We are particularly concerned with maintaining data continuity and integrity with Landsat thermal-infrared (TIR) and reflected light imagery given the aging Landsat 8 and Landsat 9. Landsat spectral measurements are important – both thermal and reflected – with measurement accuracy and quality. Landsat Next will provide more and better data for water managers.

Landsat Next will continue to improve upon the 50-year Landsat record of land and water earth observations, with better spatial resolution and more timely 6-day revisits, and twice as many spectral bands (including new bands for identifying and monitoring agriculture, water use, and harmful algal blooms). The economic benefit to the U.S. economy is estimated to be about \$2 billion annually. Much like weather observations and GPS, Landsat data is used every day to better understand our dynamic planet and adapt to its changing climate.

We have been active advocates for Landsat TIR as an increasingly essential tool for measuring, monitoring and managing water use in the western United States. Landsat is the only operational satellite having both thermal data and a spatial resolution fine enough to map water-resources use at the level of agricultural fields. Typical applications include mapping irrigated lands, as well as crop type, measuring and monitoring evapotranspiration and consumptive water uses, mapping the extent of surface and groundwater use, allocating and administering rights to the use of water, including approval of water rights transfers and evaluating beneficial consumptive use, facilitating water marketing opportunities, administering negotiated interstate agreements and monitoring interstate compacts, estimating water-use by invasive species, monitoring water and food sustainability and security, and providing information to help forecast and moderate commodity market fluctuations, as well as projecting wildfire risks.

There is an urgent need to accelerate, not delay, funding decisions in order to ensure there are no future data gaps. Uncertainty regarding future funding and TIR data availability has in the past been an obstacle to building operational water resources planning, monitoring and management programs. The western water community worked hard to secure a place for the TIR imager on both Landsat 8 and Landsat 9, and we will continue to work to ensure Landsat Next guarantees TIR imagery remains available. We are currently working with the OpenET Coalition to measure and monitor evapotranspiration as a representation of consumptive agricultural water use. Under a WaterSMART grant we intend to integrate OpenET data with our regional Water Data Exchange (WaDE) and water rights data as a measure of reasonable consumptive use. NASA's TIR data is essential to this work.

OpenET uses the best available science to provide easily accessible satellite-based mapping of estimates of evapotranspiration (ET) for improved water management. Using the Data Explorer, users can explore ET data at the field scale for millions of individual fields or at the original quarter-acre resolution of the satellite data. With reliable and easily accessible ET data, local and regional water managers can gain a more detailed picture of water consumption in their area.

Similarly, the WSWC has supported the U.S. Bureau of Reclamation's Agrimet network of weather stations that provide data that serves as an important and efficient ground-truthing, calibration, and model validation tool for analysis of information products derived from satellite data such as OpenET. Agrimet provides basic data on precipitation, temperature, solar radiance, wind speed and humidity required to calculate reference ET and inform remote-sensing platforms.

We expect to see further uninterrupted innovations in water management based on NASA's TIR data from Landsat Next, with USGS operating the next generation satellites and archiving the data, as long as the data continues to be available at no cost to users.

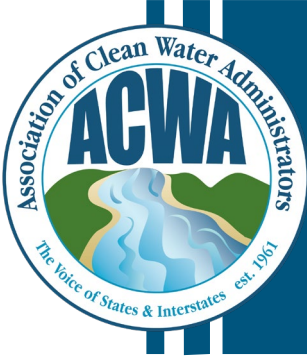
The WSWC strongly supports a continuing National Land Imaging Program and expresses our strong support for the approval and construction of the Landsat Next mission without delay. Again, we ask that you give a high priority in your FY2026 budget requests for Landsat Next.

Sincerely,

A handwritten signature in cursive script, reading "Tony Willardson".

Tony Willardson
Executive Director
Western States Water Council

Tab M – NPDES Permit Extensions



Final 10 Year Permits Survey Summary (8-27-2024)

ACWA General Summary of State Perspectives

A significant majority of the 41 ACWA member states that responded, generally support updating the CWA to **allow for** “up to 10-year permits.” Two states are strongly opposed to any change of CWA permit term. At least three states would support a 10-year permit term if the flexibility only applied to a subset of the NPDES universe – for example “minors with good compliance histories.” One state highly recommends very clear, explicit statutory language to limit implementation inconsistencies and reduce political pressure.

All states indicated opposition to **requiring** 10-year permits.

Implementations Observations/Considerations/Concerns

- The number of permits has increased, as has the NPDES program’s complexity.
- The application and reissuance processes have gotten more burdensome.
- The public has gotten more knowledgeable and litigious.
- Noncore elements of the CWA programs have become higher priorities.
- State permitting programs allow for longer-term permits, as do other national environmental programs.
- Could improve program flexibility and administrative efficiency.
- Could be used as an incentive or benefit for improving compliance.
- Opening the CWA could lead to a number of statutory updates that fall far outside of our control.
- Opening up state environmental legislation/regulation could snowball into unrequested changes.
- National implementation inconsistencies could lead to program implementation and authorization challenges.
- Some states need statutory and/or regulatory update before flexibility could be implemented.
- Not providing criteria for when a 10-year permit is appropriate increases permit authority flexibility but also leaves the permitting program vulnerable to political pressure.
- There may be value in explicitly stating in statute or regulation when a 10 year permit is never going to be an option available.
- There will be opposition to the longer time undermining the ability to update permits to include new ELGs, WQS, TMDLs, etc. There may be perceived and real-world delays.
- The recent *Loper Bright* decisions warrants consideration as deference to EPA is not guaranteed and courts may decide for states when 10 year permits are allowed. Some states have statutes that limit their own discretion (“no more stringent than”).
- Inconsistent adoption and implementation could create disparity between states creating the perception that some states are more business friendly.
- There would likely be more permit modification requests from the permittees who will not want to wait for the next permit to be issued. Would we need stronger, standardized, reopener and modification clauses?
- A lot of things can happen in a 10-year period. Permit modifications can be just as challenging and just as resource intensive as permit renewal and the administrative burden can deter modification, even when environmentally responsible.
- Workload might shift around. Would you need as many permit writers? Would there be a significant increase in need every 10 years? How do you avoid creating a “pig in a python” effect?
- How would this affect backlog? Initially it might go down but only if the workload is staggered and adequately supported.

- Some state permit fee programs fund a significant portion of the state's NPDES work. How would you address the revenue change? A decrease might mean fewer inspections and less compliance assistance.
- Use of data that is >5 years old but still within the current permit period is not likely helpful/desired but may be viewed as "new information" for a 10-year permit.
- Direct engagement with permittees may be less frequent generally for 10-year permits.
- There is not much information out there regarding the environmental impacts of longer term NPDES permits.
- Some states have used 10-year state permits and can provide examples where they have seen successes and a couple of state permits where things did not go as smoothly as hoped.
- 10-Year permits for general permits would be really helpful but could also appear riskier to the public and will likely raise significant concerns for environmental groups in some states.
- There will be less opportunity to engage with tribes, the public, and neighboring states. EPA will have fewer opportunities to provide feedback and/or object.
- Would there need to be other targeted CWA changes to address sampling frequency/requirements, etc.
- There may be advantages to simply changing the number 5 to 10 in the statute, and then using regulations to put high level guard rails in place, which allow the state discretion to implement conditions/criteria.
- States utilizing a watershed-based approach for sampling, assessment, and permitting would be more greatly impacted as would impact all programs. This would have enormous impacts on staffing resources.
- Permit fee programs would be detrimentally impacted as less frequent applications would occur. State legislature might view this as an opportunity to further cut funding since less frequent permit renewals.
- There could conceivably be 3 WQS Triennial Reviews occur during a 10-year period cycle. Similarly, streams are more likely to be upgraded or downgraded during a longer permit cycle and longer permits could allow be allowing more pollution than desired. This would require more frequent permit modifications than originally envisioned for the programs.
- Permits administratively continued for 5 years+ tend to be the most dated permits in the program and get a lot of attention from outside stakeholders.
- There is already a fairly fast turnover rate for permit writers in our state (5 years or less). 10-year permits would almost guarantee a loss of institutional knowledge and a new permit writer every time renewal comes up.
- In our state, application review is also a tool for providing facility oversight and less frequent applications would yield less oversight.
- In some states there is a linkage between municipal permits and national pretreatment program limits, local limits, and pass through limits that are well synchronized with timing of NPDES permit issuance.
- How do 10-year permits impact inspections, program reviews, audits, and other forms of oversight?
- For states with highly controlled flows, upstream decisions on dams and reservoirs may significantly impact the receiving waters flow regime and 10 years will be too long to wait to update the permit. Changes in flow are also impacted landscape changes, development, and by climate change.
- Mining permits in our state are modified 2-3 times in a 5-year permit term. Longer terms will result in more modification per permit term.
- There needs to be consideration for how longer permit terms increase protection of waters as mandated by the CWA.
- Longer permit terms are a band aid solution that could have real, detrimental downstream water quality impacts and could slow progress in maintaining and/or improving water quality in our state.
- Federal funding of state programs has failed to keep pace with inflation, much less growth and enhanced complexity of state programs.
- Improved federal funding resolves all concerns articulated for why 10-year permits are needed.



Resolution 24-2
September 6, 2024
Newport, Rhode Island

As certified by
Ben Grumbles
Executive Director

INCREASING THE LENGTH OF NPDES PERMITS TO A MAXIMUM OF TEN YEARS

WHEREAS, the federal Clean Water Act (CWA) created the National Pollutant Discharge Elimination System (NPDES) in 1972, controlling water pollution by regulating point sources that discharge pollutants to waters of the United States; and

WHEREAS, the CWA 33 U.S.C. 1342(b)(1)(B) indicates NPDES permits “are for fixed terms not exceeding five years”; and

WHEREAS, forty-seven states are now authorized to implement all or most of the CWA NPDES permit program; and

WHEREAS, the scope of the NPDES program, including the number and type of sources needing permits, the complexity of those permits, and the NPDES permit issuance/reissuance process, has significantly increased since 1972; and

WHEREAS, the U.S. Environmental Protection Agency (U.S. EPA) does not have a focus on implementation of core program activities where states have approved CWA programs but instead has an oversight role; and

WHEREAS, states with CWA primacy authority have the ability to reopen, revoke, revise, and reissue CWA permits to ensure appropriate standards and limits are in the permits; and

WHEREAS, 42 U.S.C. §6925 (c)(3) requires Resource Conservation and Recovery Act (RCRA) permits for the treatment, storage, or disposal of hazardous waste to be for a “fixed term, not to exceed 10 years... [and] Nothing in this subsection shall preclude the Administrator from reviewing and modifying a permit at any time during its term,” and some states have created 10-year state water pollution control permit programs for Concentrated Animal Feeding Operations where 5-year NPDES permits are not required; and

WHEREAS, federal funding and regulatory program support for states – the primary implementers and enforcers of the nation’s environmental laws – is critically needed for states to maintain robust, legally defensible, federally authorized programs; and

WHEREAS, although states continue to focus on reducing permit backlogs, states struggle to fully implement a timely and appropriate permitting program as federal funding for the program is not keeping pace with program growth and complexity, increasing federal requirements, and inflationary costs; and

WHEREAS, states remain challenged by a competitive environment for recruiting and retaining staff; and

WHEREAS, NPDES permits contain clauses to reopen, modify, revoke and reissue, or terminate permits following proper administrative procedures to update the appropriate requirements (40 CFR 122.62 and 124.5).

NOW, THEREFORE, BE IT RESOLVED THAT THE ENVIRONMENTAL COUNCIL OF THE STATES (ECOS):

Supports amending the federal Clean Water Act 33 U.S.C. 1342(b)(1)(B) to indicate NPDES permits “are for fixed terms not exceeding 10 years” to allow states greater flexibility, administrative efficiency, and permit authority discretion in setting an appropriate permit length up to 10 years; and

Supports discussions among states and U.S. EPA on the range of criteria and practices NPDES authorities and other environmental permitting program authorities have used or might consider using in setting permit terms beyond 5 years and in negotiating re-opener clauses.

Tab N – Good Samaritan Legislation



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

September 23, 2024

The Honorable Mike Johnson, Speaker of the House
U.S. House of Representatives
Washington, DC 20515

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

RE: Good Samaritan Remediation of Abandoned Hardrock Mines Act (H.R. 7779)

Dear Speaker of the House Johnson, Majority Leader Scalise and Democratic Leader Jeffries,

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 (H.R. 7779). 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 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 H.R. 7779 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 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 that reads "Tony Willardson".

Tony Willardson
Executive Director

cc: Western Members of:

House Committee on Energy and Commerce
House Committee on Natural Resources
House Committee on Transportation and Infrastructure



**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.

H. R. 7779
Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024
<https://www.congress.gov/bill/118th-congress/house-bill/7779/text>

To promote remediation of abandoned hardrock mines, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

March 21, 2024

Ms. Maloy (for herself, Mrs. Peltola, Mr. Curtis, Ms. Lee of Nevada, Mr. Fulcher, Mr. Costa, and Mr. Moore of Utah) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Energy and Commerce, and Natural Resources, 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 promote remediation of abandoned hardrock mines, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Short title.

This Act may be cited as the “Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024”.

SEC. 2. Definitions.

In this Act:

(1) ABANDONED HARDROCK MINE SITE.—

(A) IN GENERAL.—The term “abandoned hardrock mine site” means an abandoned or inactive hardrock mine site and any facility associated with an abandoned or inactive hardrock mine site—

(i) that was used for the production of a mineral other than coal conducted on Federal land under sections 2319 through 2352 of the Revised Statutes (commonly known as the “Mining Law of 1872”; [30 U.S.C. 22 et seq.](#)) or on non-Federal land; and

(ii) for which, based on information supplied by the Good Samaritan after review of publicly available data and after review of other information in the possession of the Administrator, the Administrator or, in the case of a site on land owned by the United States, the Federal land management agency, determines that no responsible owner or operator has been identified—

(I) who is potentially liable for, or has been required to perform or pay for, environmental remediation activities under applicable law; and

(II) other than, in the case of a mine site located on land owned by the United States, a Federal land management agency that has not been involved in mining activity on that land, except that the approval of a plan of operations under the hardrock mining regulations of the applicable Federal land management agency shall not be considered involvement in the mining activity.

(B) INCLUSION.—The term “abandoned hardrock mine site” includes a hardrock mine site (including associated facilities) that was previously the subject of a completed response action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9601 et seq.](#)) or a similar Federal and State reclamation or cleanup program, including the remediation of mine-scarred land under the brownfields revitalization program under section 104(k) of that Act ([42 U.S.C. 9604\(k\)](#)).

(C) EXCLUSIONS.—The term “abandoned hardrock mine site” does not include a mine site (including associated facilities)—

(i) in a temporary shutdown or cessation;

(ii) included on the National Priorities List developed by the President in accordance with section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9605\(a\)\(8\)\(B\)](#)) or proposed for inclusion on that list;

(iii) that is the subject of a planned or ongoing response action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9601 et seq.](#)) or a similar Federal and State reclamation or cleanup program;

(iv) that has a responsible owner or operator; or

(v) that actively mined or processed minerals after December 11, 1980.

(2) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(3) APPLICABLE WATER QUALITY STANDARDS.—The term “applicable water quality standards” means the water quality standards promulgated by the Administrator or adopted by a State or Indian tribe and approved by the Administrator pursuant to the Federal Water Pollution Control Act ([33 U.S.C. 1251 et seq.](#)).

(4) BASELINE CONDITIONS.—The term “baseline conditions” means the concentrations, locations, and releases of any hazardous substances, pollutants, or contaminants, as described in the Good Samaritan permit, present at an abandoned hardrock mine site prior to undertaking any action under this Act.

(5) COOPERATING PERSON.—

(A) IN GENERAL.—The term “cooperating person” means any person that is named by the Good Samaritan in the permit application as a cooperating entity.

(B) EXCLUSIONS.—The term “cooperating person” does not include—

(i) a responsible owner or operator with respect to the abandoned hardrock mine site described in the permit application;

(ii) a person that had a role in the creation of historic mine residue at the abandoned hardrock mine site described in the permit application; or

(iii) a Federal agency.

(6) COVERED PERMIT.—The term “covered permit” means—

(A) a Good Samaritan permit; and

(B) an investigative sampling permit.

(7) FEDERAL LAND MANAGEMENT AGENCY.—The term “Federal land management agency” means any Federal agency authorized by law or executive order to exercise jurisdiction, custody, or control over land owned by the United States.

(8) GOOD SAMARITAN.—The term “Good Samaritan” means a person that, with respect to historic mine residue, as determined by the Administrator—

(A) is not a past or current owner or operator of—

(i) the abandoned hardrock mine site at which the historic mine residue is located; or

(ii) a portion of that abandoned hardrock mine site;

(B) had no role in the creation of the historic mine residue; and

(C) is not potentially liable under any Federal, State, Tribal, or local law for the remediation, treatment, or control of the historic mine residue.

(9) GOOD SAMARITAN PERMIT.—The term “Good Samaritan permit” means a permit granted by the Administrator under section 4(a)(1).

(10) HISTORIC MINE RESIDUE.—

(A) IN GENERAL.—The term “historic mine residue” means mine residue or any condition at an abandoned hardrock mine site resulting from hardrock mining activities.

(B) INCLUSIONS.—The term “historic mine residue” includes—

(i) previously mined ores and minerals other than coal that contribute to acid mine drainage or other pollution;

(ii) equipment (including materials in equipment);

(iii) any tailings facilities, heap leach piles, dump leach piles, waste rock, overburden, slag piles, or other waste or material resulting from any extraction, beneficiation, or other processing activity that occurred during the active operation of an abandoned hardrock mine site;

(iv) any acidic or otherwise polluted flow in surface water or groundwater that originates from, or is pooled and contained in, an inactive or abandoned hardrock mine site, such as underground workings, open pits, in-situ leaching operations, ponds, or impoundments;

(v) any hazardous substance (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9601](#)));

(vi) any pollutant or contaminant (as defined in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9601](#))); and

(vii) any pollutant (as defined in section 502 of the Federal Water Pollution Control Act ([33 U.S.C. 1362](#))).

(11) INDIAN TRIBE.—The term “Indian tribe” has the meaning given the term in—

(A) section 518(h) of the Federal Water Pollution Control Act ([33 U.S.C. 1377\(h\)](#)); or

(B) section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9601](#)).

(12) INVESTIGATIVE SAMPLING PERMIT.—The term “investigative sampling permit” means a permit granted by the Administrator under section 4(d)(1).

(13) PERSON.—The term “person” means any entity described in—

(A) section 502(5) of the Federal Water Pollution Control Act ([33 U.S.C. 1362\(5\)](#)); or

(B) section 101(21) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9601\(21\)](#)).

(14) REMEDIATION.—

(A) IN GENERAL.—The term “remediation” means any action taken to investigate, characterize, or cleanup, in whole or in part, a discharge, release, or threat of release of a hazardous substance, pollutant, or contaminant into the environment at or from an abandoned hardrock mine site, or to otherwise protect and improve human health and the environment.

(B) INCLUSION.—The term “remediation” includes any action to remove, treat, or contain historic mine residue to prevent, minimize, or reduce—

(i) the release or threat of release of a hazardous substance, pollutant, or contaminant that would harm human health or the environment; or

(ii) a migration or discharge of a hazardous substance, pollutant, or contaminant that would harm human health or the environment.

(C) EXCLUSION.—The term “remediation” does not include any action that requires plugging, opening, or otherwise altering the portal or adit of the abandoned hardrock mine site.

(15) RESERVATION.—The term “reservation” has the meaning given the term “Indian country” in section 1151 of title 18, United States Code.

(16) RESPONSIBLE OWNER OR OPERATOR.—The term “responsible owner or operator” means a person that is—

(A) (i) legally responsible under section 301 of the Federal Water Pollution Control Act ([33 U.S.C. 1311](#)) for a discharge that originates from an abandoned hardrock mine site; and

(ii) financially able to comply with each requirement described in that section; or

(B) (i) a present or past owner or operator or other person that is liable with respect to a release or threat of release of a hazardous substance, pollutant, or contaminant associated with the historic mine residue at or from an abandoned hardrock mine site under section 104, 106, 107, or 113 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9604](#), 9606, 9607, 9613); and

(ii) financially able to comply with each requirement described in those sections, as applicable.

SEC. 3. Scope.

Nothing in this Act—

(1) except as provided in section 4(n), reduces any existing liability under Federal, State, or local law;

(2) except as provided in section 4(n), releases any person from liability under Federal, State, or local law, except in compliance with this Act;

(3) authorizes the conduct of any mining or processing other than the conduct of any processing of previously mined ores, minerals, wastes, or other materials that is authorized by a Good Samaritan permit;

(4) imposes liability on the United States or a Federal land management agency pursuant to section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9607](#)) or section 301 of the Federal Water Pollution Control Act ([33 U.S.C. 1311](#)); or

(5) relieves the United States or any Federal land management agency from any liability under section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9607](#)) or section 301 of the Federal Water Pollution Control Act ([33 U.S.C. 1311](#)) that exists apart from any action undertaken pursuant to this Act.

SEC. 4. Abandoned hardrock mine site Good Samaritan pilot project authorization.

(a) Establishment.—

(1) IN GENERAL.—The Administrator shall establish a pilot program under which the Administrator shall grant not more than 15 Good Samaritan permits to carry out projects to remediate historic mine residue at any portions of abandoned hardrock mine sites in accordance with this Act.

(2) OVERSIGHT OF PERMITS.—The Administrator may oversee the remediation project under paragraph (1), and any action taken by the applicable Good Samaritan or any cooperating person under the applicable Good Samaritan permit, for the duration of the Good Samaritan permit, as the Administrator determines to be necessary to review the status of the project.

(3) SUNSET.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the pilot program described in paragraph (1) shall terminate on the date that is 7 years after the date of enactment of this Act.

(B) EXCEPTION.—Notwithstanding subparagraph (A), the Administrator may grant a Good Samaritan permit pursuant to this Act after the date identified in subparagraph (A) if the application for the Good Samaritan permit—

(i) was submitted not later than 180 days before that date; and

(ii) was completed in accordance with subsection (c) by not later than 7 years after the date of enactment of this Act.

(C) EFFECT ON CERTAIN PERMITS.—Any Good Samaritan permit granted by the deadline prescribed in subparagraph (A) or (B), as applicable, that is in effect on the date that is 7 years after the date of enactment of this Act shall remain in effect after that date in accordance with—

(i) the terms and conditions of the Good Samaritan permit; and

(ii) this Act.

(b) Good Samaritan permit eligibility.—

(1) IN GENERAL.—To be eligible to receive a Good Samaritan permit to carry out a project to remediate an abandoned hardrock mine site, a person shall demonstrate that, as determined by the Administrator—

(A) the abandoned hardrock mine site that is the subject of the application for a Good Samaritan permit is located in the United States;

(B) the purpose of the proposed project is the remediation at that abandoned hardrock mine site of historic mine residue;

(C) the proposed activities are designed to result in the partial or complete remediation of historic mine residue at the abandoned hardrock mine site within the term of the Good Samaritan permit;

(D) the proposed project poses a low risk to the environment, as determined by the Administrator;

(E) to the satisfaction of the Administrator, the person—

(i) possesses, or has the ability to secure, the financial and other resources necessary—

(I) to complete the permitted work, as determined by the Administrator; and

(II) to address any contingencies identified in the Good Samaritan permit application described in subsection (c);

(ii) possesses the proper and appropriate experience and capacity to complete the permitted work; and

(iii) will complete the permitted work; and

(F) the person is a Good Samaritan with respect to the historic mine residue proposed to be covered by the Good Samaritan permit.

(2) IDENTIFICATION OF ALL RESPONSIBLE OWNERS OR OPERATORS.—

(A) IN GENERAL.—A Good Samaritan shall make reasonable and diligent efforts to identify, from a review of publicly available information in land records or on internet websites of Federal, State, and local regulatory authorities, all responsible owners or operators of an abandoned hardrock mine site proposed to be remediated by the Good Samaritan under this section.

(B) EXISTING RESPONSIBLE OWNER OR OPERATOR.—If the Administrator determines, based on information provided by a Good Samaritan or otherwise, that a responsible owner or operator exists for an abandoned hardrock mine site proposed to be remediated by the Good Samaritan, the Administrator shall deny the application for a Good Samaritan permit.

(c) Application for permits.—To obtain a Good Samaritan permit, a person shall submit to the Administrator an application, signed by the person and any cooperating person, that provides, to the extent known or reasonably discoverable by the person on the date on which the application is submitted—

(1) a description of the abandoned hardrock mine site (including the boundaries of the abandoned hardrock mine site) proposed to be covered by the Good Samaritan permit;

(2) a description of all parties proposed to be involved in the remediation project, including any cooperating person and each member of an applicable corporation, association, partnership, consortium, joint venture, commercial entity, or nonprofit association;

(3) evidence that the person has or will acquire all legal rights or the authority necessary to enter the relevant abandoned hardrock mine site and perform the remediation described in the application;

(4) a detailed description of the historic mine residue to be remediated;

(5) a detailed description of the expertise and experience of the person and the resources available to the person to successfully implement and complete the remediation plan under paragraph (7);

(6) to the satisfaction of the Administrator and subject to subsection (d), a description of the baseline conditions caused by the historic mine residue to be remediated that includes—

(A) the nature and extent of any adverse impact on the water quality of any body of water caused by the drainage of historic mine residue or other discharges from the abandoned hardrock mine site;

(B) the flow rate and concentration of any drainage of historic mine residue or other discharge from the abandoned hardrock mine site in any body of water that has resulted in an adverse impact described in subparagraph (A); and
(C) any other release or threat of release of historic mine residue that has resulted in an adverse impact to human health or the environment;

(7) subject to subsection (d), a remediation plan for the abandoned hardrock mine site that describes—

(A) the nature and scope of the proposed remediation activities, including—

(i) any historic mine residue to be addressed by the remediation plan; and

(ii) a description of the goals of the remediation including, if applicable, with respect to—

(I) the reduction or prevention of a release, threat of release, or discharge to surface waters; or

(II) other appropriate goals relating to water or soil;

(B) each activity that the person proposes to take that is—

(i) designed to—

(I) improve or enhance water quality or site-specific soil or sediment quality relevant to the historic mine residue addressed by the remediation plan, including making measurable progress toward achieving applicable water quality standards; or

(II) otherwise protect human health and the environment (including through the prevention of a release, discharge, or threat of release to water, sediment, or soil); and

(ii) otherwise necessary to carry out an activity described in subclause (I) or (II) of clause (i);

(C) a plan describing the monitoring or other forms of assessment that will be undertaken by the person to evaluate the success of the activities described in subparagraph (A) during and after the remediation, with respect to the baseline conditions, as described in paragraph (6);

(D) to the satisfaction of the Administrator, detailed engineering plans for the project;

(E) detailed plans for any proposed recycling or reprocessing of historic mine residue to be conducted by the person (including a description of how all proposed recycling or reprocessing activities contribute to the remediation of the abandoned hardrock mine site); and

(F) identification of any proposed contractor that will perform any remediation activity;

(8) subject to subsection (d), a schedule for the work to be carried out under the project, including a schedule for periodic reporting by the person on the remediation of the abandoned hardrock mine site;

(9) a health and safety plan that is specifically designed for mining remediation work;

(10) a specific contingency plan that—

(A) includes provisions on response and notification to Federal, State, Tribal, and local authorities with jurisdiction over downstream waters that have the potential to be impacted by an unplanned release or discharge of hazardous substances, pollutants, or contaminants; and

(B) is designed to respond to unplanned adverse events (such as adverse weather events or a potential fluid release that may result from addressing pooled water or hydraulic pressure situations), including the sudden release of historic mine residue;

(11) subject to subsection (d), a project budget and description of financial resources that demonstrate that the permitted work, including any operation and maintenance, will be completed;

(12) subject to subsection (d), information demonstrating that the applicant has the financial resources to carry out the remediation (including any long-term monitoring that may be required by the Good Samaritan permit) or the ability to secure an appropriate third-party financial assurance, as determined by the Administrator, to ensure completion of the permitted work, including any long-term operations and maintenance of remediation activities that may be—

(A) proposed in the application for the Good Samaritan permit; or

(B) required by the Administrator as a condition of granting the permit;

(13) subject to subsection (d), a detailed plan for any required operation and maintenance of any remediation, including a timeline, if necessary;

(14) subject to subsection (d), a description of any planned post-remediation monitoring, if necessary; and

(15) subject to subsection (d), any other appropriate information, as determined by the Administrator or the applicant.

(d) Investigative sampling.—

(1) INVESTIGATIVE SAMPLING PERMITS.—The Administrator may grant an investigative sampling permit for a period determined by the Administrator to authorize a Good Samaritan to conduct investigative sampling of historic mine residue, soil, sediment, or water to determine—

(A) baseline conditions; and

(B) whether the Good Samaritan—

- (i) is willing to perform further remediation to address the historic mine residue; and
- (ii) will proceed with a permit conversion under subsection (e)(1).

(2) NUMBER OF PERMITS.—

(A) LIMITATION.— Subject to subparagraph (B), the Administrator may grant not more than 15 investigative sampling permits.

(B) APPLICABILITY TO CONVERTED PERMITS.—An investigative sampling permit that is not converted to a Good Samaritan permit pursuant to paragraph (5) may be eligible for reissuance by the Administrator subject to the overall total of not more than 15 investigative sampling permits allowed at any 1 time described in subparagraph (A).

(3) APPLICATION.—If a Good Samaritan proposes to conduct investigative sampling, the Good Samaritan shall submit to the Administrator an investigative sampling permit application that contains, to the satisfaction of the Administrator—

(A) each description required under paragraphs (1), (2), and (5) of subsection (c);

(B) to the extent reasonably known to the applicant, any previously documented water quality data describing conditions at the abandoned hardrock mine site;

(C) the evidence required under subsection (c)(3);

(D) each plan required under paragraphs (9) and (10) of subsection (c); and

(E) a detailed plan of the investigative sampling.

(4) REQUIREMENTS.—

(A) IN GENERAL.—If a person submits an application that proposes only investigative sampling of historic mine residue, soil, sediment, or water that only includes the requirements described in paragraph (1), the Administrator may grant an investigative sampling permit that authorizes the person only to carry out the plan of investigative sampling of historic mine residue, soil, sediment, or water, as described in the investigative sampling permit application under paragraph (3).

(B) REPROCESSING.—An investigative sampling permit—

(i) shall not authorize a Good Samaritan or cooperating person to conduct any reprocessing of material; and

(ii) may authorize metallurgical testing of historic mine residue to determine whether reprocessing under subsection (f)(4)(B) is feasible.

(C) REQUIREMENTS RELATING TO SAMPLES.—In conducting investigative sampling of historic mine residue, soil, sediment, or water, a Good Samaritan shall—

(i) collect samples that are representative of the conditions present at the abandoned hardrock mine site that is the subject of the investigative sampling permit; and

(ii) retain publicly available records of all sampling events for a period of not less than 3 years.

(5) PERMIT CONVERSION.—Not later than 1 year after the date on which the investigative sampling under the investigative sampling permit concludes, a Good Samaritan to whom an investigative sampling permit is granted under paragraph (1) may apply to convert an investigative sampling permit into a Good Samaritan permit under subsection (e)(1).

(6) PERMIT NOT CONVERTED.—

(A) IN GENERAL.—Subject to subparagraph (B)(ii)(I), a Good Samaritan who obtains an investigative sampling permit may decline—

(i) to apply to convert the investigative sampling permit into a Good Samaritan permit under paragraph (5); and

(ii) to undertake remediation activities on the site where investigative sampling was conducted on conclusion of investigative sampling.

(B) EFFECT OF LACK OF CONVERSION.—

(i) IN GENERAL.—Notwithstanding a refusal by a Good Samaritan to convert an investigative sampling permit into a Good Samaritan permit under subparagraph (A), but subject to clause (ii), the provisions of paragraphs (1) through (4) of subsection (n) shall continue to apply to the Good Samaritan and any cooperating persons after the refusal to convert.

(ii) DEGRADATION OF SURFACE WATER QUALITY.—

(I) OPPORTUNITY TO CORRECT.—If, before the date on which a Good Samaritan refuses to convert an investigative sampling permit under subparagraph (A), actions by the Good Samaritan or any cooperating person have caused conditions at the abandoned hardrock mine site to be measurably worse, as determined by the Administrator, when compared to conditions described pursuant to paragraph (3)(B), if applicable, the Administrator shall provide the Good Samaritan or cooperating person, as applicable, the opportunity to return the conditions at the abandoned hardrock mine site to those conditions.

(II) EFFECT.—If, pursuant to subclause (I), the applicable Good Samaritan or cooperating person does not return the surface water quality at the abandoned hardrock mine site to conditions described pursuant to paragraph (3)(B), if applicable, as determined by the Administrator, clause (i) shall not apply to the Good Samaritan or any cooperating persons.

(e) Investigative sampling conversion.—

(1) IN GENERAL.—A person to which an investigative sampling permit was granted may submit to the Administrator an application in accordance with paragraph (2) to convert the investigative sampling permit into a Good Samaritan permit.

(2) APPLICATION.—

(A) INVESTIGATIVE SAMPLING.—An application for the conversion of an investigative sampling permit under paragraph (1) shall include any requirement described in subsection (c) that was not included in full in the application submitted under subsection (d)(3).

(B) PUBLIC NOTICE AND COMMENT.—An application for permit conversion under this paragraph shall be subject to—

(i) environmental review and public comment procedures required by subsection (l); and

(ii) a public hearing, if requested.

(f) Content of permits.—

(1) IN GENERAL.—A Good Samaritan permit shall contain—

(A) the information described in subsection (c), including any modification required by the Administrator;

(B) (i) a provision that states that the Good Samaritan is responsible for securing, for all activities authorized under the Good Samaritan permit, all authorizations, licenses, and permits that are required under applicable law except for—

(I) section 301, 302, 306, 307, 402, or 404 of the Federal Water Pollution Control Act ([33 U.S.C. 1311](#), 1312, 1316, 1317, 1342, 1344); and

(II) authorizations, licenses, and permits that would not need to be obtained if the remediation was conducted pursuant to section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9621](#)); or

(ii) in the case of an abandoned hardrock mine site in a State that is authorized to implement State law pursuant to section 402 or 404 of the Federal Water Pollution Control Act ([33 U.S.C. 1342](#), 1344) or on land of an Indian tribe that is authorized to implement Tribal law pursuant to that section, a provision that states that the Good Samaritan is responsible for securing, for all activities authorized under the Good Samaritan permit, all authorizations, licenses, and permits that are required under applicable law, except for—

(I) the State or Tribal law, as applicable; and

(II) authorizations, licenses, and permits that would not need to be obtained if the remediation was conducted pursuant to section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9621](#));

(C) specific public notification requirements, including the contact information for all appropriate response centers in accordance with subsection (o);

(D) in the case of a project on land owned by the United States, a notice that the Good Samaritan permit serves as an agreement for use and occupancy of Federal land that is enforceable by the applicable Federal land management agency; and

(E) any other terms and conditions determined to be appropriate by the Administrator or the Federal land management agency, as applicable.

(2) FORCE MAJEURE.—A Good Samaritan permit may include, at the request of the Good Samaritan, a provision that a Good Samaritan may assert a claim of force majeure for any violation of the Good Samaritan permit caused solely by—

(A) an act of God;

(B) an act of war;

(C) negligence on the part of the United States;

(D) an act or omission of a third party, if the Good Samaritan—

(i) exercises due care with respect to the actions of the Good Samaritan under the Good Samaritan permit, as determined by the Administrator;

(ii) took precautions against foreseeable acts or omissions of the third party, as determined by the Administrator; and

(iii) uses reasonable efforts—

(I) to anticipate any potential force majeure; and

(II) to address the effects of any potential force majeure; or

(E) a public health emergency declared by the Federal Government or a global government, such as a pandemic or an epidemic.

(3) MONITORING.—

(A) IN GENERAL.—The Good Samaritan shall take such actions as the Good Samaritan permit requires to ensure appropriate baseline conditions monitoring, monitoring during the remediation project, and post-remediation monitoring of the environment under paragraphs (7) and (14) of subsection (c).

(B) MULTIPARTY MONITORING.—The Administrator may approve in a Good Samaritan permit the monitoring by multiple cooperating persons if, as determined by the Administrator—

(i) the multiparty monitoring will effectively accomplish the goals of this section; and

(ii) the Good Samaritan remains responsible for compliance with the terms of the Good Samaritan permit.

(4) OTHER DEVELOPMENT.—

(A) NO AUTHORIZATION OF MINING ACTIVITIES.—No mineral exploration, processing, beneficiation, or mining shall be—

(i) authorized by this Act; or

(ii) covered by any waiver of liability provided by this Act from applicable law.

(B) REPROCESSING OF MATERIALS.—A Good Samaritan may reprocess materials recovered during the implementation of a remediation plan only if—

(i) the project under the Good Samaritan permit is on land owned by the United States;

(ii) the applicable Federal land management agency has signed a decision document under subsection (l)(2)(G) approving reprocessing as part of a remediation plan;

(iii) the proceeds from the sale or use of the materials are used—

(I) to defray the costs of the remediation; and

(II) to the extent required by the Good Samaritan permit, to reimburse the Administrator or the head of a Federal land management agency for the purpose of carrying out this Act;

(iv) any remaining proceeds are deposited into the appropriate Good Samaritan Mine Remediation Fund established by section 5(a); and

(v) the materials only include historic mine residue.

(C) CONNECTION WITH OTHER ACTIVITIES.—The commingling or association of any other discharge of water or historic mine residue or any activity, project, or operation conducted on or after the date of enactment of this Act with any aspect of a project subject to a Good Samaritan permit shall not limit or reduce the liability of any person associated with the other discharge of water or historic mine residue or activity, project, or operation.

(g) Additional work.—A Good Samaritan permit may (subject to subsection (r)(5) in the case of a project located on Federal land) allow the Good Samaritan to return to the abandoned hardrock mine site after the completion of the remediation to perform operations and maintenance or other work—

(1) to ensure the functionality of completed remediation activities at the abandoned hardrock mine site; or

(2) to protect public health and the environment.

(h) Timing.—Work authorized under a Good Samaritan permit—

(1) shall commence, as applicable—

(A) not later than the date that is 18 months after the date on which the Administrator granted the Good Samaritan permit, unless the Administrator grants an extension under subsection (r)(2)(A); or

(B) if the grant of the Good Samaritan permit is the subject of a petition for judicial review, not later than the date that is 18 months after the date on which the judicial review, including any appeals, has concluded; and

(2) shall continue until completed, with temporary suspensions permitted during adverse weather or other conditions specified in the Good Samaritan permit.

(i) Transfer of permits.—A Good Samaritan permit may be transferred to another person only if—

(1) the Administrator determines that the transferee qualifies as a Good Samaritan;

(2) the transferee signs, and agrees to be bound by the terms of, the permit;

(3) the Administrator includes in the transferred permit any additional conditions necessary to meet the goals of this section; and

(4) in the case of a project under the Good Samaritan permit on land owned by the United States, the head of the applicable Federal land management agency approves the transfer.

(j) Role of administrator and federal land management agencies.—In carrying out this section—

(1) the Administrator shall—

(A) consult with prospective applicants;

(B) convene, coordinate, and lead the application review process;

(C) maintain all records relating to the Good Samaritan permit and the permit process;

(D) in the case of a proposed project on State, Tribal, or private land, provide an opportunity for cooperating persons and the public to participate in the Good Samaritan permit process, including—

- (i) carrying out environmental review and public comment procedures pursuant to subsection (I); and
- (ii) a public hearing, if requested; and

(E) enforce and otherwise carry out this section; and

(2) the head of an applicable Federal land management agency shall—

(A) in the case of a proposed project on land owned by the United States, provide an opportunity for cooperating persons and the public to participate in the Good Samaritan permit process, including—

- (i) carrying out environmental review and public comment procedures pursuant to subsection (I); and
- (ii) a public hearing, if requested; and

(B) in coordination with the Administrator, enforce Good Samaritan permits issued under this section for projects on land owned by the United States.

(k) State, local, and tribal governments.—As soon as practicable, but not later than 14 days after the date on which the Administrator receives an application for the remediation of an abandoned hardrock mine site under this section that, as determined by the Administrator, is complete and meets all applicable requirements of subsection (c), the Administrator shall provide notice and a copy of the application to—

- (1) each local government with jurisdiction over a drinking water utility, and each Indian tribe with reservation or off-reservation treaty rights to land or water, located downstream from or otherwise near a proposed remediation project that is reasonably anticipated to be impacted by the remediation project or a potential release of contaminants from the abandoned hardrock mine site, as determined by the Administrator;
- (2) each Federal, State, and Tribal agency that may have an interest in the application; and
- (3) in the case of an abandoned hardrock mine site that is located partially or entirely on land owned by the United States, the Federal land management agency with jurisdiction over that land.

(l) Environmental review and public comment.—

(1) IN GENERAL.—Before the issuance of a Good Samaritan permit to carry out a project for the remediation of an abandoned hardrock mine site, the Administrator shall ensure that environmental review and public comment procedures are carried out with respect to the proposed project.

(2) RELATION TO NEPA.—

(A) MAJOR FEDERAL ACTION.—Subject to subparagraph (F), the issuance or modification of a Good Samaritan permit by the Administrator shall be considered a major Federal action for purposes of section 102 of the National Environmental Policy Act of 1969 ([42 U.S.C. 4332](#)).

(B) LEAD AGENCY.—The lead agency for purposes of an environmental assessment and public comment under this subsection shall be—

- (i) in the case of a proposed project on land owned by the United States that is managed by only 1 Federal land management agency, the applicable Federal land management agency;
- (ii) in the case of a proposed project entirely on State, Tribal, or private land, the Administrator;
- (iii) in the case of a proposed project partially on land owned by the United States and partially on State, Tribal, or private land, the applicable Federal land management agency; and
- (iv) in the case of a proposed project on land owned by the United States that is managed by more than 1 Federal land management agency, the Federal land management agency selected by the Administrator to be the lead agency, after consultation with the applicable Federal land management agencies.

(C) COORDINATION.—To the maximum extent practicable, the lead agency described in subparagraph (B) shall coordinate procedures under the National Environmental Policy Act of 1969 ([42 U.S.C. 4321 et seq.](#)) with State, Tribal, and Federal cooperating agencies, as applicable.

(D) COOPERATING AGENCY.—In the case of a proposed project on land owned by the United States, the Administrator shall be a cooperating agency for purposes of an environmental assessment and public comment under this subsection.

(E) SINGLE NEPA DOCUMENT.—The lead agency described in subparagraph (B) may conduct a single environmental assessment for—

- (i) the issuance of a Good Samaritan permit;
- (ii) any activities authorized by a Good Samaritan permit; and
- (iii) any applicable permits required by the Secretary of the Interior or the Secretary of Agriculture.

(F) NO SIGNIFICANT IMPACT.—

(i) IN GENERAL.—A Good Samaritan permit may only be issued if, after an environmental assessment, the head of the lead agency issues a finding of no significant impact (as defined in section 111 of the National Environmental Policy Act of 1969 ([42 U.S.C. 4336e](#))).

(ii) **SIGNIFICANT IMPACT.**—If the head of the lead agency is unable to issue a finding of no significant impact (as so defined), the head of the lead agency shall not issue a Good Samaritan permit for the proposed project.

(G) **DECISION DOCUMENT.**—An approval or denial of a Good Samaritan permit may be issued as a single decision document that is signed by—

(i) the Administrator; and

(ii) in the case of a project on land owned by the United States, the head of the applicable Federal land management agency.

(H) **LIMITATION.**—Nothing in this paragraph exempts the Secretary of Agriculture or the Secretary of the Interior, as applicable, from any other requirements of section 102 of the National Environmental Policy Act of 1969 ([42 U.S.C. 4332](#)).

(m) **Permit grant.**—

(1) **IN GENERAL.**—The Administrator may grant a Good Samaritan permit to carry out a project for the remediation of an abandoned hardrock mine site only if—

(A) the Administrator determines that—

(i) the person seeking the permit is a Good Samaritan;

(ii) the application described in subsection (c) is complete;

(iii) the project is designed to remediate historic mine residue at the abandoned hardrock mine site to protect human health and the environment;

(iv) the proposed project is designed to meet all other goals, as determined by the Administrator, including any goals set forth in the application for the Good Samaritan permit that are accepted by the Administrator;

(v) the proposed activities, as compared to the baseline conditions described in the permit, will make measurable progress toward achieving—

(I) applicable water quality standards;

(II) improved soil quality;

(III) improved sediment quality;

(IV) other improved environmental or safety conditions; or

(V) reductions in threats to soil, sediment, or water quality or other environmental or safety conditions;

(vi) the applicant has—

(I) demonstrated that the applicant has the proper and appropriate experience and capacity to complete the permitted work;

(II) demonstrated that the applicant will complete the permitted work;

(III) the financial and other resources to address any contingencies identified in the Good Samaritan permit application described in subsections (b) and (c);

(IV) granted access and provided the authority to review the records of the applicant relevant to compliance with the requirements of the Good Samaritan permit; and

(V) demonstrated, to the satisfaction of the Administrator, that—

(aa) the applicant has, or has access to, the financial resources to complete the project described in

the Good Samaritan permit application, including any long-term monitoring and operations and maintenance that the Administrator may require the applicant to perform in the Good Samaritan permit; or

(bb) the applicant has established a third-party financial assurance mechanism, such as a corporate guarantee from a parent or other corporate affiliate, letter of credit, trust, surety bond, or insurance to assure that funds are available to complete the permitted work, including for operations and maintenance and to address potential contingencies, that—

(AA) establishes the Administrator or the head of the Federal land management agency as the beneficiary of the third-party financial assurance mechanism; and

(BB) allows the Administrator to retain and use the funds from the financial assurance mechanism in the event the Good Samaritan does not complete the remediation under the Good Samaritan permit; and

(vii) the project meets the requirements of this Act;

(B) the State or Indian tribe with jurisdiction over land on which the abandoned hardrock mine site is located has been given an opportunity to review and, if necessary, comment on the grant of the Good Samaritan permit;

(C) in the case of a project proposed to be carried out under the Good Samaritan permit partially or entirely on land owned by the United States, pursuant to subsection (l), the head of the applicable Federal land management agency has signed a decision document approving the proposed project; and

(D) the Administrator or head of the Federal land management agency, as applicable, has provided—

(i) environmental review and public comment procedures required by subsection (l); and

(ii) a public hearing under that subsection, if requested.

(2) DEADLINE.—

(A) IN GENERAL.—The Administrator shall grant or deny a Good Samaritan permit by not later than—

(i) the date that is 180 days after the date of receipt by the Administrator of an application for the Good Samaritan permit that, as determined by the Administrator, is complete and meets all applicable requirements of subsection (c); or

(ii) such later date as may be determined by the Administrator with notification provided to the applicant.

(B) CONSTRUCTIVE DENIAL.—If the Administrator fails to grant or deny a Good Samaritan permit by the applicable deadline described in subparagraph (A), the application shall be considered to be denied.

(3) DISCRETIONARY ACTION.—The issuance of a permit by the Administrator and the approval of a project by the head of an applicable Federal land management agency shall be considered to be discretionary actions taken in the public interest.

(n) Effect of permits.—

(1) IN GENERAL.—A Good Samaritan and any cooperating person undertaking remediation activities identified in, carried out pursuant to, and in compliance with, a covered permit—

(A) shall be considered to be in compliance with all requirements (including permitting requirements) under the Federal Water Pollution Control Act ([33 U.S.C. 1251 et seq.](#)) (including any law or regulation implemented by a State or Indian tribe under section 402 or 404 of that Act ([33 U.S.C. 1342, 1344](#))) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9601 et seq.](#)) during the term of the covered permit, after the termination of the Good Samaritan permit, and after declining to convert an investigative sampling permit into a Good Samaritan permit, as applicable;

(B) shall not be required to obtain a permit under, or to comply with, section 301, 302, 306, 307, 402, or 404 of the Federal Water Pollution Control Act ([33 U.S.C. 1311, 1312, 1316, 1317, 1342, 1344](#)), or any State or Tribal standards or regulations approved by the Administrator under those sections of that Act, during the term of the covered permit, after the termination of the Good Samaritan permit, and after declining to convert an investigative sampling permit into a Good Samaritan permit, as applicable; and

(C) shall not be required to obtain any authorizations, licenses, or permits that would otherwise not need to be obtained if the remediation was conducted pursuant to section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9621](#)).

(2) UNAUTHORIZED ACTIVITIES.—

(A) IN GENERAL.—Any person (including a Good Samaritan or any cooperating person) that carries out any activity, including activities relating to mineral exploration, processing, beneficiation, or mining, including development, that is not authorized by the applicable covered permit shall be subject to all applicable law.

(B) LIABILITY.—Any activity not authorized by a covered permit, as determined by the Administrator, may be subject to liability and enforcement under all applicable law, including—

(i) the Federal Water Pollution Control Act ([33 U.S.C. 1251 et seq.](#)); and

(ii) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9601 et seq.](#)).

(3) NO ENFORCEMENT OR LIABILITY FOR GOOD SAMARITANS.—

(A) IN GENERAL.—Subject to subparagraphs (D) and (E), a Good Samaritan or cooperating person that is conducting a remediation activity identified in, pursuant to, and in compliance with a covered permit shall not be subject to enforcement or liability described in subparagraph (B) for—

(i) any actions undertaken that are authorized by the covered permit; or

(ii) any past, present, or future releases, threats of releases, or discharges of hazardous substances, pollutants, or contaminants at or from the abandoned hardrock mine site that is the subject of the covered permit (including any releases, threats of releases, or discharges that occurred prior to the grant of the covered permit).

(B) ENFORCEMENT OR LIABILITY DESCRIBED.—Enforcement or liability referred to in subparagraph (A) is enforcement, civil or criminal penalties, citizen suits and any liabilities for response costs, natural resource damage, or contribution under—

(i) the Federal Water Pollution Control Act ([33 U.S.C. 1251 et seq.](#)) (including under any law or regulation administered by a State or Indian tribe under that Act); or

(ii) the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9601 et seq.](#)).

(C) DURATION OF APPLICABILITY.—Subparagraph (A) shall apply during the term of the covered permit, after the termination of the Good Samaritan permit, and after declining to convert an investigative sampling permit into a Good Samaritan permit, as applicable.

(D) OTHER PARTIES.—Nothing in subparagraph (A) limits the liability of any person that is not described in that subparagraph.

(E) **DECLINE IN ENVIRONMENTAL CONDITIONS.**—Notwithstanding subparagraph (A), if a Good Samaritan or cooperating person fails to comply with any term, condition, or limitation of a covered permit and that failure results in surface water quality or other environmental conditions that the Administrator determines are measurably worse than the baseline conditions as described in the permit (in the case of a Good Samaritan permit) or the conditions as described pursuant to subsection (d)(3)(B), if applicable (in the case of an investigative sampling permit), at the abandoned hardrock mine site, the Administrator shall—

- (i) notify the Good Samaritan or cooperating person, as applicable, of the failure to comply; and
- (ii) require the Good Samaritan or the cooperating person, as applicable, to undertake reasonable measures, as determined by the Administrator, to return surface water quality or other environmental conditions to those conditions.

(F) **FAILURE TO CORRECT.**—Subparagraph (A) shall not apply to a Good Samaritan or cooperating person that fails to take any actions required under subparagraph (E)(ii) within a reasonable period of time, as established by the Administrator.

(G) **MINOR OR CORRECTED PERMIT VIOLATIONS.**—For purposes of this paragraph, the failure to comply with a term, condition, or limitation of a Good Samaritan permit or investigative sampling permit shall not be considered a permit violation or noncompliance with that permit if—

- (i) that failure or noncompliance does not result in a measurable adverse impact, as determined by the Administrator, on water quality or other environmental conditions; or

- (ii) the Good Samaritan or cooperating person complies with subparagraph (E)(ii).

(o) **Public notification of adverse event.**—A Good Samaritan shall notify all appropriate Federal, State, Tribal, and local entities of any unplanned or previously unknown release of historic mine residue caused by the actions of the Good Samaritan or any cooperating person in accordance with—

- (1) section 103 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9603](#));

- (2) section 304 of the Emergency Planning and Community Right-To-Know Act of 1986 ([42 U.S.C. 11004](#));

- (3) the Federal Water Pollution Control Act ([33 U.S.C. 1251 et seq.](#));

- (4) any other applicable provision of Federal law; and

- (5) any other applicable provision of State, Tribal, or local law.

(p) **Grant eligibility.**—A remediation project conducted under a Good Samaritan permit shall be eligible for funding pursuant to—

- (1) section 319 of the Federal Water Pollution Control Act ([33 U.S.C. 1329](#)), for activities that are eligible for funding under that section; and

- (2) section 104(k) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ([42 U.S.C. 9604\(k\)](#)), subject to the condition that the recipient of the funding is otherwise eligible under that section to receive a grant to assess or remediate contamination at the site covered by the Good Samaritan permit.

(q) **Emergency authority and liability.**—

- (1) **EMERGENCY AUTHORITY.**—Nothing in this section affects the authority of—

- (A) the Administrator to take any responsive action authorized by law; or

- (B) a Federal, State, Tribal, or local agency to carry out any emergency authority, including an emergency authority provided under Federal, State, Tribal, or local law.

- (2) **LIABILITY.**—Except as specifically provided in this Act, nothing in this Act, a Good Samaritan permit, or an investigative sampling permit limits the liability of any person (including a Good Samaritan or any cooperating person) under any provision of law.

(r) **Termination of Good Samaritan permit.**—

- (1) **IN GENERAL.**—A Good Samaritan permit shall terminate, as applicable—

- (A) on inspection and notice from the Administrator to the recipient of the Good Samaritan permit that the permitted work has been completed in accordance with the terms of the Good Samaritan permit, as determined by the Administrator;

- (B) if the Administrator terminates a permit under paragraph (4)(B); or

- (C) except as provided in paragraph (2)—

- (i) on the date that is 18 months after the date on which the Administrator granted the Good Samaritan permit, if the permitted work has not commenced by that date; or

- (ii) if the grant of the Good Samaritan permit was the subject of a petition for judicial review, on the date that is 18 months after the date on which the judicial review, including any appeals, has concluded, if the permitted work has not commenced by that date.

- (2) **EXTENSION.**—

(A) IN GENERAL.—If the Administrator is otherwise required to terminate a Good Samaritan permit under paragraph (1)(C), the Administrator may grant an extension of the Good Samaritan permit.

(B) LIMITATION.—Any extension granted under subparagraph (A) shall be not more than 180 days for each extension.

(3) EFFECT OF TERMINATION.—

(A) IN GENERAL.—Notwithstanding the termination of a Good Samaritan permit under paragraph (1), but subject to subparagraph (B), the provisions of paragraphs (1) through (4) of subsection (n) shall continue to apply to the Good Samaritan and any cooperating persons after the termination, including to any long-term operations and maintenance pursuant to the agreement under paragraph (5).

(B) DEGRADATION OF SURFACE WATER QUALITY.—

(i) OPPORTUNITY TO RETURN TO BASELINE CONDITIONS.—If, at the time that 1 or more of the conditions described in paragraph (1) are met but before the Good Samaritan permit is terminated, actions by the Good Samaritan or cooperating person have caused surface water quality at the abandoned hardrock mine site to be measurably worse, as determined by the Administrator, when compared to baseline conditions described in the permit, the Administrator shall, before terminating the Good Samaritan permit, provide the Good Samaritan or cooperating person, as applicable, the opportunity to return surface water quality to those baseline conditions.

(ii) EFFECT.—If, pursuant to clause (i), the applicable Good Samaritan or cooperating person does not return the surface water quality at the abandoned hardrock mine site to the baseline conditions described in the permit, as determined by the Administrator, subparagraph (A) shall not apply to the Good Samaritan or any cooperating persons.

(4) UNFORESEEN CIRCUMSTANCES.—

(A) IN GENERAL.—The recipient of a Good Samaritan permit may seek to modify or terminate the Good Samaritan permit to take into account any event or condition that—

(i) significantly reduces the feasibility or significantly increases the cost of completing the remediation project that is the subject of the Good Samaritan permit;

(ii) was not—

(I) reasonably contemplated by the recipient of the Good Samaritan permit; or

(II) taken into account in the remediation plan of the recipient of the Good Samaritan permit; and

(iii) is beyond the control of the recipient of the Good Samaritan permit, as determined by the Administrator.

(B) TERMINATION.—The Administrator shall terminate a Good Samaritan permit if—

(i) the recipient of the Good Samaritan permit seeks termination of the permit under subparagraph (A);

(ii) the factors described in subparagraph (A) are satisfied; and

(iii) the Administrator determines that remediation activities conducted by the Good Samaritan or cooperating person pursuant to the Good Samaritan permit may result in surface water quality conditions, or any other environmental conditions, that will be worse than the baseline conditions, as described in the Good Samaritan permit, as applicable.

(5) LONG-TERM OPERATIONS AND MAINTENANCE.—In the case of a project that involves long-term operations and maintenance at an abandoned hardrock mine site located on land owned by the United States, the project may be considered complete and the Administrator, in coordination with the applicable Federal land management agency, may terminate the Good Samaritan permit under this subsection if the applicable Good Samaritan has entered into an agreement with the applicable Federal land management agency or a cooperating person for the long-term operations and maintenance that includes sufficient funding for the long-term operations and maintenance.

(s) Regulations.—

(1) IN GENERAL.—Subject to paragraph (2), the Administrator, in consultation with the Secretary of the Interior and the Secretary of Agriculture, and appropriate State, Tribal, and local officials, may promulgate any regulations that the Administrator determines to be necessary to carry out this Act.

(2) GUIDANCE IF NO REGULATIONS PROMULGATED.—

(A) IN GENERAL.—If the Administrator does not initiate a regulatory process to promulgate regulations under paragraph (1) within 180 days after the date of enactment of this Act, the Administrator, in consultation with the Secretary of the Interior, the Secretary of Energy, and appropriate State, Tribal, and local officials, shall issue guidance establishing specific requirements that the Administrator determines would facilitate the implementation of this section.

(B) PUBLIC COMMENTS.—Before finalizing any guidance issued under subparagraph (A), the Administrator shall hold a 30-day public comment period.

SEC. 5. Special accounts.

(a) Establishment.—There is established in the Treasury of the United States a Good Samaritan Mine Remediation Fund (referred to in this section as a “Fund”) for—

(1) each Federal land management agency that authorizes a Good Samaritan to conduct a project on Federal land under the jurisdiction of that Federal land management agency under a Good Samaritan permit; and

(2) the Environmental Protection Agency.

(b) Deposits.—Each Fund shall consist of—

(1) amounts provided in appropriation Acts;

(2) any proceeds from reprocessing deposited under section 4(f)(4)(B)(iv);

(3) any financial assurance funds collected from an agreement described in section 4(m)(1)(A)(vi)(V)(bb);

(4) any funds collected for long-term operations and maintenance under an agreement under section 4(r)(5);

(5) any interest earned under an investment under subsection (c);

(6) any proceeds from the sale or redemption of investments held in the Fund; and

(7) any amounts donated to the Fund by any person.

(c) Unused funds.—Amounts in each Fund not currently needed to carry out this Act shall be—

(1) maintained as readily available or on deposit;

(2) invested in obligations of the United States or guaranteed by the United States; or

(3) invested in obligations, participations, or other instruments that are lawful investments for a fiduciary, a trust, or public funds.

(d) Retain and use authority.—The Administrator and each head of a Federal land management agency, as appropriate, may, notwithstanding any other provision of law, retain and use money deposited in the applicable Fund without fiscal year limitation for the purpose of carrying out this Act.

SEC. 6. Report to Congress.

(a) In general.—Not later than 8 years after the date of enactment of this Act, the Administrator, in consultation with the heads of Federal land management agencies, shall submit to the Committee on Environment and Public Works of the Senate and the Committees on Transportation and Infrastructure, Energy and Commerce, and Natural Resources of the House of Representatives a report evaluating the Good Samaritan pilot program under this Act.

(b) Inclusions.—The report under subsection (a) shall include—

(1) a description of—

(A) the number, types, and objectives of Good Samaritan permits granted pursuant to this Act; and

(B) each remediation project authorized by those Good Samaritan permits;

(2) interim or final qualitative and quantitative data on the results achieved under the Good Samaritan permits before the date of issuance of the report;

(3) a description of—

(A) any problems encountered in administering this Act; and

(B) whether the problems have been or can be remedied by administrative action (including amendments to existing law);

(4) a description of progress made in achieving the purposes of this Act; and

(5) recommendations on whether the Good Samaritan pilot program under this Act should be continued, including a description of any modifications (including amendments to existing law) required to continue administering this Act.

Tab O – Groundwater Workshop and Webinars

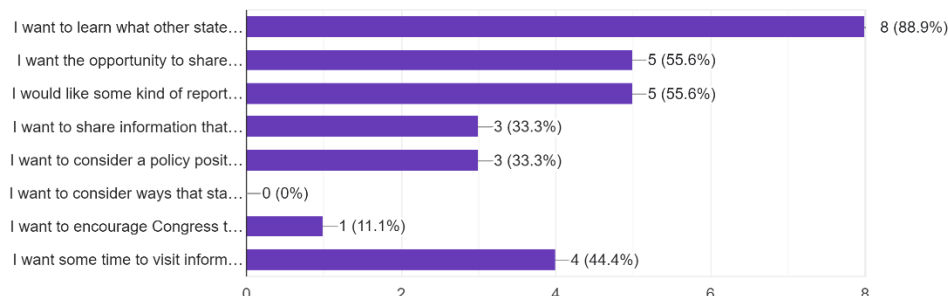
WSWC Groundwater Workshop Survey Results (Summer 2024)

Topics and Outcomes

The Subcommittee's primary interest in the workshop is overwhelmingly for states to share information with each other and to have some time to visit informally with each other.

There is some interest in generating a report from the workshop, in considering a policy position, in using information from the workshop to help educate the public/federal government about what states are doing, and in encouraging Congress to fully fund existing programs that are useful in addressing challenges.

Anticipated Outcomes: Please check all that apply, and add any additional ideas under "Other"
9 responses



The most popular topics from the Subcommittee are: (1) **Conjunctive management**: challenges, developments, successes, curtailments, agreements; (2) **Administrative management areas**: reporting, assessments and decisionmaking, permit moratoria, closed basins, intentional mining, subsidence, recovery; (3) **Groundwater laws**: developments in state legislation, court decisions, new implementation of old laws; (4) **Policies**: voluntary retirement of rights, conservation programs, nonpoint source reduction programs, management through drought; (5) **Aquifer science**: mapping, monitoring, modeling, funding; (6) **Shared Management**: how state and local entities share groundwater management responsibilities; and (7) **Overallocation**: forfeiture procedures, unused paper rights, domestic wells, seasonal ag converted to annual housing developments.¹

Topics of Interest: Please check all that apply, and add any additional topics under "Other" (note: many of these topics could be recombined under alternative headings)
9 responses



¹ This is a large number of topics for one workshop. We may wish to hold a second in-person workshop, or move some of these topics to a virtual webinar series.

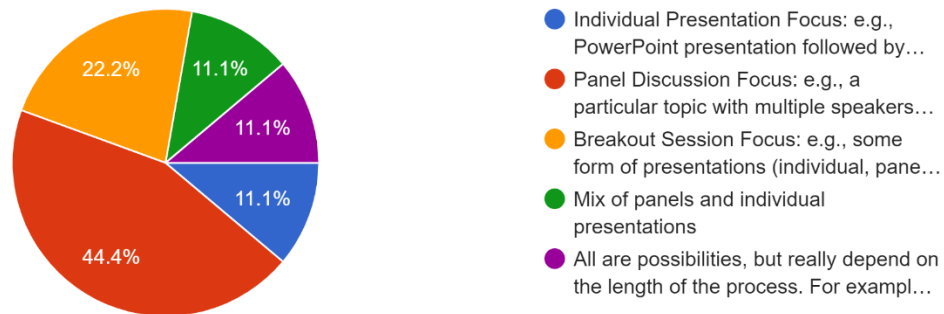
WSWC Groundwater Workshop Survey Results (Summer 2024)

Duration and Format

Most of the Subcommittee members felt that the workshop deserved a full day or multiple workshops/webinars to maximize the benefits to the states. There were mixed results on the preferred format, and it might depend on the topic and speaker(s); for example, some presentations may be better on an individual basis, while discussions/comparisons between states (e.g., a discussion of “best practices” or perspectives on a shared issue) might work better with a panel.

Workshop Format: Please select your preference, or suggest alternatives under "Other"

9 responses



There was some interest in holding breakout group discussions. We might hold a breakout session to do a deeper dive into a particular topic/issue, to consider language or principles for updating WSWC policies/new policies, or to discuss topics to highlight in a report.

There was also interest having some time for informal discussions. We might incorporate some breaks between sessions, or plan a shared lunch to facilitate time for conversations.

Potential Webinar Series

It may be appropriate to host some individual presentations via Zoom recordings² either before or after the meeting for some of the topics of interest with slightly less support from the Subcommittee, but likely still of interest to the broader group: (1) **Groundwater conservation programs**: funding, policies, personnel, challenges, *and the paradox of irrigation efficiencies that lead to greater consumptive use*; (2) **Groundwater recharge**: recycled water, land application, injection wells, storage, recovery, water rights accounting, water quality oversight; (3) **Cross-border management**: how states, local entities, tribes, etc. manage groundwater across jurisdictional boundaries; (4) **Best Practices**: what is working well, what is not; and (5) **Groundwater quality**: point source and nonpoint source pollutants, state protections, programs, domestic wells.³ These recordings could be posted to our website for later sharing and viewing, similar to our WestFAST series of webinars.

² These can be posted to our website for future sharing and viewing.

³ Notably, this Subcommittee was assembled in the Legal Committee and did not initially include Water Quality Committee members; we may want to intentionally do more outreach to the Water Quality Committee and elevate this as part of the in-person workshop to incorporate both quality and quantity folks in the discussion.

WSWC Groundwater Workshop Planning Calls

September 6th and 11th, 2024

Subcommittee Participants

Jeanine Jones (CA)

Mathew Weaver (ID)

Anne Pakenham Stevenson (MT)

Jesse Bradley (NE)

Justin Lavene (NE)

Melissa Flatey (NV)

Raquel Rancier (OR)

Annette Liebe (OR)

Jennifer Wigal (OR)

Jennifer Zygmunt (WY)

Summary of Workshop Recommendations

Information sharing prior to the workshop - Would like a draft report ahead of the workshop to identify some things WSWC already knows, and a survey to fill in some of the gaps. We can't cover everything at the workshop, but it would be great to be able to reference information beyond what is on the agenda as states communicate with each other. A summary of this survey/report could be the starting panel at the workshop.

Conjunctive Management – Which states are actively managing surface water and groundwater conjunctively? What does that look like? Curtailments to protect senior water rights? Treating groundwater and surface water as a single source, including for hydrologic basin water budgets and managed aquifer recharge? What is working and what isn't? What administrative tools are states using? What reliable technical information is available, with analysis to support using it?

Aquifer Science – Would prefer a targeted discussion rather than just a grab bag of tools. Who is investing in the science?

Modeling Aquifers – What modeling efforts are states undertaking? What decisions can those models support? How are states gathering enough data to determine what the aquifer's safe yield is? Are they mostly just estimates? Which states are using their own models, academic models, or USGS models?

Water quantity allocations – What are states already doing in terms of new permit/water right constraints? Who is metering/reporting groundwater use, and how has that worked (or not)? How are states handling the timing of groundwater curtailments given the delay for the cone of depression to recover and the impacts that response time has on other water users?

Policy – What statutes, regulations, or other information guides the state engineer or water resource manager when adopting groundwater management plans? What motivates water users in a hydrologic basin to work together cooperatively to address water shortage realities?

Water quality – How are states are dealing with nitrates, nitrogen in groundwater? Particularly with increased development in rural areas facing wastewater challenges, or in areas coping with non-point source fertilizer. GWPC is focused on best practices for UIC programs, but it would be good to hear what they are doing. *Maui* groundwater panel/webinar would be helpful to hear how other states are managing.

Federal water quality resources – would like to educate federal agencies more on what states are doing, highlight in a report the state authorities and activities, and show where federal resources could best support and elevate these state efforts.

Potential speakers –

- Oregon could find speakers to talk about groundwater management, curtailment, and water quality issues
- California could find a speaker to talk about SGMA implementation; the California DWR also released a recorded webinar to help Groundwater Sustainability Agencies address the depletion of interconnected surface water in their Groundwater Sustainability Plans
- Dan Yates, National Ground Water Protection Council
- Rich Niswonger USGS HQ Science Center (“best practices” on modeling aquifers from USGS perspective)
- Jesse Bradely noted that Nebraska has good lessons to share on their extensive network of groundwater models, policies and strategies on long-term sustainability, management pool, examples where water users work together (and some that don’t)

WSWC Groundwater Workshop

Lincoln, Nebraska

April 22, 2025

Draft Agenda

- 8:30 am Welcome and Introductions
- 8:45 am **Big Picture Challenges and Opportunities** (*summary of survey/report*)
(delineating and protecting aquifers—quality and quantity, coping with damaged aquifers, using aquifers as part of a larger water management strategy)
- 9:00 am **Conjunctive Management** (*individual presentations*)
(conjunctive management with surface water, aquifer recharge and recovery, protected aquifers, monitoring and reporting)
Speaker 1: (20 min)
Speaker 2: (20 min)
Speaker 3: (20 min)
- 10:00 am **Roundtable Discussion: Challenges and Opportunities in Conjunctive Management**
- 10:15 am Break (*informal visiting, coffee, presentation reset*)
- 10:30 am **Aquifer Science** (*individual presentations*)
(developments in mapping, monitoring, modeling, chemistry, resources, quality and quantity)
Speaker 1: (20 min)
Speaker 2: (20 min)
Speaker 3: (20 min)
- 11:30 am **Roundtable Discussion: Challenges and Opportunities in Aquifer Science**
- 12:00 pm Lunch (*buffet catered by the hotel to facilitate further informal conversations? reservations at a nearby restaurant for a change in view? on your own?*)
- 1:00 pm **Groundwater Allocation Constraints**
(navigating curtailments, closed basins, forfeitures, domestic wells)
Individual speakers, panel discussion, roundtable discussion, breakout sessions?
- 2:30 pm **Protecting Groundwater Quality**
(nitrates, emerging contaminants, rural wastewater, non-point source)
Individual speakers, panel discussion, roundtable discussion, breakout sessions?
- 4:00 pm **Discussion: Thoughts, Next Steps**

4:30 pm Adjourn

WSWC Webinar Series (Recorded)

January: Groundwater conservation programs: funding, policies, personnel, challenges, and the paradox of irrigation efficiencies that lead to greater consumptive use

February: Groundwater recharge: recycled water, land application, injection wells, storage, recovery, water rights accounting, water quality oversight

March: Cross-border management: how states, local entities, tribes, etc. manage groundwater across jurisdictional boundaries

[April: Workshop]

May: Groundwater quality

June: Best Practices: what is working well, what is not

Tab P – WOTUS and Post-Sackett Implementation

On September 11, the House Transportation and Infrastructure Subcommittee on Water Resources and Environment held a hearing titled, “Waters of the United States Implementation Post-Sackett Decisions: Experiences and Perspectives.” The hearing featured testimony from stakeholders to discuss the impact of the Supreme Court’s *Sackett v. EPA* ruling and the agencies’ subsequent approach to designating Waters of the United States (WOTUS). In his opening remarks, Subcommittee Chairman David Rouzer (R-NC) highlighted the economic impacts of the Administration’s approach to WOTUS and recommended clear, predictable, and consistent regulations that protect the environment without hindering economic development. He said: “In summation, the Administration’s implementation is not in accordance with the *Sackett* ruling generally; nor is it consistent project to project where [jurisdictional determinations] have been issued. I remain concerned about the lack of transparency and lack of consistency with which this revised definition has been implemented. We are all still waiting for clear and consistent guidance on which everyone can rely. The decision to approach WOTUS on a site-specific basis without clear training and universal application has served only to muddy the waters of a very clear and straightforward Supreme Court ruling.”

Emma Pokon, Commissioner, Alaska Department of Environmental Conservation (DEC), testified of States’ ability to protect waters in their jurisdiction. She explained that, like Alaska, many States generally apply the same water quality standards to all waters within their boundaries, and that a reduced federal scope does not mean activity will be free of oversight. She wrote: “State policymakers can make judgment calls about what level of protection is appropriate for their residents. And states are often better situated to make those judgment calls. State officials have more complete visibility on circumstances for residents, are more accessible, and may have more nuanced appreciation for unique ecosystem issues and concerns.... But federal agencies are reluctant to trust states; instead, they continue to grope for complete authority over all waters.... As long as major elements of the Supreme Court guidance go unaddressed, conflict and pendulum swings in implementation will likely continue. Without stability, states will struggle to appropriately adjust existing programs.... Federal policymakers must remember that states exist. We’re here, and we’re ready to do our jobs to protect state waters. Moreover, working with states to achieve a stable regulatory framework would best serve the field of water quality regulation.”

Courtney Briggs, American Farm Bureau Federation, argued strongly against EPA’s and the U.S Army Corps of Engineers’ (Corps) use of memoranda to avoid rulemaking. She discussed the agencies’ release of two joint elevation coordination memos in September 2023, which unpaused issuance of jurisdictional determinations (JD) by establishing a process, outlining procedures, and providing specific timelines by which the agencies would coordinate. Briggs pointed out that these memos failed to provide any actual information for landowners to understand rule implementation on the ground. Briggs criticized agencies’ issuance of “Memos to the Field,” the substance of which disregards the Supreme Court’s ruling in *Sackett*. She characterized these memos lack transparency as “rulemakings hiding in plain sight,” adding that the agencies have not provided a mechanism for appealing these memos or any opportunity for public comment.

She testified: “Cooperative Federalism is one of the clear objectives of the CWA. Section 101(b) of the CWA states that it is Congressional policy to preserve the primary responsibilities and rights of states to prevent, reduce, and eliminate pollution, to plan the development and use of land and water resources, and to consult with the Administrator with respect to the exercise of the Administrator's authority under the CWA. Congress was emphatic that the states have a role to play in protecting our nation’s water. This means that there is a clear point where federal jurisdiction ends and state jurisdiction begins.... However, the uncertainty as to where the jurisdictional line lies makes it very difficult for states to understand what is under their authority.”

On August 30, the Corps of Engineers and EPA issued a Coordination Process Update field memo, in response to requests from the public for more information, outlining the process for issuing JDs and compiling the policy memoranda issued by the agencies which were also mentioned in Briggs’ testimony. https://www.epa.gov/system/files/documents/2024-08/ajd-coordination-memos-update-report_8-28-2024_508.pdf



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

**Department of Environmental
Conservation**

OFFICE OF THE COMMISSIONER

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September 9, 2024

The Honorable Sam Graves
Chairman
Committee on Transportation and
Infrastructure
U.S. House of Representatives
1135 Longworth House Office Building
Washington, DC 20515

The Honorable Rick Larsen
Ranking Member
Committee on Transportation and
Infrastructure
U.S. House of Representatives
2163 Rayburn House Office Building
Washington, DC 20515

The Honorable David Rouzer
Chairman
Subcommittee on Water Resources and
Environment
U.S. House of Representatives
2333 Rayburn House Office Building
Washington, DC 20515

The Honorable Grace Napolitano
Ranking Member
Subcommittee on Water Resources and
Environment
U.S. House of Representatives
1610 Longworth House Office Building
Washington, DC 20515

Dear Chairman Graves, Chairman Rouzer, Ranking Member Larsen, and Ranking Member Napolitano:

Thank you for the invitation to provide testimony on the implementation of the Clean Water Act, specifically the scope of statute as defined by the term "Waters of the United States" (WOTUS), following the United States Supreme Court decision in *Sackett*.

This topic is important to the State of Alaska. We have roughly 900,000 miles of navigable rivers and streams; 22,000 square miles of lakes; 27,000 miles of coastline; and, at about 130 million acres, more wetlands than every other state in the union combined. And all of that is before considering glaciers and groundwater. Anyone looking to build a home, a road, or a mine in the state will likely impact a water of some sort.

Alaska's Department of Environmental Conservation (DEC) regulates pollution across media – from soil contamination to air emissions to water discharges. Under the federal Clean Water Act, DEC implements the Section 402 discharge permitting program, evaluates Section 404 dredge and fill permits for Section 401 certification, and assesses water quality throughout the state to ensure water bodies that fail to meet state water quality standards have plans developed to address that impairment.

Importantly, DEC also possesses broad authority under state statute to establish and protect water purity standards. Anyone looking to discharge wastewater in the state of Alaska needs authorization from DEC – regardless of whether the discharge goes to a traditional navigable water body, a tributary, an adjacent wetland, an isolated surface water, or groundwater. In fact, in all 50 states, state agencies work diligently to do their part to protect waters in their jurisdictions. Many of these states, Alaska among them, generally apply the same water quality standards to all waters within their boundaries regardless of whether they are under federal jurisdiction.

Thus, a reduced scope of federal authority does not necessarily mean activity will be free of regulatory oversight. State policymakers can make judgment calls about what level of protection is appropriate for their residents. And states are often better situated to make those judgment calls. State officials have more complete visibility on circumstances for residents, are more accessible, and may have more nuanced appreciation for unique ecosystem issues and concerns.

To illustrate, many factors make Alaska's circumstances unique compared to other states and regions of the country. There's the sheer geographic size and volume of water bodies and wetlands. And, as a younger state, Alaska remains largely undeveloped in terms of infrastructure and resource extraction. Our state is also in the enviable position of having had landscape level planning to establish state and federal conservation units that will remain undeveloped even as other resource rich areas – often on federal, State, or Alaska Native Corporation owned lands – could progress to production. In this context, Alaskan lawmakers and elected officials might make different judgment calls than the federal government or more industrialized and developed states.

But federal agencies are reluctant to trust states; instead, they continue to grope for complete authority over all waters. Nationally, more than a year after *Sackett* was decided and the agencies published a revised rule, EPA and the Corps have still failed to address the "indistinguishable" concept and the vagueness concerns articulated by the Supreme Court. Rather than developing a standard that can be understood and implemented by the regulated community and state partners, the agencies appear intent on leveraging uncertainty and the risk of civil and criminal liability to effectively maintain sweeping authority in their own hands.

As long as major elements of the Supreme Court guidance go unaddressed, conflict and pendulum swings in implementation will likely continue. Without stability, states will struggle to appropriately adjust existing programs. Nor will states have the time to seek additional authorities from their legislatures. And the public we serve will continue either going through unnecessary and expensive permitting exercises, getting approvals from the incorrect authority, or, as the Court feared, choosing to forego productive activities on their land.

Federal policymakers must remember that states exist. We're here, and we're ready to do our jobs to protect state waters. Moreover, working with states to achieve a stable regulatory framework would best serve the field of water quality regulation.

Sincerely,

A handwritten signature in dark ink, appearing to read 'EPok', with a stylized, cursive script.

Emma Pokon
Commissioner



Statement of the American Farm Bureau Federation

To the House Water Subcommittee

September 11, 2024

Presented By:

**Testimony of Ms. Courtney Briggs on behalf of the American Farm Bureau
Federation
Chairman, Waters Advocacy Coalition**

Chairman Rouzer and Ranking Member Napolitano, thank you for the opportunity to testify today. My name is Courtney Briggs, and I serve as Chairman of the Waters Advocacy Coalition (WAC) and as Senior Director of Government Affairs at the American Farm Bureau Federation (AFBF).

WAC is a multi-industry coalition representing a cross-section of the nation's construction, transportation, real estate, mining, manufacturing, forestry, agriculture, energy, wildlife conservation, recreation, and public health and safety sectors—all of which are vital to a thriving national economy and provide much-needed jobs in local communities. It is an honor to be here representing the 45 trade associations, and the hundreds of thousands of members collectively across the country, that make up WAC. I am also here representing the thousands of hard-working farm and ranch families that produce the abundant food, fiber, and renewable fuel that our nation and the world depend on.

Our members are committed to protecting our natural resources while also maintaining profitable businesses. They live in the communities where they work and understand their responsibility in keeping our waterways healthy. I have a unique understanding of this mindset, as it is imbedded into the business philosophy of almost every farmer and rancher across this country. They know they cannot grow crops or raise animals without clean water and healthy soil, and they must leave the land in better condition than they received it. I think we can all agree that this is our collective goal, but the Biden Administration's interpretation of WOTUS lacks clarity and certainty for landowners and pushes the scope of the federal government's jurisdictional reach to the outer bounds of what is legal under the Clean Water Act (CWA). The U.S. Environmental Protection Agency (EPA) and the Army Corps of Engineers' (the agencies) failure to faithfully implement the *Sackett* decision has real-life consequences for important infrastructure and development projects, and is impacting real people in the communities that you all represent.

Flip Flopping of WOTUS is Unfair to Landowners

WAC and its members support the objectives of federal environmental statutes such as the CWA. What we cannot support is the continuing ambiguity of the line separating federal and state jurisdiction, which is an issue that has created confusion for landowners, regulators, and the general public for decades. We have lived in a world of regulatory uncertainty due to near-constant rulemakings that swing the pendulum back and forth, redefining the scope of the CWA. We have seen "waters of the United States" (WOTUS) definitions change with each new Administration and guidance documents offered and then rescinded, generating more questions than answers. Landowners, small businesses, and American families are the ones who suffer the most with these constant changes.

Like clockwork, in early 2023, the agencies swung the regulatory pendulum and finalized a new definition of WOTUS that greatly expanded the federal government's role in regulating land use. WAC was highly critical of the agencies' decision to move forward with this rulemaking because the Supreme Court was set to imminently hand down a highly consequential decision in *Sackett v. EPA*. Shortly after the 2023 rule went into effect, the Court handed down a decision that reinforced property owners' rights and ensured adherence to the congressional intent of the CWA. The Court also respected the CWA's cooperative federalism framework, as well as the states' primary authority and responsibility to regulate non-federal waters within their borders.

All nine Supreme Court justices agreed that the Biden Administration’s use of the controversial “significant nexus test” was illegitimate, and a majority of the Court agreed that EPA’s interpretation of “adjacency” was overly broad. In an opinion authored by Justice Alito, the Court reprimanded the agencies for illegally expanding their regulatory reach. WAC celebrated this legal victory because our members thought it would inject more clarity and certainty into the regulatory process. Unfortunately, we were wrong.

On Sept. 8, 2023, the Corps and the EPA published a final rule revising the regulatory definition of WOTUS under the CWA to try to conform the definition to the *Sackett* decision. This “conforming rule” failed to provide any more context to specific terms that are serving as the linchpin for determining the scope of the federal government’s authority. It became obvious that the agencies were going to exploit the gray areas that still exist in a post-*Sackett* world to try to expand their regulatory reach. Leaving these terms undefined and interpreting them expansively and in a freewheeling manner since *Sackett* has given the agencies the latitude to regulate land use however they please.

Why Words Matter: Relatively Permanent and Continuous Surface Connection

With the death of “significant nexus” in *Sackett*, the Court agreed that the agencies must solely follow the “relatively permanent” test; a regulatory test originally authored by Justice Scalia in *Rapanos v. United States*. As its name suggests, the test states that a relatively permanent water that is connected to a traditional interstate navigable water can be regulated as a “navigable water” (*i.e.*, as a WOTUS). Likewise, an adjacent wetland can be jurisdictional if it has a “continuous surface connection” to a traditional interstate navigable water or a relatively permanent water connected thereto.

In the aftermath of the *Rapanos* decision, the agencies drafted interpretive guidance (2008 Guidance) where they interpreted “relatively permanent” to mean flowing year-round or having continuous flow at least seasonally. In practice, the agencies unlawfully swept in even ephemeral water features that carried flow only after precipitation events (and far too many intermittent features as well). The agencies interpreted “seasonally” to mean generally three months, or possibly even less time depending on what part of the country the water feature is located in. The agencies purported to rely on a footnote in *Rapanos* to support this interpretation, but on its face, that footnote discussed the possibility that a river flowing for 290 days (closer to 10 months) would not necessarily be *excluded* under the relatively permanent test. In other words, whether jurisdiction can be exercised over rivers, streams, and tributaries that flow continuously for 290 days is a case-by-case basis inquiry. The agencies inverted what Justice Scalia intended and instead concluded that any feature that flows for continuously for at least 90 days is automatically jurisdictional. See *Rapanos*, 547 U.S. at 732 n.5. It goes without saying that not necessarily *excluding* 290 days of continuous flow cannot possibly equate to automatically *including* 90 days of continuous flow.

The new rule makes the relatively permanent standard even more expansive than the 2008 guidance. The new rule abandons the seasonal concept and does not use any bright line tests (days, weeks, or months) or any concepts of flow regime (ephemeral, intermittent, perennial). The rule vaguely says relatively permanent tributaries have flowing or standing water year-round or continuously during certain times of the year and they do not include tributaries

with flowing or standing water for only a short duration in direct response to precipitation. As an example, the agencies suggest that consecutive storm events, or even a single strong storm event, is enough to create relatively permanent flow. This subtle change will greatly expand what areas the agencies can assert jurisdiction over under the relatively permanent test.

Because the agencies have tied the relatively permanent standard to the ditch exclusion, the broader the relatively permanent standard gets, the fewer ditches will be excluded from jurisdiction. Under both the 2008 guidance and the 2023 rule, ditches are excluded only if they do not carry relatively permanent flow. Again, because the relatively permanent test has expanded, fewer ditches will meet the requirement in the exclusion.

Likewise, the 2023 rule also expands which wetlands (and “other waters”) are jurisdictional by virtue of having a continuous surface connection to a relatively permanent water. The agencies interpret “continuous surface connection” to mean a physical connection that does not need to be a continuous surface hydrologic connection, and wetlands need not directly abut a relatively permanent water. Under the 2008 guidance, however, wetlands would only meet the “continuous surface connection” test if they directly abut a relatively permanent tributary (e.g., are *not* separated by uplands, a berm, dike, or similar feature). The new rule, by contrast, abandons this directly abutting requirement and instead provides that wetlands have a continuous surface connection even if they are separated from a relatively permanent impoundment of a tributary by a natural berm, bank, dune, or similar natural landform so long as that break does not sever a continuous surface connection and provides evidence of a continuous surface connection. Wetlands also meet the continuous surface connection requirement if they are located some distance away from a relatively permanent tributary but connected by some linear feature such as a ditch, swale, or pipe. The picture becomes clear that the agencies are moving in the wrong direction.

It is worth noting that, ultimately, the question is not whether tributaries or ephemeral streams are “important” or may as a scientific matter have some connection with downstream navigable waters, see, e.g., 86 Fed. Reg. at 69,390; rather, the question is whether they should be considered as falling within the bounds of federal jurisdiction. As with so many other categories in the 2023 rule, the agencies collapse that distinction.

Alito’s Decision in *Sackett*

While the decision in *Sackett* did not pinpoint a specific flow metric to be used to determine the meaning of relatively permanent, it did give us more context as to what a regulated feature should look like. *Sackett* “conclude[d] that the *Rapanos* plurality was correct: the CWA’s use of ‘waters’ encompasses ‘only those relatively permanent, standing or continuously flowing bodies of water `forming geographic[al] features’ that are described in ordinary parlance as ‘streams, oceans, rivers, and lakes.’” The *Rapanos* plurality, in turn, repeatedly distinguished between “continuously present, fixed bodies of water” and “ordinarily dry channels through which water occasionally or intermittently flows.” Indeed, the *Rapanos* plurality explained that, as a matter of “commonsense,” the phrase “waters of the United States” excludes “channels containing merely intermittent or ephemeral flow.”

Equally important, in *Sackett*, Justice Alito wrote that, to be jurisdictional, a “wetland [must] ha[ve] a continuous surface connection with [a relatively permanent] water... making it difficult

to determine where the ‘water’ ends and the ‘wetland’ begins.” Additionally, the Court held “that the Clean Water Act extends to only those wetlands that are as a practical matter indistinguishable from waters of the United States.” In further elaborating what it means to have a “continuous surface connection,” Justice Alito noted that “temporary interruptions in surface connection may sometimes occur because of phenomena like low tides or dry spells.” Read in context, Justice Alito clearly had in mind that, to be jurisdictional, wetlands must typically have a continuous surface *hydrologic* connection to a relatively permanent water, not just some ordinarily dry physical connection like a ditch, pipe, or swale that might span hundreds (or even thousands) of feet.

WOTUS Implementation Concerns

Immediately after the *Sackett* decision was handed down, the Corps notified the public that they would be pausing the issuance of approved jurisdictional determinations (AJDs) indefinitely. During the summer of 2023, landowners’ only option to move forward on a project was to accept a preliminary jurisdictional determination (PJD). PJDs force landowners to concede that their land is a WOTUS and accept the permitting and mitigation requirements—often unnecessarily. Many projects with specific production windows had their backs against a wall and saw this as the only option, especially in weather-dependent industries such as construction. The directives in *Sackett* gave the agencies the ability to move forward with most AJDs over that summer but the Corps chose to take the summer off.

In September 2023, the agencies released two joint elevation coordination memos to the field that established a process by which the agencies will coordinate on CWA jurisdictional matters to “ensure accurate and consistent implementation” of the 2023 rule or the pre-2015 regulatory regime, depending on which regulatory framework is applicable.¹ The memos also outline procedures and specific timelines under which the agencies can review and provide comment on certain draft AJDs. Again, these elevation memos only discuss the process for how the agencies will handle the approved jurisdictional determinations that are elevated to Corps and EPA headquarters to be decided by bureaucrats in Washington, D.C., and it fails to provide any actual information for landowners to understand how the Corps intends to implement the rule on the ground.

It has been exactly one year since the issuance of the elevation coordination memos and unfortunately, many of WAC’s members are still experiencing significant challenges. Our members have experienced blatant disregard for the timelines specified by the agencies. Some of our members have draft AJDs that were elevated for local or headquarters coordination twelve months ago and still have not been resolved. Our members have compared this process to a “black box,” with many receiving no communication from the agencies on the status or any

¹ U.S. Env’t. Prot. Agency and U.S. Army Corps of Eng’rs, Joint Coordination Memorandum to the Field between the U.S. Department of the Army, U.S. Army Corps of Engineers (Corps) and the U.S. Environmental Protection Agency (EPA) on the Pre-2015 Regulatory Regime (Sep. 27, 2023), https://www.epa.gov/system/files/documents/2023-10/2023-joint-coordination-memo-pre-2015-regulatory-regime_508c.pdf; U.S. Env’t. Prot. Agency and U.S. Army Corps of Eng’rs, Joint Coordination Memorandum to the Field between the U.S. Department of the Army, U.S. Army Corps of Engineers (Corps) and the U.S. Environmental Protection Agency (EPA) on the January 2023 Rule, As Amended (Sep. 27, 2023), https://www.epa.gov/system/files/documents/2023-10/2023-joint-coordination-memo-amended-2023-rule_508c.pdf.

questions or comments the agencies have regarding their draft AJDs. We also understand that some Corps Districts have completely stopped issuing AJDs – putting important projects and the communities that rely on them at risk. Within WAC, we have many examples of these challenges that we are willing to share with the Committee without attribution.

Shortly after the release of the elevation coordination memo, WAC members from various industry sectors and regions of the country also began to hear about internal guidance, directives, and training documents regarding implementation that the Corps developed but has not made available to the public. One of these documents includes internal headquarters-level guidance dated around September 2023 that includes information germane to, among other issues, assessing whether an arid west drainage is relatively permanent. We also understand the agencies have been providing regular training and information to District Office staff regarding implementation of the final rule post-*Sackett*. Through our contacts within the environmental consulting community, we heard firsthand of this “secret” implementation guidance. We were astonished by the blatant lack of transparency from the federal government.

Agency Implementation Memos Defy *Sackett*

The calls from various landowners, industry sectors and states to provide more information on implementation reached a fever pitch earlier this year and the agencies quietly released two “Headquarters Field Memos Implementing the 2023 Rule, as Amended” on the WOTUS Implementation section of EPA’s website. The agencies subsequently released three additional “Headquarters Field Memos Implementing the Pre-2015 Regulatory Regime Consistent with *Sackett*” on a separate part of EPA’s website. Unfortunately, the agencies not only failed to prominently feature these updates or provide any notification to the public about their existence, but they also neglected to offer any guidance on how these memos should be interpreted or applied. As of Sept. 5, 2024, the agencies have released 10 total policy memoranda, four related to draft AJDs completed under the 2023 rule and six related to draft AJDs completed under the pre-2015 regulatory regime. Unfortunately, these field memoranda functionally expand the scope of federal jurisdiction in violation of *Sackett*.

Much of what little direction the agencies have provided the regulated community and public in the form of these memos directly conflicts with *Sackett* and operates as quasi-rulemakings in disguise, in violation of the Administrative Procedure Act (APA). These memoranda are precisely the kind of regulatory overreach the APA was designed to prevent. According to the APA, a “rule” is an agency statement of general or particular applicability intended to implement, interpret, or prescribe policy, or to describe organizational practice. Yet, the agencies have been issuing “Memos to the Field” and telling stakeholders that EPA regional and Corps District Offices should use them for jurisdictional determinations whenever they see a similar fact pattern. It’s like pouring muddy water into clear streams and pretending no one will notice — these memos are clearly being used to set broad policy under the guise of specific guidance on WOTUS regulations.

Furthermore, the agencies have asserted that these memoranda are to be incorporated into the WOTUS interpretation lexicon. While on paper, they attempt to sidestep rulemaking responsibilities by claiming these memos are not legally binding, this is merely an effort to disguise what they truly are: rulemakings hiding in plain sight. The agencies offer no mechanism

for appealing these memos, nor any opportunity for public comment before they are issued. As a result, the public is left navigating murky waters with politically charged, legally flawed documents that decision-makers rely on, leaving them in a state of legal limbo with no recourse. For example, the agencies instructed the North Dakota field office to reconsider, post-*Sackett*, whether a wetland separated by a 15-foot “dirt track road and a seasonally plowed field” — and lacking a “culvert to maintain a connection” to a navigable feature — is still jurisdictional. The agencies asserted that physically separate wetlands may be treated as one jurisdictional wetland based on various factors, even without a hydrologic connection, revealing a clear intent to evade *Sackett's* holdings.

As another example, a recently released memorandum directs the Buffalo District to evaluate whether a small wetland (only 0.030 acres) connected solely by a non-relatively permanent stream and another wetland over approximately 195 feet, still qualifies as jurisdictional under the CWA, despite the lack of a continuous surface connection to a navigable water. The agencies suggest that these disconnected features can collectively form a single jurisdictional wetland, demonstrating a clear intent to sidestep the *Sackett* ruling's requirement for a direct and continuous surface connection. Additionally, this memo vaguely discusses their understanding of “indistinguishable” when they state that the term is “not alone determinative of whether adjacent wetlands are ‘waters of the United States.’” They also add that “*Sackett* does not require the agencies to prove that wetlands and covered waters are *visually* identical.”

The agencies’ failure to provide clear direction to the public is creating significant uncertainty on the ground and delaying important projects. It is worth noting again that landowners need clarity from the agencies on how they are interpreting and implementing the rule because the CWA carries severe civil and criminal penalties for even negligent violations. Landowners can be fined up to \$64,000/per day or receive jail time for any CWA violations. These penalties can devastate small businesses, so landowners must understand how this rule is implemented. Leaving them in the dark will only open them up to unknowingly violating the law. Due to the agencies’ veil of secrecy, landowners are denied their constitutional rights of due process and fair notice.

WAC Letter and Freedom of Information Act Request

Given the lack of transparency surrounding the elevation coordination memo, the agencies’ implementation memos, and the secret field guidance, WAC sent a letter to agency leaders sharing our member’s implementation challenges and asking for answers on how the agencies are implementing the rule. It has been six months since we sent the letter, and we have yet to receive a response from either agency. This lack of response only exacerbates the frustration felt by our members, further codifying the belief that the agencies do not actually want our members to have a working understanding of implementation. This motivated WAC and many individual WAC members to pursue our last available option toward gaining this vital information: a Freedom of Information Act (FOIA) request.

Several months after the initial FOIA request, the government provided a 1,128-page response. Unfortunately, a large majority of the documents and text were redacted and labeled as “deliberative” under a misapplication of FOIA Exemption 5 (deliberative process privilege). However, the agencies’ FOIA response confirmed two important things: 1) the secret implementation guidance does exist and has been disseminated to Corps districts and 2) Corps

districts were explicitly instructed by headquarters not to share this information with the public.² Shockingly, the SharePoint that outlines the secret implementation guidance was redacted from the response. It defies logic that the implementation guidance that is currently being used on the ground is considered “deliberative.”

Failed Public Outreach

In the wake of *Sackett*, the agencies have repeatedly promised to engage stakeholders on implementation recommendations. In a July 13, 2023, hearing before the House Transportation and Infrastructure Committee’s Subcommittee on Water Resources and Environment, then-EPA Assistant Administrator Radhika Fox told Congress the Agency would “host implementation discussions with a range of stakeholders...if there are ongoing questions after that rulemaking is complete.”³ When asked about next steps on WOTUS implementation during a Dec. 5, 2023, hearing before the same subcommittee, Assistant Secretary of the Army for Civil Works Michael Connor similarly promised Congress that the Corps would “continue to engage with the public and then look as we get into next year doing guidance documents.”⁴

However, 1.5 years after the *Sackett* decision and exactly one year after the publication of the final “conforming” rule, the agencies have only recently attempted to engage with the public or answer any implementation-related questions from the regulated community. For example, many of our associations participated in the agencies’ listening sessions on Feb. 27 and 28, 2024, and raised implementation questions during those meetings that went unanswered. Many of our associations also asked these questions in stakeholder meetings with EPA’s Office of Water on March 22, 2024. Unfortunately, the agencies did not respond to our questions during the listening session or at any point thereafter. Our members need this information to ensure that they are complying with the law. Engaging with the regulated community aligns with EPA’s⁵ and the Corps’⁶ own policies promoting meaningful public engagement and involvement. It also

² U.S. Department of the Army, Office of Counsel, Waters Advocacy Coalition FOIA Request No. FP-24-012628.

³ *Hearing on Agency Perspectives of FY24 Budget Requests: Hearing Before the H. Comm. on Transp. and Infrastructure*, 118 Cong. (July 13, 2023).

⁴ *Hearing on Water Resources Development Acts: Status of Past Provisions and Future Needs: Hearing Before the H. Comm. on Transp. and Infrastructure*, 118 Cong. (Dec. 5, 2023).

⁵ See U.S. Env’t. Prot. Agency, Meaningful Engagement Policy (Sept. 2024), available at <https://www.epa.gov/environmentaljustice/epas-meaningful-engagement-policy>.

⁶ See U.S. Army Corps of Eng’rs, Fact Sheet: Collaboration & Public Participation Center of Expertise, available at https://www.iwr.usace.army.mil/Portals/70/docs/CPCX/PIS_Fact_Sheet.pdf. (“Public participation and collaboration are becoming an integral part of the U.S. Army Corps of Engineers’ missions. Effective involvement and collaboration achieves more sustainable project solutions and helps projects stay on schedule. Experience has proven that open, ongoing and two-way communication between the Corps and the communities we serve reduces project risks and improves internal and external customer satisfaction.” See also 2021-2025 Strategic Plan: USACE Collaboration and Public Participation Center of Expertise, available at <https://www.iwr.usace.army.mil/Portals/70/docs/CPCX/>

⁶ See Memorandum from Richard L. Revesz, Adm’r., Office of Management and Budget; Memorandum for the Heads of Executive Departments and Agencies on “Broadening Public Participation and Community Engagement in the Regulatory Process” at 1 (July 19, 2023), available at <https://www.whitehouse.gov/wp->

reflects the White House's direction to the heads of all federal agencies to broaden public engagement in the regulatory process. We encourage a more robust and ongoing discussion to ensure clear and consistent WOTUS implementation.

How is this Different from Significant Nexus?

As we have already established, the Supreme Court unanimously drove a stake into the heart of the significant nexus test. However, through the agency implementation memos we have pieced together a few aspects of what we anticipate is published in the secret Corps guidance. First, the agencies are merely requiring a physical connection, as opposed to a hydrologic connection in order to establish jurisdiction, which is inconsistent with both the *Rapanos* and *Sackett* decisions. Second, they have confirmed that they will use non-relatively permanent features, such as a dry ditch or a low spot in a farm field, to satisfy a continuous surface connection. Third, in their most recent implementation memo the agencies completely disregard Justice Alito's direction that adjacent wetlands need to be "indistinguishable" from a WOTUS. Gutting the meaning behind this consequential term greatly expands the regulatory reach afforded to the agencies. Finally, it is clear that the agencies want to continue a case-by-case regulatory regime that is akin to how the significant nexus test operated. Considering all of this in combination, it begs the very important question: As a practical matter, how is this fundamentally different from the significant nexus test that the Court struck down? After *Sackett*, many of us in the WAC community expressed concern that the agencies were going to creatively compile policies that achieved the same goals as the significant nexus test. Unbelievably, it seems that is exactly what is transpiring.

Cooperative Federalism

Cooperative federalism is one of the clear objectives of the CWA. Section 101(b) of the CWA states that it is Congressional policy to preserve the primary responsibilities and rights of states to prevent, reduce, and eliminate pollution, to plan the development and use of land and water resources, and to consult with the Administrator with respect to the exercise of the Administrator's authority under the CWA. Congress was emphatic that the states have a role to play in protecting our nation's water. This means that there is a clear point where federal jurisdiction ends and state jurisdiction begins. In the past, we have seen regulatory definitions of WOTUS, such as the Obama Administration's rule, that would have usurped state's authority—thereby violating one of the clear intentions of the law. It is important that this balance is preserved.

However, the uncertainty as to where the jurisdictional line lies makes it very difficult for states to understand what is under their authority. We have heard from leadership of the Environmental Council of the States and directly from many individual states that they share the exact same concerns that WAC has articulated over the last year. We have heard members of the environmental community reference "gap waters" that exist in a post-*Sackett* world, but how are they able to identify those? The agencies have not provided a clear interpretation of relatively permanent or continuous surface connection, have not offered the secret implementation guidance and are flouting the decision from *Sackett*. Again, how can states stand up a regulatory program with all these critical pieces missing?

<content/uploads/2023/07/Broadening-Public-Participation-and-Community-Engagement-in-the-Regulatory-Process.pdf>

Conclusion

Given the need for clear regulations to protect water resources, it is unacceptable that 1.5 years since the *Sackett* decision and more than a year after the agencies finalized their revised 2023 WOTUS rule, the agencies continue to mislead Congress and the public, slow-walk compliance with the *Sackett* decision, and hold project proponents and states hostage in regulatory limbo by failing to make decisions. As a result of the uncertainty, our nation's job creators, small businesses, farmers, landowners, and even states remain in the dark about how the rule is being implemented. This is especially concerning given the serious criminal and civil penalties for even negligent CWA violations, such as simply digging in the wrong place.⁷ This represents a total failure of leadership and lack of government transparency.

⁷ 33 U.S.C. §1319(c)-(d).



COORDINATION PROCESS UPDATE: JOINT COORDINATION MEMORANDA TO THE FIELD BETWEEN THE U.S. DEPARTMENT OF THE ARMY, U.S. ARMY CORPS OF ENGINEERS (CORPS) AND THE U.S. ENVIRONMENTAL PROTECTION AGENCY (EPA)

Background

The final "Revised Definition of 'Waters of the United States'" rule was [published in the *Federal Register*](#) on January 18, 2023, and took effect on March 20, 2023 (2023 rule). In light of the May 25, 2023 decision in *Sackett v. EPA*, the 2023 rule was amended by the [conforming rule, and the amendments](#) took effect on September 8, 2023. However, the 2023 Rule, as amended, is not currently operative in certain states and for certain parties [due to litigation](#). Where the 2023 rule, as amended, is not operative, the pre-2015 regulatory regime¹ is in effect. Under both regimes, the EPA and the Corps ("the agencies") are interpreting "waters of the United States" consistent with the [Supreme Court's decision in *Sackett*](#).

Coordination Memoranda for Approved Jurisdictional Determinations

An approved jurisdictional determination (JD) is a document provided by the Corps stating the presence or absence of "waters of the United States" on a parcel or a written statement and map identifying the limits of "waters of the United States" on a parcel.² Under existing Corps' policy, approved JDs are generally valid for five years unless new information warrants revision prior to the expiration date.³

For both regulatory regimes (the 2023 Rule, as amended, and the pre-2015 regime) under which the Corps is issuing approved JDs, the agencies entered into joint coordination memoranda to establish a process by which the Corps and EPA will coordinate on Clean Water Act geographic jurisdictional matters to ensure accurate and consistent implementation of the regimes where each regulatory regime is operative. These coordination memoranda were

¹ The "pre-2015 regulatory regime" refers to the agencies' pre-2015 definition of "waters of the United States," implemented consistent with relevant case law and longstanding practice, as informed by applicable guidance, training, and experience. The pre-2015 definition of "waters of the United States" is also referred to as the Corps' 1986 regulations and EPA's 1988 regulations, inclusive of the exclusion for prior converted cropland, which both agencies added in 1993. See 33 CFR 328.3 (2014) and 40 CFR 230.3(s) (2014).

² See [33 C.F.R. § 331.2](#).

³ See U.S. Army Corps of Engineers, [Regulatory Guidance Letter No. 05-02](#), § 1(a), p. 1 (June 2005).

signed on September 27, 2023, and on June 25, 2024, the agencies mutually agreed to extend the coordination process for an additional nine months. **The purpose of this document is to provide an update in response to requests from the public for more information about the coordination process. Information in this update document is current as of August 16, 2024.**

Amended 2023 Rule Memorandum: This memorandum addresses U.S. Department of the Army, Corps, and EPA coordination of draft approved JDs under the “Revised Definition of ‘Waters of the United States,’” as amended by the final rule “Revised Definition of ‘Waters of the United States’; Conforming” (the 2023 rule, as amended, 33 CFR § 328.3; 40 CFR §120.2).

- **Categories of Waters that Require Coordination:** All draft approved JDs assessing wetlands under paragraph (a)(4) and additional waters under paragraph (a)(5) of the 2023 rule, as amended, are being coordinated at the local level in accordance with the procedures in this memorandum. Such draft approved JDs may be elevated to the headquarters level of the agencies. Draft approved JDs are being coordinated for the specified categories of waters, regardless of their jurisdictional status.

Pre-2015 Regulatory Regime Memorandum: This memorandum addresses U.S. Department of the Army, Corps, and EPA coordination of draft approved JDs under the pre-2015 regulatory regime.

- **Categories of Waters that Require Coordination:** All draft approved JDs assessing wetlands under paragraph (a)(7) and other waters under paragraph (a)(3) of the 1986 regulations are being coordinated at the local level in accordance with the procedures in this memorandum. Such draft approved JDs may be elevated to the headquarters level of the agencies. Draft approved JDs are being coordinated for the specified categories of waters, regardless of their jurisdictional status.

In addition, under both memoranda, with respect to determinations of the geographic jurisdictional scope of “waters of the United States” for purposes of Section 404 that are not subject to the memoranda, Corps districts may choose to coordinate with EPA regions on draft approved JDs on a case-by-case basis and either the Corps districts or EPA regions may seek Headquarters-level review or guidance on draft approved JDs at any time.

Both coordination memoranda also state that approved JDs are case-specific determinations based on the record and factual questions or *Sackett* concerns may be raised in the context of a particular approved JD.

Approved JDs Coordinated with Headquarters

With the finalization of the September 2023 conforming rule, the Corps resumed issuing jurisdictional determinations that were paused in light of the *Sackett* decision. Since the conforming rule became effective on September 8, 2023, and through August 16, 2024, the Corps has finalized 4,144 approved JDs; 1,436 approved JDs under the 2023 Rule, as amended,

and 2,708 approved JDs under the pre-2015 regulatory regime. Using the elevation process described in the coordination memoranda, 196 draft approved JDs have been elevated to Headquarters for review. As of August 16, 2024, the agencies have resolved 114 of the elevated draft approved JDs (see Figure 1). The agencies consider an elevation resolved when it is no longer subject to joint Headquarters’ review.⁴ These 114 elevated draft approved JDs have been resolved in a variety of ways, including: minor, site-specific comments from the EPA and Corps Headquarters staff to the relevant District; the District withdrawing the draft approved JD; a case-specific policy memorandum issued by EPA and the Army (see below); and, by reference to existing policy memoranda to address the elevated draft approved JDs where there are factual similarities with an existing policy memorandum. The agencies are continuing to work to resolve the remaining elevated draft approved JDs. The vast majority of approved JDs that were finalized between September 8, 2023, and August 16, 2024 were finalized without elevation.

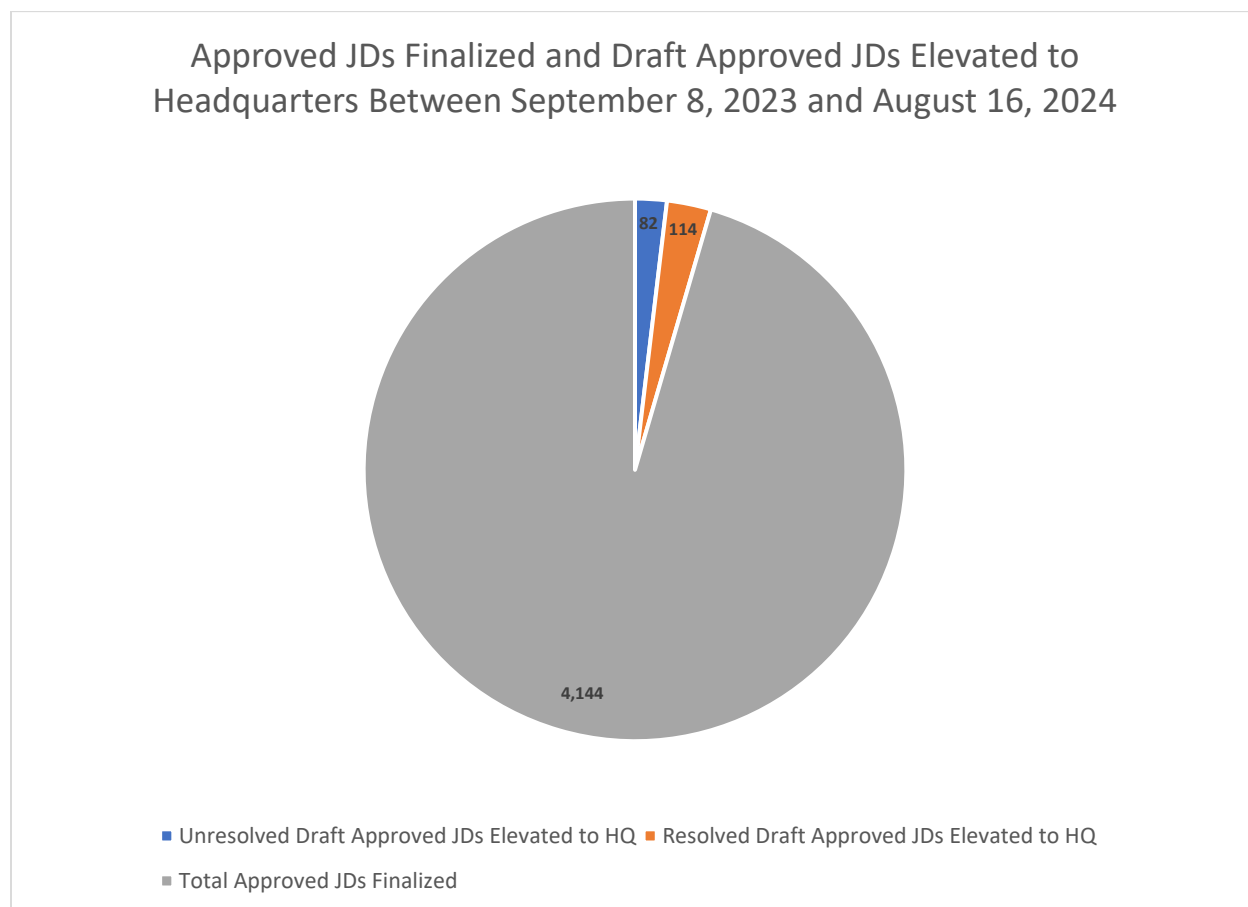


Figure 1: This figure shows approved JDs finalized by the Corps as well as draft approved JDs that have been elevated to the agencies’ headquarters between September 8, 2023, and August 16, 2024. Of the 196 draft approved JDs that have been elevated to headquarters, 114 elevations have been resolved.

⁴ Note that resolution of an elevated draft approved JD may result in the District finalizing an approved JD, the District issuing a preliminary JD, the request for an approved JD being withdrawn, or no JD being issued whatsoever.

Policy Memoranda

If a draft approved JD is elevated to the Headquarters level for review, a policy memorandum may be issued by EPA and the Army providing guidance to the respective EPA regional and Corps district offices. The agencies are posting any such memoranda on the [web](#) to ensure transparency and accessibility to the public.

The Clean Water Act and EPA and Corps regulations, interpreted consistent with *Sackett*, contain legally binding requirements. The policy memoranda issued as part of the coordination process do not substitute for those provisions or regulations, nor are they regulations themselves. Thus, the memoranda do not impose legally binding requirements on EPA, the Corps, Tribes, States, or the regulated community, and may or may not apply to a particular situation based upon the circumstances.

Memoranda for draft approved JDs completed under the 2023 Rule, as amended ([available on the web](#)).

- o [Memorandum on LRB-2021-01386](#) – This memorandum addresses the concept of how to identify the wetland area which is then assessed under the jurisdictional standard.
- o [Memorandum on MVS-2023-00288](#) – This memorandum addresses the concept of how to identify tributary reaches for purposes of assessing tributaries.
- o [Memorandum on NWP-2023-602](#) – This memorandum addresses whether the specific subsurface storm drain at issue can serve as a continuous surface connection for adjacent wetlands.
- o [Memorandum on NAP-2023-01223](#) – This memorandum addresses whether site specific discrete features can provide a continuous surface connection for adjacent wetlands.

Memoranda for draft approved JDs completed under the pre-2015 regulatory regime ([available on the web](#)).

- [Memorandum on NWO-2003-60436](#) – This memorandum addresses the concept of how to identify the wetland area which is then assessed under the jurisdictional standard.
- [Memorandum on LRL-2023-00466](#) – This memorandum addresses the concept of when ponds are considered part of the tributary network.
- [Memorandum on SAS-2001-13740](#) – This memorandum addresses the concept of how to apply the waste treatment system exclusion.
- [Memorandum on NWK-2022-00809](#) – This memorandum addresses whether site specific discrete features can provide a continuous surface connection for adjacent wetlands.
- [Memorandum on SWG-2023-00284](#) – This memorandum addresses whether site specific discrete features can provide a continuous surface connection for an adjacent wetland.

Next Steps

The coordination memoranda will remain in effect until March 27, 2025. No later than 30 calendar days prior to the termination date of each coordination memorandum, the agencies will initiate a joint Headquarters-level review to reevaluate various requirements in the coordination memorandum, assess implementation effectiveness, and consider the need for further coordination. This joint Headquarters-level review of each coordination memorandum will be completed prior to their expiration date. Each coordination memorandum and its outlined expectations may only be modified or extended by written agreement of both signatory agencies.

Additional information about the approved JD coordination process and the agencies' memoranda to the field is available on [EPA's website](#).

Tab Q – Western Water Cooperative Committee

Western Water Cooperative Committee October 2024			Appointed By
State	Member Name	Position	G = Governor AG = Attorney General
Alaska	Jessie Zimmerman	Natural Resources Manager	G
Alaska	Jennifer Currie	Chief Assistant Attorney General	AG
Arizona	Tom Buschatzke	Director of the Department of Water Resources	G
Arizona	Vanessa Hickman	Division Chief	AG
California	Eric Katz	Supervising Deputy Attorney General	AG
California	Erik Ekdahl	Deputy Director, State Water Board Division of Water Rights	G
Colorado	Scott Steinbrecher	Deputy Attorney General	AG
Colorado	Lauren Ris	Director of the Colorado Water Conservation Board	G
Idaho	Mathew Weaver	Director, Idaho Department of Water Resources	G
Idaho	Scott Campbell	Chief of the Energy and Natural Resources Division	AG
Kansas	Earl Lewis	Chief Engineer	G
Kansas	Jay Rodriguez	Assistant Attorney General	AG
Montana	Michael Russell	Assistant Attorney General	AG
Montana	Anna Pakenham-Stevenson	Administrator, Water Resources Division	G
Nebraska	Jesse Bradley	Deputy Director of the Department of Natural Resources	G
Nebraska	Justin Lavene	Bureau Chief, Agriculture, Environment and Natural Resources	AG
Nevada	Gregory Ott	Chief Deputy Attorney General for Government and Natural Resources	AG
Nevada	Adam Sullivan	State Engineer	G
New Mexico	Sydney Lienemann	Deputy Cabinet Secretary for Administration - Environmental Department	G
New Mexico	Bill Grantham	Assistant Attorney General	AG
North Dakota	Andrea Travnicek	Director of Water Resources	G
North Dakota	Matthew Sagsveen	Natural Resources and Native American Affairs Division Director	AG
Oklahoma	Julie Cunningham	Executive Director of the Oklahoma Water Resources Board	G
Oklahoma	Jennifer Lewis	Deputy Attorney General	AG
Oregon	Alyssa Mucken	Senior Water Advisor - Oregon Water Resources Department	G
Oregon	Jesse Ratcliffe	Assistant Attorney General - Natural Resources Section	AG
South Dakota	Eric Gronlund	Program Administrator for Water Rights	G
South Dakota	Jennifer Verleger	Assistant Attorney General	AG
Texas	Jon Niemann	Commission Chair, Texas Commission on Environmental Quality	G
Texas	James Lloyd	Deputy Attorney General for Civil Litigation	AG
Utah	Teresa Wilhelmsen	State Engineer and Director of the Division of Water Rights	G
Utah	Wendy Crowther	Assistant Attorney General	AG
Washington	Stephen North	Assistant Attorney General	AG
Washington	Ria Berns	Water Resources Deputy Program Manager	G
Wyoming	Chris Brown	Senior Assistant Attorney General	AG
Wyoming	Brandon Gebhart	State Engineer	G

Tab R – Legislation and Litigation Update

**Legislation Update
205th WSWC Meeting
Lawrence, Kansas**

Compiled 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 H.R.9861 Bill Title No Title Passed (S/H) Bill Sponsor Rep. Caraveo, Yadira [D-CO-8]	Date Introduced 09/27/24 Assigned Committee(s) House - Science, Space, and Technology Hearing(s) Co-sponsors 1 Republican	WSWC Keywords Congress.gov Link	Summary of Bill To amend the Energy Act of 2020 to direct the Secretary of Energy to establish a demonstration program for on-site treatment of produced water, and for other purposes. Text not received.
Bill Number H.R.9834/ S.5216 Bill Title No Title Passed (S/H) Bill Sponsor Rep. Johnson, Dusty [R-SD-At Large]	Date Introduced 09/25/24 Assigned Committee(s) House - Natural Resources Hearing(s) Co-sponsors	WSWC Keywords Congress.gov Link	Summary of Bill To require the Secretary of the Interior to conduct a study to determine the feasibility of constructing a project to supply municipal, rural, and industrial water from the Missouri River to the Western Dakota Regional Water System, and for other purposes.
Bill Number H.R.9533 Bill Title ESA Amendments Act of 2024 Passed (S/H) Bill Sponsor Rep. Westerman, Bruce [R-AR-4]	Date Introduced 09/19/24 Assigned Committee(s) House - Natural Resources Hearing(s) House - 09/19/2024 Ordered to be Reported in the Nature of a Substitute by the Yeas and Nays: 22 - 13 Co-sponsors 1 Republicans including AZ, CA, ID, OR, WA, and WY	WSWC Keywords Congress.gov Link	Summary of Bill The bill would amend the Endangered Species Act to: (1) incentivize wildlife conservation on private lands; (2) prevent the Secretary of the Interior from designating privately owned or controlled land a critical habitat; (3) authorize States to enact species recovery plans; (4) require that the removal of a species is not subject to judicial review; (5) require greater transparency and accountability in recovering listed species; (6) appropriate \$431.75M, the total authorized in the House FY2025 bills for Fish and Wildlife Service and National Marine Fisheries Service ESA activities.
Bill Number H.R.9650 Bill Title Water Advanced Technologies for Efficient Resource Use Act of 2024 Passed (S/H)	Date Introduced 09/18/24 Assigned Committee(s) House - Ways and Means; Energy and Commerce; Oversight and Accountability Hearing(s)	WSWC Keywords Congress.gov Link	Summary of Bill To provide incentives for the purchase of water-efficient products, and for other purposes. The bill directs the government to prioritize purchasing WaterSense-labeled products, which meet water efficiency standards, and establishes a program to provide grants to entities that offer financial incentives to consumers who buy such products. Additionally, the bill modifies tax laws to exclude incentives received for purchasing WaterSense products from taxable income.

Bill Sponsor Rep. Cartwright, Matt [D-PA-8]	Co-sponsors 17 Democrats including CA, AZ, and OR		
Bill Number S.5101 Bill Title Farmer Driven Conservation Outcomes Act of 2024 Passed (S/H) Bill Sponsor Sen. Casey, Robert P., Jr. [D-PA]	Date Introduced 09/18/24 Assigned Committee(s) Senate - Agriculture, Nutrition, and Forestry Hearing(s) Co-sponsors	WSWC Keywords Congress.gov Link	Summary of Bill The bill aims to amend the Soil and Water Resources Conservation Act of 1977 by establishing a comprehensive system for assessing the effectiveness of federal conservation programs. The bill would direct the Secretary of Agriculture to conduct a conservation effects assessment pilot project to quantify the environmental and economic effects of conservation practices, develop scientific knowledge for sustainable agricultural management, and improve the efficacy of conservation programs. The act would also establish a comprehensive monitoring and program evaluation process to track progress toward specific natural resource and environmental objectives, assess cost-effectiveness, and provide recommendations for program improvement.
Bill Number H.R.9640 Bill Title No Title Passed (S/H) Bill Sponsor Rep. Vargas, Juan [D-CA-52]	Date Introduced 09/17/24 Assigned Committee(s) House - Transportation and Infrastructure; Energy and Commerce; Natural Resources; Foreign Affairs; Budget Hearing(s) Co-sponsors 5 Democrats from CA	WSWC Keywords Congress.gov Link	Summary of Bill To provide for the water quality restoration of the Tijuana River and the New River. Text not received.
Bill Number S.5075 Bill Title Border Water Quality Restoration and Protection Act Passed (S/H) Bill Sponsor Sen. Padilla, Alex [D-CA]	Date Introduced 09/17/24 Assigned Committee(s) Senate - Environment and Public Works Hearing(s) Co-sponsors 1 Democrat, CA	WSWC Keywords Congress.gov Link	Summary of Bill The bill aims to implement Recommendations of the Government Accountability Office's February 2020 Report, "International Boundary and Water Commission: Opportunities Exist to Address Water Quality Problems" and improve coordination between federal, state, and local agencies to address pollution issues in the Tijuana River Valley and New River watersheds. The bill would direct the EPA to establish Geographic Programs for each watershed. It directs the EPA to coordinate with federal, state, tribal, and local governments to implement a comprehensive water quality management program. It also directs EPA to identify a consensus list of priority projects. It would authorize EPA to accept and distribute funds to federal, state, and local partners to construct, operate, and maintain the identified priority projects. The bill would provide technical assistance for restoration activities, codify the U .S.-Mexico Border Water Infrastructure Program (BWIP) and authorize the IBWC to address stormwater and accept funding.
Bill Number S.4996 Bill Title Dakota Water Resources Act Amendments of 2024 Passed (S/H) Bill Sponsor	Date Introduced 09/12/24 Assigned Committee(s) Senate - Energy and Natural Resources Hearing(s) Senate - 09/11/2024 Committee on Energy and Natural Resources Subcommittee on Water and Power. Hearings held. Co-sponsors	WSWC Keywords Congress.gov Link	Summary of Bill The bill would authorize \$687M to complete rural water supply projects in North Dakota including: \$120M to complete the Northwest Area Water Supply Project; \$454M to complete the Eastern North Dakota Alternate Water Supply Project; \$50M to complete the Southwest Pipeline Project; \$63M for North Dakota rural water district treatment and expansions. The bill would authorize \$743M to complete Tribal water projects including: \$118M for the Spirit Lake Rural Water System; \$275M for the Standing Rock Rural Water System; \$98M for the Turtle Mountain Rural Water System; and \$12M for the Lake Traverse Rural Water System. The bill would authorize \$50M for the North Dakota Natural Resources Trust.

Sen. Hoeven, John [R-ND]	1 Democrat, CA; 1 Republican, ND		
Bill Number H.R.4385/S.4242 Bill Title Drought Preparedness Act Passed (S/H) Bill Sponsor Rep. Neguse, Joe [D-CO-2]	Date Introduced 09/11/24 Assigned Committee(s) Hearing(s) Senate - 09/11/2024 Committee on Energy and Natural Resources Subcommittee on Water and Power. Hearings held. Co-sponsors House: 1 Republican, AZ; 1 Democrat, NV Senate: 1 Republican, WY; 1 Democrat, OR	WSWC Keywords Congress.gov Link	Summary of Bill This bill reauthorizes through FY2028 the Reclamation States Emergency Drought Relief Act of 1991, which allows the Bureau of Reclamation to provide drought assistance to Hawaii or certain western states.
Bill Number S.5014/ H.R.9506/ S.4995 Bill Title Water Project Navigators Act Passed (S/H) Bill Sponsor Sen. Hickenlooper, John W. [D-CO]; Rep. Pettersen, Brittany [D-CO-7]	Date Introduced 09/11/24 Assigned Committee(s) Senate - Energy and Natural Resources Hearing(s) Senate - 09/11/2024 Committee on Energy and Natural Resources Subcommittee on Water and Power. Hearings held. Co-sponsors Senate: 1 Republican, KS House: 1 Republican, AZ	WSWC Keywords Congress.gov Link	Summary of Bill The bill would establish a program within the Bureau of Reclamation to fund "navigator" positions to assist States, Tribes, and rural communities in accessing federal resources or water management and conservation projects. The proposed navigators would help communities plan, implement, and secure resources or projects that improve water efficiency, reduce consumption, and enhance ecosystem resilience. The navigators would tap into local expertise to maximize federal resources on the ground. The program is inspired by Colorado's Federal Technical Assistance Grants for Water Projects and the Colorado River Water Conservation District's Accelerator Grant Program.
Bill Number S.5012 Bill Title Lower Colorado River Multi-Species Conservation Program Amendment Act of 2024 Passed (S/H) Bill Sponsor Sen. Padilla, Alex [D-CA]	Date Introduced 09/11/24 Assigned Committee(s) Senate - Energy and Natural Resources Hearing(s) Senate - 09/11/2024 Committee on Energy and Natural Resources Subcommittee on Water and Power. Hearings held. Co-sponsors 3 Democrats including CA, NV, AZ; 1 Independent, AZ	WSWC Keywords Congress.gov Link	Summary of Bill The bill would establish an interest-bearing account for state contributions to the Lower Colorado River Multi-Species Conservation Program.
Bill Number S.5011 Bill Title Sacramento RIVER Act of 2024 Passed (S/H)	Date Introduced 09/11/24 Assigned Committee(s) Senate - Energy and Natural Resources Hearing(s)	WSWC Keywords Congress.gov Link	Summary of Bill This bill would authorize the Interior Department to, upon request from affected entities, create a federal leadership committee to strengthen federal coordination of ecosystem restoration among regional, local, and national stakeholders, ensuring alignment on strategy, vision, and execution of habitat restoration projects. This federal water leadership committee would better position Interior to work with other federal agencies like the U.S. Department of Agriculture, the Environmental Protection Agency, and the Army Corps of Engineers to leverage federal funding and oversee a holistic approach to federal efforts. Additionally, the legislation would incentivize water users to temporarily sell surplus water by allowing the revenue from sales to go toward local efforts on drought resiliency, flood control, or other Bureau of Reclamation reclamation obligations. Current law says that revenue from the sale of surplus water

Bill Sponsor Sen. Padilla, Alex [D-CA]	Co-sponsors		other Bureau of Reclamation repayment obligations. Current law says that revenue from the sale of surplus water goes to the Department of the Treasury, disincentivizing water users from selling surplus water in times of drought.
Bill Number S.5005 Bill Title No Title Passed (S/H)	Date Introduced 09/11/24 Assigned Committee(s) Senate - Energy and Natural Resources Hearing(s) Senate - 09/11/2024 Committee on Energy and Natural Resources Subcommittee on Water and Power. Hearings held. Co-sponsors 1 Republican, ND	WSWC Keywords Congress.gov Link	Summary of Bill A bill to authorize additional funding for the San Joaquin River Restoration Settlement Act. The bill would increase funding from \$250M to \$750M. It would also increase funding for Friant Division improvements from \$50M to \$75M
Bill Sponsor Sen. Padilla, Alex [D-CA]			
Bill Number S.5000 Bill Title No title Passed (S/H)	Date Introduced 09/11/24 Assigned Committee(s) Senate - Energy and Natural Resources Hearing(s) Senate - 09/11/2024 Committee on Energy and Natural Resources Subcommittee on Water and Power. Hearings held. Co-sponsors	WSWC Keywords Congress.gov Link	Summary of Bill A bill to prohibit the use of amounts from the Upper Colorado River Basin Fund to implement a certain record of decision, and for other purposes. The bill would prevent any money from the Upper Colorado River Basin Fund (created by the Colorado River Storage Project Act of 1956) from being used to implement a specific Record of Decision (ROD) related to the Glen Canyon Dam. The 2016 and 2024 RODs focus on managing the Glen Canyon Dam's operations, including addressing the issue of nonnative fish, which can threaten native species like the endangered humpback chub in the Colorado River. The bill specifies that any federal funds made available for the purpose of implementing the ROD (as described above) will be nonreimbursable and nonreturnable to the federal government.
Bill Sponsor Sen. Lee, Mike [R-UT]			
Bill Number S.4999 Bill Title A bill to amend the Aquifer Recharge Flexibility Act to clarify a provision relating to conveyances for aquifer recharge purposes. Passed (S/H)	Date Introduced 09/11/24 Assigned Committee(s) Senate - Energy and Natural Resources Hearing(s) Senate - 09/11/2024 Committee on Energy and Natural Resources Subcommittee on Water and Power. Hearings held. Co-sponsors	WSWC Keywords Congress.gov Link	Summary of Bill The bill would amend the Aquifer Recharge Flexibility Act to allow the holder of a right-of-way (ROW) grant approved by the BLM, acting on behalf of themselves or a third party, to use the existing ROW for the purposes of aquifer recharge without further authorization from the Secretary. The bill further clarifies that this use shall not be considered an expansion or modification.
Bill Sponsor Sen. Risch, James E. [R-ID]			
Bill Number H.R.9498 Bill Title TAME Extreme Weather Act Passed (S/H)	Date Introduced 09/09/24 Assigned Committee(s) House - Science, Space, and Technology Hearing(s)	WSWC Keywords Congress.gov Link	Summary of Bill The bill would require federal agencies to adopt AI tools to improve weather forecasts, increase grid resilience, and improve environmental review, while also maximizing federal resources and strengthening public-private partnerships in advanced computing. Specifically, the TAME Extreme Weather Act directs three relevant federal agencies relevant to extreme weather to use AI tools including: (1) National Oceanic and Atmospheric Administration: Improve weather forecasting, wildfire detection, and modeling of how and where wildfires will spread; (2) Department of Agriculture: Crack down on deforestation and illegal wood products that increase foreign nations' vulnerability to extreme weather events; (3) Department of Energy: Optimize electrical grids and transmission against disruption from extreme weather events and develop technology for comprehensive and efficient environmental review.
Bill Sponsor	Co-sponsors		

Rep. Franklin, C. Scott [R-FL-18]			
1 Democrat from CA			
Bill Number S.4975 Bill Title Smarter Weather Forecasting for Water Management, Farming, and Ranching Act of 2024 Passed (S/H) Bill Sponsor Sen. Rosen, Jacky [D-NV]	Date Introduced 08/01/24 Assigned Committee(s) Senate - Commerce, Science, and Transportation Hearing(s) Co-sponsors 2 Democrats, CA and NM	WSWC Keywords Congress.gov Link	Summary of Bill The act would authorize subseasonal-to-seasonal (S2S) forecasting pilot projects under the National Oceanic and Atmospheric Administration (NOAA) to improve weather prediction ranging from subseasonal (two week-three months) to seasonal (three months to two years) ranges. The language closely mirrors Sec. 501 of the Weather Act Reauthorization Act (H.R. 6093), which passed the House in April (See WSW #2607).
Bill Number S.4901 Bill Title Improving Flood and Agricultural Forecasts Act of 2024 Passed (S/H) Bill Sponsor Sen. Schatz, Brian [D-HI]	Date Introduced 07/31/24 Assigned Committee(s) Senate - Commerce, Science, and Transportation Hearing(s) Co-sponsors 1 Democrat, KS; 1 Republican	WSWC Keywords Congress.gov Link	Summary of Bill The bill would require the Under Secretary of Commerce for Oceans and Atmosphere to maintain and expand the National Mesonet Program. The act directs the Undersecretary to improve forecasting for atmospheric, drought, fire, and water events by collecting a wide range of environmental data. The program will focus on integrating data from commercial, academic, and non-Federal sources, encouraging local and regional networks to contribute more environmental observations, including soil moisture, stream gauges, and satellite constellations. The program will increase data density to improve weather forecasts, including nowcasts (short-term forecasts) and severe weather warnings. It will enhance prediction models to improve forecast performance, especially for seasonal to subseasonal timescales (medium-term forecasts). The goal includes helping the National Weather Service (NWS) achieve a 30-minute severe weather warning lead time, increasing the accuracy of forecasts to protect individuals, businesses, and agricultural sectors. The bill emphasizes collecting soil moisture data and other environmental observations to support drought information systems, emergency management, and local agricultural needs. It will also improve road weather observation networks to provide real-time data for transportation and related sectors. The bill mandates coordination with existing NOAA data sources, such as the National Environmental Satellite, Data, and Information Service and the National Data Buoy Center, to ensure data integration and efficiency. The bill also allows the Under Secretary to provide financial and technical assistance to State, Tribal, private, and academic entities to build or expand their monitoring systems. At least 15% of the program's annual funding will be set aside for this purpose, especially prioritizing underrepresented or remote areas. An advisory committee of subject matter experts will provide guidance on identifying data needs, improvements, and expansions. This committee can include academic experts to foster collaboration and expand the number of participants and data sources. The Under Secretary must brief Congress twice a year on program activities, financial assistance, and progress made in addressing data gaps and improving forecasts, especially in underrepresented areas. The bill authorizes appropriations for the program as follows: \$50M for FY2025, \$55M for FY2026, \$61M for FY2027; \$68M for FY2028; \$70M for FY2029.
Bill Number S.4897 Bill Title Water Conservation Rebate Tax Parity Act Passed (S/H) Bill Sponsor Sen. Butler, Laphonza R. [D-CA]	Date Introduced 07/31/24 Assigned Committee(s) Senate - Finance Hearing(s) Co-sponsors 2 Democrats, CA and CO	WSWC Keywords Congress.gov Link	Summary of Bill The bill would amend federal tax law so that homeowners would not need to pay income tax when they receive rebates from water utilities for water conservation and water runoff management improvements that they have made. The bill clarifies that these rebates, which are growing in number and size across the nation, are not taxable income, but rather an effort to defray upfront consumer costs for a public benefit.
Bill Number S.4836 Bill Title USDA Grant Simplification Act of 2024 Passed (S/H)	Date Introduced 07/30/24 Assigned Committee(s) Senate - Agriculture, Nutrition, and Forestry Hearing(s)	WSWC Keywords Congress.gov Link	Summary of Bill This legislation directs the Secretary of Agriculture to create a "short-form" version of grant applications for rural communities and entities no later than 180 days after enactment to be made available for incorporated municipalities, tribal areas and territories with populations under 10,000 residents. This short-form application would also be available for local entities such as water districts, irrigation districts, road and bridge districts, and fire districts. It also directs the secretary to solicit input from a representative group of rural

Bill Sponsor Sen. Lummis, Cynthia M. [R-WY]	Co-sponsors 1 Republican, WY		communities concerning issues such as length of grant applications, information requested for applications and applicability of questions and materials requested of rural communities and provides the secretary an additional 90 days to identify grants most in need of short-form applications.
Bill Number S.4679 Bill Title Permitting Council Improvement Act of 2024 Passed (S/H) Bill Sponsor Sen. Peters, Gary C. [D-MI]	Date Introduced 07/11/24 Assigned Committee(s) Senate - Homeland Security and Governmental Affairs Hearing(s) 09/25/2024 - Ordered to be reported with an amendment in the nature of a substitute favorably. Co-sponsors 1 Republican, OK	WSWC Keywords Congress.gov Link	Summary of Bill The bill would clarify that federal agencies must comply with federal permitting requirements for certain projects, even when other laws govern their actions (e.g., NEPA, the Water Resources Development Act). Expands the role of the Steering Council, allowing it to issue necessary guidance for improving federal environmental permitting. The bill would provide mechanisms for resolving disputes between agencies about permitting timelines; (2) enable the Council to modify or recommend modifications to the permitting timetable when disputes arise, with agencies required to respond within a set timeframe; (3) establish procedures for handling missed deadlines; establish a fee system for assessing project costs to support environmental reviews, capped at 1% of the total project investment; and (4) authorize a multi-year appropriation schedule, starting at \$12 million in 2025 and increasing to \$21 million by 2031. The bill would remove the requirement for certain reports by the Government Accountability Office (GAO) related to the permitting process.
Bill Number H.R.8953/S.4442 Bill Title Crow Tribe Water Rights Settlement Amendments Act of 2024 Passed (S/H) Bill Sponsor Rep. Zinke, Ryan K. [R-MT-1]; Sen. Tester, Jon [D-MT]	Date Introduced 07/08/24 Assigned Committee(s) House - Natural Resources; Senate - Indian Affairs Hearing(s) 09/18/2024 Senate Committee on Indian Affairs. Ordered to be reported with an amendment in the nature of a substitute favorably. Co-sponsors Senate: 1 Republican, MT	WSWC Keywords Congress.gov Link	Summary of Bill S. 4442 would amend the Settlement Act by establishing a non-trust fund account to allow the Bureau of Reclamation to continue work on rehabilitation of the CIP and a new MR&I projects trust fund to be used by the Tribe for (i) planning, permitting, designing, engineering, constructing, reconstructing, replacing, rehabilitating, operating, or repairing water production, treatment, or delivery infrastructure, including for domestic and municipal use or wastewater infrastructure; (ii) purchasing on-Reservation land with water rights; and (iii) complying with applicable environmental laws. The amendments do not increase the funding for the Settlement Act but merely change the way some funds are held and expended.
Bill Number H.R.8951 Bill Title Zuni Indian Tribe Water Rights Settlement of 2024 Passed (S/H) Bill Sponsor Vasquez, Gabe [Rep.-D-NM-2]; Sen. Heinrich, Martin [D-NM]	Date Introduced 07/08/24 Assigned Committee(s) House - Natural Resources Senate - Indian Affairs Hearing(s) 09/25/2024 Committee on Indian Affairs. Hearings held. Co-sponsors House: 2 Democrats, NM Senate: 1 Democrat, NM	WSWC Keywords Congress.gov Link	Summary of Bill The bill authorizes \$685 million in federal funding and ratifies the Zuni Indian Tribe Water Rights Settlement. The settlement would establish \$655.5 million in mandatory spending for a Zuni Tribe Water Rights Settlement Trust Account; \$29.6 million towards a trust fund for maintenance, operation and replacement; \$750,000 in state funding from New Mexico for water monitoring; \$500,000 to mitigate non-Indian domestic groundwater rights because of tribal usage; and \$50 million in funding for economic water development plans, environmental compliance costs, design costs and establishing a water resource department. Another portion of the settlement will establish a 217,000 acre sanctuary and the withdrawal of 92,364 federal land from entry, appropriation or type of mineral leasing. The land will be managed by Bureau of Land Management and prohibits new water wells, grazing permits, timber sales and fossil collecting. Another 4,756 acres will be placed into a "Tribal Acquisition Area Trust" which will now be managed by the Bureau of Indian Affairs.
Bill Number H.R.8949/S.4705 Bill Title Yavapai-Apache Water Rights Settlement of 2024 Passed (S/H) Bill Sponsor	Date Introduced 07/08/24 Assigned Committee(s) House - Natural Resources Senate - Indian Affairs Hearing(s) 09/25/2024 Committee on Indian Affairs. Hearings held. Co-sponsors	WSWC Keywords Congress.gov Link	Summary of Bill This bill ratifies and funds the Yavapai-Apache Nation Water Rights Settlement in the State of Arizona. The bill directs the Secretary of the Interior to plan, design, and construct the pipeline as a part of the Salt River Federal Reclamation Project. The costs of the pipeline project and other provisions relating to litigation settlement in the Act are as follows: \$731.1M for the Cragin-Verde Pipeline Construction; \$152M YAN Surface Water Drinking Plant and Main Transmission Lines on the Reservation; \$156M YAN Water Settlement Trust Fund. Under this settlement, the Yavapai-Apache Nation will have confirmed water rights to use 4,610 acre-feet per year (including the Nation's Central Arizona Project or "CAP" water), and to reuse all of the effluent produced by this water supply on its farming operations. As part of this settlement, the Yavapai-Apache Nation will waive claims for damages to water rights against existing water users in the Verde River watershed and against the United States. The Yavapai-Apache Nation is currently undertaking a land exchange with the Forest Service. in the event that it is not

Rep. Schweikert, David [R-AZ-1]; Sen. Kelly, Mark [D-AZ]	House: 2 Republicans, AZ; 2 Democrats, AZ Senate: 1 Independent, AZ		Navajo Nation is currently undertaking a land exchange with the Forest Service, in the event that it is not completed by the date of enactment, the bill would direct it to be completed and have the land taken into trust for the tribe.
Bill Number H.R.8945/S.4998 Bill Title Navajo Nation Rio San José Stream System Water Rights Settlement Act of 2024 Passed (S/H) Bill Sponsor Leger Fernandez, Teresa [Rep.-D-NM-3]; Sen. Heinrich, Martin [D-NM]	Date Introduced 07/08/24 Assigned Committee(s) House - Natural Resources; Senate - Indian Affairs Hearing(s) Senate - 09/25/2024 Committee on Indian Affairs. Hearings held Co-sponsors House: 2 Democrats, NM Senate: 1 Democrat, NM	WSWC Keywords Congress.gov Link	Summary of Bill To approve the settlement of water rights claims of the Navajo Nation in the Rio San José Stream System in the State of New Mexico, and for other purposes. No text received.
Bill Number H.R.8940 / S.4633 Bill Title Northeastern Arizona Indian Water Rights Settlement Act of 2024 Passed (S/H) Bill Sponsor Ciscomani, Juan [Rep.-R-AZ-6]; Kelly, Mark [Sen.-D-AZ]	Date Introduced 07/08/24 Assigned Committee(s) House - Natural Resources Senate - Indian Affairs Hearing(s) Senate - 09/25/2024 Committee on Indian Affairs. Hearings held Co-sponsors House: 3 Democrats, AZ; 2 Republicans, AZ Senate: 1 Independent, AZ	WSWC Keywords Congress.gov Link	Summary of Bill This bill settles the ongoing water claims in the Colorado River Basin for the Navajo Nation, the Hopi Tribe, and the San Juan Southern Paiute. Funds created in the legislation include: the iiná bá – paa tuwaqat'si pipeline Implementation Fund (\$1.7B); Navajo Nation Water Settlement Trust Fund (\$2.7B); Hopi Tribe Water Settlement Trust Fund (\$508.5M); San Juan Southern Paiute Tribe Water Settlement Trust Fund (\$29.8M).
Bill Number H.R.8937 Bill Title No title Passed (S/H) Bill Sponsor Rep. Grijalva, Raúl M. [D-AZ-7]	Date Introduced 07/08/24 Assigned Committee(s) House - Natural Resources Hearing(s) Co-sponsors 1 Democratic, NM	WSWC Keywords Congress.gov Link	Summary of Bill H.R. 8937 will establish two new subaccounts for existing and future settlements: (1) Operations, Maintenance, and Repair Subaccount will provide \$34 million per fiscal year through 2032 for the Ak Chin Indian Water Rights Settlement Project, the Animas-La Plata Project, the Columbia and Snake River Salmon Recovery Project, and the Navajo-Gallup Water Supply Project; (2) New and Continuing Settlements Subaccount will provide \$250 million per fiscal year through 2032 for existing or new water rights settlements.
Bill Number H.R.8920/S.306 Bill Title Tule River Tribe Reserved Water Rights Settlement Act of 2024 Passed (S/H) Bill Sponsor Fong, Vince [Rep.-R-CA-20]; Sen. Padilla, Alex [D-CA]	Date Introduced 07/02/24 Assigned Committee(s) House - Natural Resources Senate - Indian Affairs Hearing(s) Co-sponsors Senate: 1 Democrat, CA	WSWC Keywords Congress.gov Link	Summary of Bill This bill recognizes and settles the water rights of the Tule River Indian Tribe of the Tule River Reservation in California. It also establishes and provides funding for a settlement trust fund. Specifically, the bill authorizes, ratifies, and confirms a specified water rights settlement agreement entered into by the tribe, the South Tule Independent Ditch Company, and the Tule River Association, thus satisfying claims to water rights in California. Additionally, the bill outlines the tribe's water rights, including the right to divert and use 5,828 acre-feet of water per year from the South Fork Tule River. Next, the bill establishes and provides funding for the Tule River Indian Tribe Settlement Trust Fund. Amounts deposited in this trust fund shall be made available to the tribe for water development projects. The bill also transfers specified lands, including a portion of federal lands in the Sequoia National Forest, into trust for the benefit of the tribe. The bill outlines waivers, releases, and retentions of claims by the tribe and the United States under the settlement agreement
Bill Number H.R.8916	Date Introduced 07/02/24	WSWC Keywords	Summary of Bill The bill would amend the CWA (33 USC 1383) to make certain qualified nonprofit entity and POTW projects and

Rural Water Supply Program Reauthorization Act Passed (S/H) Bill Sponsor Rounds, Mike [Sen.-R-SD]	Senate - Energy and Natural Resources Hearing(s) Senate - 09/11/2024 Committee on Energy and Natural Resources Subcommittee on Water and Power. Hearings held. Co-sponsors 2 Democrats		projects, delivering potable water supplies to rural communities in western states. In 2006, Congress authorized the Rural Water Supply Program to allow the BOR to develop and recommend rural water supply projects. This program, which lapsed in 2016, replaced the process of authorizing feasibility studies on a case by case basis by Congress. This legislation would reauthorize the program for 8 more years.
Bill Number S.4449 Bill Title River Democracy Act Passed (S/H) Bill Sponsor Sen. Wyden, Ron [D-OR]	Date Introduced 06/04/24 Assigned Committee(s) Senate - Energy and Natural Resources Hearing(s) Senate - 06/12/2024 Committee on Energy and Natural Resources Subcommittee on Public Lands, Forests, and Mining. Hearings held Co-sponsors 1 Democratic, OR	WSWC Keywords Congress.gov Link	Summary of Bill To amend the Wild and Scenic Rivers Act to designate certain river segments in the State of Oregon as components of the National Wild and Scenic Rivers System, and for other purposes. The bill would expand Oregon's network of Wild and Scenic rivers by 3,215 miles in key watersheds such as the Deschutes, Rogue, Grande Ronde, John Day, Clackamas, McKenzie, and others.
Bill Number H.R.8467 Bill Title Farm, Food, and National Security Act of 2024 Passed (S/H) Bill Sponsor	Date Introduced 05/21/24 Assigned Committee(s) House - Agriculture Hearing(s) 05/24/2024 Ordered to be Reported (Amended) by the Yeas and Nays: 33 - 21. Action By: Committee on Agriculture Co-sponsors	WSWC Keywords Congress.gov Link	Summary of Bill The House proposal for the reauthorization of the Farm Bill 2024. Title II extends (CRP) contracts up to 30 years and would amend CREP by integrating the State Acres for Wildlife Enhancement (SAFE) Initiative. It would also incorporate precision agriculture into EQIP and establish a grant program for state and tribal soil health programs. Additionally, it authorizes advance payments for Emergency Conservation Program (ECP) rehabilitation and expands the Emergency Watershed Program for floodplain easements. Title IV focuses on rural development, clarifying purposes and maintaining funding for the Rural Water and Wastewater Circuit Rider program, and reauthorizing through 2029. Grant funds may be used for populations of 10k or fewer. The bill would update the Rural Decentralized Water Systems program eligibility requirements, loan terms, and add loans and subgrants for performing water quality testing in individual households. The title would also add disaster and recovery assistance to the Rural Water and Wastewater Technical Assistance and Training Programs. Title VIII would amend the Water Source Protection Program to prioritize projects that protect and restore watershed health and water-related infrastructure. Title X would provide a safe harbor for aerial application of fire retardants for wildfire activities, ensuring compliance with EPA-USFS agreements. Title XII would direct the USDA to report to Congress on assistance programs for Texas agricultural producers affected by Mexico's failure to deliver water under the 1944 Rio Grande Treaty.
Bill Number S. 4367 Bill Title Thomas R. Carper Water Resources Development Act of 2024 Passed (S/H) 08/01/2024 Passed Senate with an amendment by Unanimous Consent. Bill Sponsor	Date Introduced 05/20/24 Assigned Committee(s) Senate - Environment and Public Works Hearing(s) Co-sponsors	WSWC Keywords WRDA Congress.gov Link	Summary of Bill The Senate's proposal for the reauthorization of WRDA for 2024. The bill includes 81 feasibility studies and eight new or modified construction projects. The bill would also increase the federal cost-share for inland waterways projects to 75%, require reports on invasive species and levee safety guidelines and a user-guide on public-private partnerships, and direct the GAO to conduct studies evaluating USACE practices and programs. The bill directs the Secretary of the Army to develop a plan to implement this and prior WRDAs by identifying incomplete projects and establishing a WRDA implementation team. It directs the Secretary to expedite rulemaking necessary to implementing ability to pay authority. The bill clarifies Congressional intent regarding existing Federal interest determinations authority for feasibility studies. It would require the Secretary to provide debriefs to non-Federal interests if their submission was not included in the annual 7001 report to Congress and to notify appropriate congressional delegations of certain requests that were included in that report. The bill would amend an existing authority that allows the Secretary to

Sen. Carper, Thomas R. [D-DE]	2 Republicans, 1 Democratic including AZ, ND		requests that were included in that report. The bill would amend an existing authority that allows the Secretary to enter into cooperative agreements, contracts, or any other authorized means to support the civil works missions of the US Army Corps of Engineers (Corps). The bill would allow the Secretary to accept funds from a non-Federal interest or another Federal agency for the purpose of water control manual updates. The bill directs the Secretary to make publicly available information about ongoing studies and projects at each district of the Corps and to educate non-Federal interests about operations, maintenance, repair, replacement, and rehabilitation responsibilities associated with a water resources development project. It allows the Secretary to partner with other Federal agencies, National Laboratories, and institutions of higher education on models used in water resources planning. The bill would eliminate the sunset of the Tribal Partnership Program (TPP), clarifies existing eligibilities for projects within the TPP, and creates a pilot program for certain projects. It would also modify the general reevaluation report in Craig Harbor, Alaska. The bill directs the Secretary to assess potential use of forecast-informed reservoir operations in the Colorado River Basin and allows the Secretary to carry out certain activities if the Secretary determines those activities to be appropriate, subject to the availability of funding. authorizes the Secretary to carry out a feasibility study for modifications to certain Corps projects in the state of Arizona. The bill would establish a pilot program for non-Federal interests to carry out water reallocation studies at Corps projects in the state of North Dakota under the Water Supply Act of 1958. It would require the Secretary to complete a report on emergency response expenditures from the Flood Control and Coastal Emergencies Account and from prior post-disaster supplemental appropriations laws. The bill would authorize new and modify existing environmental infrastructure authorities of the Secretary. The bill would amend WRDA 1986 to increase authorized funding for Acequias irrigation systems, amend section 8359 of WRDA 2022 to realign the authority to the entire state of Oregon and increases the authorized funding for Oregon environmental infrastructure, amends section 594 of WRDA 1999 to modify certain projects in Ohio and North Dakota. The bill would clarify the definition of non-Federal interest as it applies to the Western rural water program authorized by section 595 of WRDA 1999. The bill would modify the project for flood risk management, Lowell Creek, Seward, Alaska. The bill directs the Secretary to expedite the review of the request to apply section 1203 of WRDA 1986 for the project for dam safety at Garrison Dam, North Dakota. The bill would extend the authorization of the program for soil moisture and snowpack monitoring in the Upper Missouri River Basin until 2029.
Bill Number S.4359 Bill Title National Dam Safety Act reauthorization (no title) Passed (S/H) Bill Sponsor Sen. Padilla, Alex [D-CA]	Date Introduced 05/16/24 Assigned Committee(s) Senate - Environment and Public Works Hearing(s) Senate - 05/22/2024 Placed on Senate Legislative Calendar under General Orders. Calendar No. 404. Co-sponsors 1 Democratic from ND	WSWC Keywords Congress.gov Link	Summary of Bill A bill to amend the National Dam Safety Program Act to reauthorize that Act, and for other purposes. The bill would reauthorize the National Dam Safety Program Act through 2029
Bill Number H.R.8428 Bill Title Deschutes River Conservancy Act of 2024 Passed (S/H) Bill Sponsor Rep. Chavez-DeRemer, Lori [R-OR-5]	Date Introduced 05/16/24 Assigned Committee(s) House - Natural Resources Hearing(s) Co-sponsors	WSWC Keywords Congress.gov Link	Summary of Bill To amend the Oregon Resource Conservation Act of 1996 to reauthorize the Deschutes River Conservancy Working Group, and for other purposes. The bill would establish a working group composed of a board of 10-15 directors nominated by the group represented by the member. The group would be constituted by 2 members of the environmental community in the Basin, 2 representatives of the irrigated agriculture communities, 2 representatives of the Confederated tribes of the Warm Springs Reservation of Oregon, 1 member to represent the hydroelectric production community in the Basin, 1 member to represent the federal agencies, 1 member to represent an agency of the State of Oregon, and 1 member to represent a unit of local government in the Basin.
Bill Number H.R. 8344 Bill Title	Date Introduced 05/10/24 Assigned Committee(s)	WSWC Keywords Congress.gov Link	Summary of Bill To require the Secretary of Agriculture to submit to Congress a report on available assistance to agricultural producers in the State of Texas that have suffered economic losses due to the failure of Mexico to deliver water.

Texas Agricultural Producers Assistance Act	House Committee on Agriculture, Subcommittee on General Farm Commodities, Risk Management, and Credit	https://www.congress.gov/bill/118th-congress/house-bill/8344/cosponsors?sort=1&order=1&q=%7B%22search%22%3A%22water%22%7D	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. De La Cruz, Monica [R-TX-15]	Co-sponsors 2 Bipartisan Cosponsors from TX		
Bill Number H.R.8263 Bill Title Rural Jobs and Hydropower Expansion Act Passed (S/H)	Date Introduced 05/07/24 Assigned Committee(s) House - Natural Resources Hearing(s) House - 05/22/2024 Subcommittee Hearings Held Co-sponsors	WSWC Keywords Congress.gov Link	Summary of Bill To amend the Reclamation Project Act of 1939 to encourage non-Federal hydropower development with respect to Bureau of Reclamation projects. The bill would formally authorize the development of hydropower using all Reclamation facilities and encourages irrigation districts, electric utilities and others to develop new hydropower. The bill would provide Reclamation exclusive authority to issue permits for hydropower development within Reclamation projects, removing the need for a second permit from FERC.
Bill Number H.R. 8270 Bill Title Conservation Reserve Program Modernization Act Passed (S/H)	Date Introduced 05/07/24 Assigned Committee(s) House - Agriculture, Subcommittee on Conservation, Research, and Biotechnology Hearing(s)	WSWC Keywords Congress.gov Link	Summary of Bill To amend the Food Security Act of 1985 to modernize the conservation reserve program, and for other purposes. The bill would expand the types of land eligible for inclusion in the CRP to include cropland meeting specific soil capability criteria, grasslands, marginal pasture land, and areas designated for conservation buffers or wildlife habitats. The bill would also adjust the annual rental payment structure for re-enrolled land under the CRP, progressively reducing the percentage of the county average soil rental rate for subsequent re-enrollments. The bill would sets limitations on county average soil rental rates based on the soil capability class of eligible land enrolled in the CRP. The bill would increase the federal cost-share percentage to 50% for various conservation activities under the CRP, such as establishing permanent vegetation, erosion control, fencing for riparian areas, water development practices, and mid-contract management activities.
Bill Number S.4245 Bill Title Water Monitoring and Tracking Essential Resources Data Improvement Act Passed (S/H)	Date Introduced 05/02/24 Assigned Committee(s) Senate - Energy and Natural Resources Hearing(s) Senate - 09/11/2024 Committee on Energy and Natural Resources Subcommittee on Water and Power. Hearings held. Co-sponsors 2 Democrats, CO, WY	WSWC Keywords Congress.gov Link	Summary of Bill The bill would reauthorize certain USGS water data enhancement programs. The bill renames, reprioritize, and reauthorize the national streamflow information program. The program would be renamed "Federal Priority Streamgage Program" and reauthorized uch as the National Streamflow Information Program (to be renamed the Federal Priority Streamgage Program) through 2028, and the National Groundwater Resources Monitoring program through 2028.
Bill Sponsor Sen. Lummis, Cynthia M. [R-WY]			
Bill Number S.4253/H.R.7468 Bill Title No title Passed (S/H)	Date Introduced 05/02/24 Assigned Committee(s) Senate - Foreign Relations House - Foreign Affairs Hearing(s)	WSWC Keywords Congress.gov Link	Summary of Bill A bill to ensure that United States diplomats and officials of the U.S. Section of the International Boundary and Water Commission are able to advance efforts seeking compliance by the United Mexican States with the 1944 Treaty on Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande. The bill directs the Secretary of State to leverage the United States' diplomatic influence and resources to ensure compliance by Mexico with the 1944 Water Treaty concerning the Colorado and Tijuana Rivers and the Rio Grande. The bill also aims to establish agreements for predictable and reliable future water deliveries from Mexico.

Bill Sponsor Sen. Cruz, Ted [R-TX] Rep. De La Cruz, Monica [R-TX-15]	Co-sponsors Senate: 1 Republican, TX House: 28 Republicans including TX, CO, and WA; 10 Democrats, TX		
Bill Number S.4220 Bill Title WASH Access Data Collection Act of 2024 Passed (S/H) Bill Sponsor #REF!	Date Introduced 05/01/24 Assigned Committee(s) Senate - Environment and Public Works Hearing(s) Co-sponsors 3 Democrats from OR and NM	WSWC Keywords Congress.gov Link	Summary of Bill To collect information regarding water access needs across the United States, to understand the impacts of the water access gap in each State and territory, and for other purposes. The bill would establish the Water and Sanitation Needs Working Group. The Working Group would carry out a survey to estimate the number and geographic distribution of households in the U.S. that do not have access to drinking water infrastructure and wastewater treatment. The Group would prepare a report for Congress estimating the cost of capital improvements to ensure reliable drinking water and sanitation for all households.
Bill Number H.R.8096 / S.4188 Bill Title Future of Water Act of 2024 Passed (S/H) Bill Sponsor Sen. Wyden, Ron [D-OR]	Date Introduced 04/19/24 Assigned Committee(s) House - Agriculture Senate - Agriculture, Nutrition, and Forestry Hearing(s) Co-sponsors House: 15 Democrats including CA Senate: 2 Democrats including OR; 1 Independent	WSWC Keywords water rights, transfer Congress.gov Link	Summary of Bill To amend the Commodity Exchange Act to prohibit trading of water and water rights for future delivery, and for other purposes.
Bill Number H.R. 8076 / S.4173 Bill Title Clean Water Standards for PFAS Act of 2024 Passed (S/H) Bill Sponsor Rep. Pappas, Chris [D-NH-1]; Sen. Gillibrand, Kirsten E. [D-NY]	Date Introduced 04/18/24 Assigned Committee(s) House - Transportation and Infrastructure; Energy and Commerce Senate - Environment and Public Works Hearing(s) Co-sponsors House: 19 Democrats including CA, CO, NM, TX; 3 Republicans	WSWC Keywords PFAS, WQS Congress.gov Link	Summary of Bill To establish effluent limitations guidelines and standards and water quality criteria for perfluoroalkyl and polyfluoroalkyl substances under the Federal Water Pollution Control Act, and for other purposes.
Bill Number H.R. 8079/ S. 4172 Bill Title Drought Resilient Infrastructure Act of 2024 Passed (S/H)	Date Introduced 04/18/24 Assigned Committee(s) House - Transportation and Infrastructure Senate - Environment and Public Works Hearing(s)	WSWC Keywords Congress.gov Link	Summary of Bill To provide for water conservation, drought operations, and drought resilience at water resources development projects, and for other purposes. The bill would authorize the Secretary of the Army to implement water conservation measure in water resources development projects for which water supply is an authorized purpose. Water conservation measures authorized in this provision include stormwater retention and aquifer recharge enhancement, releases to augment water supply at another facility, modifications to existing Corps facilities to enhance stormwater retention, water storage, or aquifer recharge, and "other actions to conserve water resources." The bill would also allow the Secretary to receive and expend funds from non-federal interests or federal agencies to carry out such measures. The bill also would require that during drought conditions, consistent with other authorized purposes, water supply and conservation become primary purposes for Corps-covered projects. The bill provides for updates to water control manuals to include drought operations and contingency plans. The bill would authorize the Secretary to

Bill Sponsor Stanton, Greg [Rep.-D-AZ-4], Sen. Kelly, Mark [D-AZ]	Co-sponsors House: 3 Democrats including AZ, NV; 1 Republican, AZ Senate: 4 Democrats including CA, NM, NV; 1 Independent, AZ		water control manuals to include drought operations and contingency plans. The bill would authorize the Secretary to carry out a drought resilience projects if the Secretary determines that the project would provide for drought resilience, is in the public interest, and is cost effective. Projects may include water conservation measures, sediment management, and mitigation of non-native species. Funding is limited to \$10M per project at any single locale. The bill establishes a pilot program for using forecast-informed reservoir operations with the goals of (1) providing for drought resilience, and (2) for further development on the screening process developed by the Corps assessing the viability of water supply and conservations as project purposes in a Colorado River Basin State.
Bill Number S.4157 Bill Title Improving Corps Civil Works Compensatory Mitigation Act Passed (S/H) Bill Sponsor Sen. Padilla, Alex [D-CA]	Date Introduced 04/18/24 Assigned Committee(s) Senate - Environment and Public Works Hearing(s) Co-sponsors 1 Republican	WSWC Keywords Congress.gov Link	Summary of Bill The Act aims to improve the process and effectiveness of compensatory mitigation for civil works projects by clearly defining contracts, ensuring prioritization of existing restoration plans, and enforcing compliance with established mitigation regulations. The bill would define "contract" as an agreement between the Secretary of the Army and a mitigation provider. The bill specifies that such contracts must use accepted Corps of Engineers District-level mitigation practices and prioritize existing restoration plans by State, local, or regional entities. It would amend Section 906(d)(3)(B)(iv) to include "contract" alongside "instrument" for third-party mitigation arrangements. The bill would require that the Secretary ensure contributions are used for approved mitigation activities. The bill mandates the Secretary to ensure compliance with the section and the final rule of the Corps of Engineers and the Environmental Protection Agency entitled "Compensatory Mitigation for Losses of Aquatic Resources" or any subsequent rule.
Bill Number H.R.8074 / S.4187 Bill Title Forever Chemical Regulation and Accountability Act of 2024 Passed (S/H) Bill Sponsor Rep. McCollum, Betty [D-MN-4]; Sen. Durbin, Richard J. [D-IL]	Date Introduced 04/18/24 Assigned Committee(s) House - Energy and Commerce; Oversight and Accountability; Science, Space, and Technology; Transportation and Infrastructure; Armed Services Senate - Environment and Public Works Hearing(s) Co-sponsors House: 1 Democrat	WSWC Keywords Congress.gov Link	Summary of Bill To phase out production of nonessential uses of perfluoroalkyl or polyfluoroalkyl substances, to prohibit releases of all perfluoroalkyl or polyfluoroalkyl substances, and for other purposes. The bill would direct the National Academies of Sciences to review and evaluate available scientific evidence to determine categories of essential uses of PFAS. NAS would then provide guidance on designating PFAS uses as either "essential" or "non-essential." The bill would set a four year deadline to eliminate non-essential uses of PFAS in certain classes, and a 10-year national deadline to eliminate non-essential PFAS uses in all non-essential classes, while providing exemptions for currently unavoidable and certain critical purposes. The bill provides a petition process "to designate a use of PFAS as essential or non-essential." The bill would require all PFAS manufacturers and users to file reports with EPA to disclose certain information and submit a phase-out schedule.
Bill Number S.4162 Bill Title Maintaining Cooperative Permitting Act of 2024 Passed (S/H) Bill Sponsor Sen. Rubio, Marco [R-FL]	Date Introduced 04/18/24 Assigned Committee(s) Senate - Environment and Public Works Hearing(s) Co-sponsors 1 Republican	WSWC Keywords Congress.gov Link	Summary of Bill To ensure that certain permit approvals by the Environmental Protection Agency have the force and effect of law, and for other purposes. The bill would codify the dredge and fill permitting programs administered by the States of Florida, Michigan, and New Jersey.
Bill Number H.R.8032 / S.3830 Bill Title Low-Income Household Water Assistance Program Establishment Act Passed (S/H)	Date Introduced 04/16/24 Assigned Committee(s) House - Transportation and Infrastructure; Energy and Commerce Hearing(s)	WSWC Keywords Congress.gov Link	Summary of Bill To authorize the Low-Income Household Water Assistance Program, and for other purposes. The Secretary, in consultation with the Administrator, shall establish the Low-Income Household Water Assistance Program to award grants, in accordance with paragraph (2), to eligible entities to provide funds to owners and operators of public water systems or treatment works to assist low-income households in paying arrearages and other rates charged to such households for drinking water or wastewater services.

Bill Sponsor Rep. Sorensen, Eric [D-IL-17; Sen. Padilla, Alex [D-CA]]	Co-sponsors House: 2 Republicans including OR; 1 Democratic, WA Senate:		
Bill Number S.4134/H.R.8030 Bill Title DROUGHT Act of 2024 Passed (S/H) Bill Sponsor Sen. Padilla, Alex [D-CA]; Rep. Peters, Scott H. [D-CA-50]	Date Introduced 04/16/24 Assigned Committee(s) Senate - Environment and Public Works House - Transportation and Infrastructure; Energy and Commerce Hearing(s) Co-sponsors House: 8 Democrats, CA	WSWC Keywords Congress.gov Link	Summary of Bill To amend the Water Infrastructure Finance and Innovation Act of 2014 with respect to the total amount of Federal assistance for projects in States experiencing severe drought and projects in historically disadvantaged communities, and for other purposes. The bill would create exceptions for WIFIA projects in states experience severe drought under which the Administrator may finance up to 90% of the costs of a project in a state that has been designated as D2 or greater for minimum of 4 weeks during any of the 3 years preceding the date on which assistance is provided. The assistance would also be available to a county for which a drought emergency has been declared by the applicable Governor at any time during the 3-year period. It would authorize 90% cost-sharing of projects that serve communities designated as disadvantaged, underserved, or financially distressed.
Bill Number H.R. 7990 Bill Title Large-Scale Water Recycling Reauthorization and Investment Act of 2024 Passed (S/H) Bill Sponsor Rep. Napolitano, Grace F. [D-CA-31]	Date Introduced 04/15/24 Assigned Committee(s) House - Natural Resources Hearing(s) Co-sponsors 4 Democrats from AZ, CA, NV	WSWC Keywords Recycling Congress.gov Link	Summary of Bill The bill would reauthorize the Large-Scale Water Recycling Grant program within DOI for another six years. The projects included have a total estimated cost of at least \$1B. The bill would increase authorization from \$450M to \$1B. All projects must be within one of Reclamation's seventeen western states.
Bill Number H.R. 7938 Bill Title Klamath Basin Water Agreement Support Act of 2024 Passed (S/H) Bill Sponsor Rep. Bentz, Cliff [R-OR-2]	Date Introduced 04/11/24 Assigned Committee(s) House - Natural Resources Hearing(s) 05/22/2024 Subcommittee Hearings Held Co-sponsors	WSWC Keywords Congress.gov Link	Summary of Bill The bill would authorize the Secretary of the Department of Interior to enter contracts and make financial assistance available to implement voluntary programs to align water supplies and demand for irrigation water associated with the Klamath project. The bill would authorize the Secretary to enter into agreements with the Tulelake District to reimburse for 69% for O&M of Pumping Plant D. The bill sets out cost-sharing agreements for infrastructure improvements. The bill directs the Secretary to comply with National Environmental Policy, Endangered Species Act, Tribal trust and treaty rights, and the existing 2016 Klamath Power and Facilities Agreement. The bill would prevent irrigation water users from bearing financial burdens for infrastructure not being removed that Reclamation will be taking over from PacifiCorp. It would also assist in avoiding new regulatory burdens that could result from salmonids occupying currently unoccupied.
Bill Number H.R.7944 Bill Title Water Systems PFAS Liability Protection Act Passed (S/H)	Date Introduced 04/11/24 Assigned Committee(s) House - Energy and Commerce; Transportation and Infrastructure Hearing(s)	WSWC Keywords Congress.gov Link	Summary of Bill The bill would exempt certain entities from liability under CERCLA with respect to releases of PFAS. Protected entities include public water systems, public or private treatment works, municipalities with \$402 stormwater discharge permits, political subdivisions of a State acting as a wholesale water agency, and contractors performing management and disposal activities. Protected entities must manage PFAS substances consistent with applicable laws and are only protected from liability during and following the conveyance and treatment of water under Federal State law.

Bill Sponsor Rep. Curtis, John R. [R-UT-3]	Co-sponsors 8 Republicans including CA, OR and UT 6 Democrats including CA, TX and WA		
Bill Number H.R.7922 Bill Title No Title Passed (S/H) Bill Sponsor Rep. Crawford, Eric A. "Rick" [R-AR-1]	Date Introduced 04/10/24 Assigned Committee(s) House - Transportation and Infrastructure; Energy and Commerce Hearing(s) Co-sponsors 1 Republican, CA 1 Democrat	WSWC Keywords Congress.gov Link	Summary of Bill To establish a Water Risk and Resilience Organization to develop risk and resilience requirements for the water sector. Establishes a new governing body, the Water Risk and Resilience Organization (WRRO) with cyber and water-system expertise to work with EPA to develop and enforce cyber security requirements for drinking and wastewater systems.
Bill Number H.R.7872 Bill Title Colorado River Salinity Control Fix Act Passed (S/H) Bill Sponsor Rep. Curtis, John R. [R-UT-3]	Date Introduced 04/05/24 Assigned Committee(s) House - Natural Resources Hearing(s) House - 06/12/2024 Ordered to be Reported by Unanimous Consent. Co-sponsors 5 Republicans including AZ, WY, UT; 5 Democrats including CO, NM, CA.	WSWC Keywords Congress.gov Link	Summary of Bill The bill would amend the Colorado River Basin Salinity Control Act to modify cost-sharing requirements for salinity control units. The bill would establish a non-reimbursable federal cost share of 70-75% for the construction and O&M of salinity control units and any associated measure to replace fish and wildlife values. non-reimbursable federal cost-share of on-farm salinity control measures would be 85%. The total costs remaining after non-reimbursable allocations would be reimbursable. The bill also clarifies the funding sources for these costs, including the Lower Colorado River Basin Development Fund and the Upper Colorado River Basin Fund, and mandates adjustments to rates for electrical energy as needed.
Bill Number H.R.7776/ S. 4016 Bill Title Help Hoover Dam Act Passed (S/H) Bill Sponsor Rep. Lee, Susie [D-NV-3] Sen. Sinema, Kyrsten [I-AZ]	Date Introduced 03/21/24 Assigned Committee(s) House - Natural Resources Senate - Energy and Natural Resources Hearing(s) Senate - 09/11/2024 Committee on Energy and Natural Resources Subcommittee on Water and Power. Hearings held. House - 06/12/2024 Ordered to be Reported by Unanimous Consent. Co-sponsors House: 5 Democrats including NV, AZ, CA; 5 Republicans including NV, AZ, CA Senate: 5 Democrats including NV, AZ, CA	WSWC Keywords Congress.gov Link	Summary of Bill To amend the Boulder Canyon Project Act to authorize the Secretary of the Interior to expend amounts in the Colorado River Dam fund for any authorized activity, including operations, maintenance, investigation and cleanup actions, and capital improvements, within the Boulder Canyon Project at Hoover Dam or on land used for the construction and operation of the Hoover Dam, subject to the review and approval of the Boulder Canyon Project contractors as identified in the Hoover Power Allocation Act of 2011
Bill Number H.R. 7779 Bill Title	Date Introduced 03/21/24 Assigned Committee(s)	WSWC Keywords Congress.gov Link	Summary of Bill The bill would create a pilot permitting program under EPA to allow cleanup projects to move forward and ensure Good Samaritans have the skills and resources the need to complete permitted work. The program is designed to approve and facilitate low-risk projects that improve water or soil quality.

Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024 Passed (S/H) Bill Sponsor Rep. Maloy, Celeste [R-UT-2]	House - Transportation and Infrastructure; Energy and Commerce; Natural Resources Hearing(s) House - 09/18/2024 Ordered to be Reported in the Nature of a Substitute by Voice Vote Co-sponsors 10 Democrats including AK, NV, CA, CO, WA 14 Republicans including UT, ID, CA, CO, MT, SD, NV, TX		approve and facilitate low-risk projects that improve water or soil quality.
Bill Number H.R. 7706 Bill Title Safe Drinking Water for Disadvantaged Communities Act Passed (S/H) Bill Sponsor Rep. Nunn, Zachary [R-IA-3]	Date Introduced 03/15/24 Assigned Committee(s) House - Energy and Commerce; Transportation and Infrastructure Hearing(s) Co-sponsors 1 Democrat	WSWC Keywords Congress.gov Link	Summary of Bill To provide that funds made available under the Infrastructure Investment and Jobs Act for lead service line replacement projects be provided to disadvantaged communities in the form of forgivable loans or grants, and for other purposes.
Bill Number H.R. 7675 Bill Title PFAS Research and Development Reauthorization Act of 2024 Passed (S/H) Bill Sponsor Rep. Pappas, Chris [D-NH-1]	Date Introduced 03/13/24 Assigned Committee(s) House - Energy and Commerce; Science, Space, and Technology; Transportation and Infrastructure Hearing(s) Co-sponsors 4 Republicans, 2 Democrats including CA	WSWC Keywords Congress.gov Link	Summary of Bill To extend the authorization of appropriations for PFAS research and development by the Environmental Protection Agency. The Act would amend the National Defense Act for FY20 to extend EPA PFAS research authorization through 2029.
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 2 Democrats, AZ and NM; 1 Republican; 1 Independent	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 S. 3791 Bill Title America's Conservation Enhancement Reauthorization Act of 2024 Passed (S/H)	Date Introduced 02/08/24 Assigned Committee(s) Senate - Environment and Public Works Hearing(s)	WSWC Keywords Congress.gov Link	Summary of Bill The bill would reauthorize the America's Conservation Enhancement Act. The bill would expand the Black Vulture Livestock Protection Program, continue the Chronic Wasting Disease Task Force through 2030, continue protection from invasive species through 2030, continues authorization for the North American Wetlands Conservation Act activities, strengthens partnerships with the National Fish Habitat Conservation Board, improves reporting on fish habitat status and conservation efforts.

Passed Senate: 05/10/2024 Bill Sponsor Sen. Carper, Thomas R. [D-DE]	House - 05/10/2024 Held at the desk Co-sponsors 8 Republicans including OK, WY 6 Democrats including OR 1 Independent		
Bill Number H.R. 7294/S.3760 Bill Title Watershed Protection and Forest Recovery Act of 2024 Passed (S/H) Bill Sponsor Rep. Neguse, Joe [D-CO-2], Sen. Bennet, Michael F. [D-CO]	Date Introduced 02/07/24 Assigned Committee(s) House - Agriculture Senate - Agriculture, Nutrition, and Forestry Hearing(s) Co-sponsors House: 4 Democrats including CA, CO, NM, WA; 2 Republicans, UT Senate: 2 Republicans, UT and CA	WSWC Keywords Wildfire, watershed recovery Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/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) House - 07/23/2024 Subcommittee Hearings Held Co-sponsors	WSWC Keywords Indian water rights Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/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 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]	Date Introduced 02/05/24 Assigned Committee(s) House - Agriculture Senate - Agriculture, Nutrition, and Forestry Hearing(s) Co-sponsors House: 2 Republicans Senate: 1 Republican, 1 Democratic	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.
Bill Number H.R.7023 Bill Title Creating Confidence in Clean Water Permitting Act	Date Introduced 01/31/24 Assigned Committee(s) House - Transportation and Infrastructure	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

Passed (S/H) Bill Sponsor Rep. Rouzer, David [R-NC-7]	Hearing(s) 3/21/2024 Passed House Co-sponsors		The bill also modifies requirements for general permits to discharge discharge of air 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; 1 Democratic	WSWC Keywords Water supply Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/7065/	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) Bill Sponsor Rep. Newhouse, Dan [R-WA-4]	Date Introduced 01/22/24 Assigned Committee(s) House - Natural Resources Hearing(s) Co-sponsors 4 Republicans from OR, WA, ID	WSWC Keywords Columbia River Basin Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/7066/	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 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/7021/	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.7013	Date Introduced 01/17/24	WSWC Keywords NPDES	Summary of Bill The bill would clarify the scope of NPDES permit discharge authorizations and effluent limitations. The bill clarifies

Bill Title Confidence in Clean Water Permits Act Passed (S/H) Bill Sponsor Rep. Duarte, John S. [R-CA-13]	Assigned Committee(s) House - Transportation and Infrastructure, Subcommittee on Water Resources and Environment. Hearing(s) Co-sponsors 1 Republican	Congress.gov Link 	that compliance with the conditions of an NPDES permit constitutes compliance with respect to discharges of any pollutants for which effluent limitations are included in the permit. It also extends compliance to pollutants not explicitly included in the permit but identified through indicator parameters in the permit, identified as present discharges during the permit application process, or present in any waste streams or processes related to the point source. The bill mandates that any water quality-based limitations on pollutant discharges in an NPDES permit must be specified explicitly. These specifications must include the particular pollutant and the numerical limit on its discharge or the precise waterbody conditions to be achieved.
Bill Number H.R. 7026 Bill Title Reducing Permitting Uncertainty Act Passed (S/H) Bill Sponsor Rep. Stauber, Pete [R-MN-8]	Date Introduced 01/17/24 Assigned Committee(s) House - Transportation and Infrastructure Hearing(s) Co-sponsors 1 Republican	WSWC Keywords Congress.gov Link 	Summary of Bill The bill would amend the Federal Water Pollution Control Act to clarify when the Administrator of the Environmental Protection Agency has the authority to prohibit the specification of a defined area, or deny or restrict the use of a defined area for specification, as a disposal site under §404. The bill limits the period during which the Administrator may prohibit the specification of any defined area as a disposal site to (1) begin on the date that the Secretary provides notice to the Administrator that the Secretary has completed all procedures for processing an application for a permit under §404 and (2) end on the date on which the Secretary issues the permit. The period must not be fewer than 30 days.
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 to 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) On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays: (2/3 required): 394 - 19 (Roll no. 158). (text: 04/29/2024 CR H2658-2676) 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 04/30/2024 Passed House, 394-19 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	Date Introduced 12/06/23 Assigned Committee(s)	WSWC Keywords Rural technical assistance Congress.gov Link	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.

Rural Uplift and Revitalization Assistance Act	House - Agriculture	https://www.congress.gov/bill/118th-congress/house-bill/6621/	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Davis, Donald G. [D-NC-1]	Co-sponsors 2 Republicans, including TX		
Bill Number H.R.6599/S.3406	Date Introduced 12/05/23	WSWC Keywords Indian water rights	Summary of Bill 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 Title No Title	Assigned Committee(s) House - Natural Resources Senate - Indian Affairs	Congress.gov Link	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Leger Fernandez, Teresa [D-NM-3]; Sen. Lujan, Ben Ray [D-NM]	Co-sponsors House: 1 Democratic, NM Senate: 1 Democratic, NM		
Bill Number S.3366	Date Introduced 11/30/23	WSWC Keywords WOTUS and prior converted cropland	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 Title Farmers Freedom Act of 2023	Assigned Committee(s) Senate - Energy and Natural Resources	Congress.gov Link	
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Tester, Jon [D-MT]	Co-sponsors 8 Republicans including ND, KS, NE, SD, WY		
Bill Number H.R.6525/S.3406	Date Introduced 11/30/23	WSWC Keywords Wildfires	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 Title Wildfire Resilient Communities Act	Assigned Committee(s) Senate - Indian Affairs House - Natural Resources; Agriculture; House Agriculture Subcommittee on Forestry	Congress.gov Link	
Passed (S/H)	Hearing(s) 01/24/2024: House, referred to the Subcommittee on Forestry Senate - 07/25/2024 Committee on Indian Affairs. Ordered to be reported without amendment favorably.		
Bill Sponsor Rep. Hoyle, Val T. [D-OR-4]; Sen. Lujan, Ben Ray [D-NM]	Co-sponsors House: 7 Democrats from CA, CO, OR, NM Senate: 1 Democrats from NM		
Bill Number H.Res.683/ S.Res.379	Date Introduced 11/28/23	WSWC Keywords Rio Grande, Mexico water deliveries	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

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]	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	Congress.gov Link	the utilization of the Colorado and Tijuana Rivers and of the Rio Grande.
Bill Number S.3346 Bill Title Montana Headwaters Legacy Act Passed (S/H) Bill Sponsor Sen. Tester, Jon [D-MT]	Date Introduced 11/27/23 Assigned Committee(s) Senate Energy and Natural Resources Hearing(s) 6/12/2024: Committee on Energy and Natural Resources Subcommittee on Public Lands, Forests, and Mining. Hearings Held Co-sponsors	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.
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	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.

Sen. Whitehouse, Sheldon [D-RI]; Rep. Magaziner, Seth [D-RI-2]	Senate: 1 Republican House: 2 Democrats		
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 Rep. Bonamici, Suzanne [D-OR-1]; Sen. Sullivan, Dan [R-AK]	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) Senate - 09/17/2024 Placed on Calendar No. 512. Co-sponsors House: 2 Democrats including CA; 3 Republicans Senate: 8 Democrats including CA, OR; 6 Republicans including AK, TX; 1 Independent	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.
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 3 Democrats, CA and TX 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	Date Introduced 10/25/23 Assigned Committee(s)	WSWC Keywords WOTUS Congress.gov Link	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

Clean Water Act of 2023	House - Transportation and Infrastructure	https://www.congress.gov/bill/118th-congress/house-bill/5983/	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 groundwater 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."
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Larsen, Rick [D-WA-2]	Co-sponsors 131 Democrats including CA, TX, WA, OR, CO, NM, AZ, NV		
Bill Number S. 3082	Date Introduced 10/19/23	WSWC Keywords CWA 401	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.
Bill Title Water Quality Certification Improvement Act of 2023	Assigned Committee(s) Senate - Environment and Public Works	Congress.gov Link	
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Barrasso, John [R-WY]	Co-sponsors 4 Republicans including MT, WY, ND, NE		
Bill Number H.R. 5874	Date Introduced 10/03/23	WSWC Keywords Groundwater	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 Title Transboundary Aquifer Assessment Program Act (TAAP)	Assigned Committee(s) House - Natural Resources	Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/5874/	
Passed (S/H)	Hearing(s) 01/17/2024: Ordered to be Reported (Amended) by Unanimous Consent.		
Bill Sponsor Rep. Ciscomani, Juan [R-AZ-6]	Co-sponsors 1 Democratic, NM 1 Republican		
Bill Number S. 2994/H.R. 6653	Date Introduced 09/28/23	WSWC Keywords Water quality	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 Title Maintaining and Enhancing Hydroelectricity and River Restoration Act of 2023	Assigned Committee(s) Senate - Finance House - Ways and Means	Congress.gov Link	
Passed (S/H)	Hearing(s)		
Bill Sponsor Sen. Cantwell, Maria [D-WA]; Rep. Smith, Adrian [R-NE-3]	Co-sponsors Senate: 5 Democrats including WA; 6 Republicans including AK, NE; 1 Independent House: 5 Democrats including AK, WA; 4 Republicans		
Bill Number H.R.5756	Date Introduced 09/27/23	WSWC Keywords HABs	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
Bill Title	Assigned Committee(s)	Congress.gov Link	

Protect Families from Toxic Algal Blooms Act Passed (S/H) Bill Sponsor Rep. Harder, Josh [D-CA-9]	House - Science, Space, and Technology Hearing(s) Co-sponsors 4 Democrats including CA 2 Republicans	https://www.congress.gov/bill/118th-congress/house-bill/5756/	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 Rep. Leger Fernandez, Teresa [D-NM-3]	Date Introduced 09/27/23 Assigned Committee(s) House - Agriculture, Subcommittee on Conservation, Research, and Biotechnology Hearing(s) Co-sponsors 1 Republican, CA 2 Democrat	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.
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) senate - Environment and Public Works Hearing(s) Co-sponsors 1 Republican ND 2 Democrats including CA	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)	Date Introduced 09/21/23 Assigned Committee(s) House - Transportation and Infrastructure; Energy and Commerce Hearing(s)	WSWC Keywords WIFIA Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/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 Sponsor Rep. Schrier, Kim [D-WA-8]	Co-sponsors 5 Democrats including CA, KS, WA 3 Republicans including WA, CA, OR		
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/bill/118th-congress/house-bill/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 Good Samaritan Remediation of Abandoned Hardrock Mines Act of 2024 Passed (S/H) 07/31/2024 Senate Passed Senate with an amendment by Unanimous Consent Bill Sponsor Sen. Heinrich, Martin [D-NM]	Date Introduced 09/13/23 Assigned Committee(s) Senate - Environment and Public Works Hearing(s) 01/25/24: Placed on Senate Legislative Calendar under General Orders. Calendar No. 312 Co-sponsors 40 bi-partisan co-sponsors including AK, AZ, CA, CO, ID, MT, NV, ND, OR, SD, UT, WY, NM, OK	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 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.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 Democratic, 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. Harder, Josh [D-CA-9]	Date Introduced 08/29/23 Assigned Committee(s) House Committee on Agriculture, Subcommittee on Conservation, Research, and Biotechnology Hearing(s) Co-sponsors 1 Republican	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 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]	Date Introduced 08/22/23 Assigned Committee(s) House: Subcommittee on Conservation, Research, and Biotechnology. Senate: Committee on Agriculture, Nutrition, and Forestry. Hearing(s) Co-sponsors House: 5 Democrats including CA; 6 Republicans Senate: 1 Democratic	WSWC Keywords Watersheds Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/5250/	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 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: 6 Democrats including CA, WA; 5 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	Date Introduced	WSWC Keywords	Summary of Bill

H.R.7240/H.R. 5088/S. 1987 Bill Title Fort Belknap Indian Community Water Rights Settlement Act of 2023 Passed (S/H) 06/20/2024 Passed Senate with an amendment by Voice Vote. Bill Sponsor Rep. Rosendale Sr., Matthew M. [R-MT-2]; Sen. Tester, Jon [D-MT]	07/28/23 Assigned Committee(s) Natural Resources; Indian Affairs Hearing(s) 07/23/2024 House Subcommittee Hearings Held Co-sponsors Senate: 1 Republican, MT	Indian water rights Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/5088/	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 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.
Bill Number H.R. 5016/S. 2654 Bill Title Water Efficiency, Conservation, and Sustainability Act Passed (S/H) Bill Sponsor Rep. Levin, Mike [D-CA-49]; Sen. Padilla, Alex [D-CA]	Date Introduced 07/27/23 Assigned Committee(s) Energy and Commerce; Environment and Public Works Hearing(s) Co-sponsors	WSWC Keywords Water efficiency incentive programs Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/5016/	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 Number H.R. 4959 Bill Title No Title Passed (S/H) Bill Sponsor Rep. Van Orden, Derrick [R-WI-3]	Date Introduced 07/27/23 Assigned Committee(s) Transportation and Infrastructure; Agriculture; Natural Resources Hearing(s) Co-sponsors 2 Democrats	WSWC Keywords Dam safety Congress.gov Link	Summary of Bill To require to Comptroller General to submit to Congress a report on the status of dams in the USDA watershed program. Directs the Comptroller General to prepare a report for Congress on the status of dams in the USDA Watershed Program
Bill Number S. 2697 Bill Title Clean Drinking Water for Rural Communities Act Passed (S/H) Bill Sponsor Sen. Feinstein, Dianne [D-CA]	Date Introduced 07/27/23 Assigned Committee(s) Agriculture, Nutrition, and Forestry Hearing(s) Co-sponsors 1 Democratic, CA	WSWC Keywords Rural drinking water Congress.gov Link	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 Number S. 2696 Bill Title EQIP Water Conservation Act	Date Introduced 07/27/23 Assigned Committee(s) Agriculture, Nutrition, and Forestry	WSWC Keywords Water efficiency incentive programs Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/2696/	Summary of Bill The bill would amend the Food Security Act to modify a waiver authority for water conservation or irrigation efficiency practice

Passed (S/H) Bill Sponsor Sen. Bennet, Michael F. [D-CO];	Hearing(s) Co-sponsors 8 Democratic, 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	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: 4 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 Democratic, 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)	Date Introduced 07/26/23 Assigned Committee(s) Science, Space, and Technology Hearing(s)	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

Bill Sponsor Rep. Jackson, Jeff [D-NC-14]	Co-sponsors		
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 reimbursable costs for salinity control units on the Colorado River
Bill Number H.R. 4877 Bill Title Abandoned Well Remediation Research and Development Act Passed (S/H) Passed the House: 04/30/2024 Bill Sponsor Rep. Lee, Summer L. [D-PA-12]	Date Introduced 07/25/23 Assigned Committee(s) House - Science, Space, and Technology Senate - Energy and Natural Resources Hearing(s) 05/01/2024 Received in the Senate and Read twice and referred to the Committee on Energy and Natural Resources Co-sponsors 5 Democrats including NM 1 Republican, OK	WSWC Keywords Congress.gov Link	Summary of Bill This bill requires the Department of Energy (DOE) to establish a research, development, and demonstration program concerning abandoned oil and gas wells. Under the program, DOE must work to improve (1) data collection on the location of abandoned oil or gas wells; (2) the plugging, remediation, reclamation, and repurposing of the wells; and (3) strategies to mitigate potential environmental impacts of documented and undocumented abandoned wells. The program terminates after five years.
Bill Number H.R. 4811 Bill Title Safe Hydration is an American Right in Energy Development Act Passed (S/H) Bill Sponsor	Date Introduced 07/20/23 Assigned Committee(s) Energy and Commerce Hearing(s) Co-sponsors	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. This bill requires hydraulic fracturing operations to test for and report on underground sources of drinking water that are contaminated by such operations. Hydraulic fracturing, or fracking, is a process to extract underground resources such as oil or gas from a geologic formation by injecting water, a propping agent (e.g., sand), and chemical additives into a well under enough pressure to fracture the geological formation. Specifically, this bill revises requirements governing state underground injection control programs. In order to obtain primary enforcement responsibility for such programs, states must prohibit the underground injection of fluids or

Rep. Schakowsky, Janice D. [D-IL-9]	22 Democrats including CO, CA, OR, WA		primary enforcement responsibility for such programs, states must prohibit the underground injection of fluids or propping agents pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities unless the hydraulic fracturing operations agree to test for and report on contamination of drinking water. Hydraulic fracturing operations are exempted from those testing and reporting requirements if there is no accessible underground source of drinking water within a radius of one mile of the site where the operations occur. The Environmental Protection Agency must establish and maintain a publicly accessible and searchable database of the testing results.
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. This bill revises drinking water requirements concerning hydraulic fracturing (fracking) operations. Specifically, the bill gives the Environmental Protection Agency (EPA) the authority to protect groundwater sources (e.g., wells) from certain pollution risks posed by fracking operations. The bill also establishes requirements for disclosing the chemicals intended for use in fracking operations as well as the chemicals actually used in the operations. If the proprietary chemical formulas of chemicals used in fracking operations are necessary for treatment in medical emergencies, then the operations must disclose the formulas or the specific chemical identities of trade secret chemicals to the state, the EPA, or the treating physicians or nurses upon request, regardless of whether written statements of need or confidentiality agreements have been provided.
Bill Number H.R. 4778 Bill Title Focused Reduction of Effluence and Stormwater runoff through Hydrofracking Environmental Regulation (FRESHER) Act Passed (S/H) Bill Sponsor Rep. Cartwright, Matt [D-PA-8]	Date Introduced 07/20/23 Assigned Committee(s) T&I Hearing(s) Co-sponsors 28 Democrats including CA, OR, CO, AZ, WA	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
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 02/08/2024 Senate Committee on Indian Affairs. Hearings held. Co-sponsors House: 16 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) House Agriculture, Subcommittee on Commodity Markets, Digital Assets, and Rural Development Senate Agriculture, Nutrition, and Forestry Hearing(s) Co-sponsors House: 5 Republican sponsors, and 3 Democratic 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 of 2023 Passed (S/H) Bill Sponsor Rep. Grijalva, Raúl M. [D-AZ-7]	Date Introduced 07/14/23 Assigned Committee(s) House - Transportation and Infrastructure Hearing(s) Co-sponsors 1 Republican, AZ; 1 Democratic, AZ	WSWC Keywords 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, 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.
Bill Number H.R. 4596/S. 2247 Bill Title Upper Colorado and San Juan River Basins Endangered Fish Recovery Programs Reauthorization Act of 2023 Passed (S/H) Bill Sponsor 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 This bill reauthorizes through FY2031 and revises the U.S. Fish and Wildlife Service's Upper Colorado River and San Juan River Basin recovery implementation programs to restore populations of certain endangered and threatened fish. The goal of the Upper Colorado River Endangered Fish Recovery Program is to recover the humpback chub (Gila Cypha), bonytail (Gila elegans), Colorado pikeminnow (Ptychocheilus lucius), and razorback sucker (Xyrauchen texanus). The states of Colorado, Utah, and Wyoming are partners in the program. The goal of the San Juan River Basin Recovery Implementation Program is to recover the Colorado pikeminnow (Ptychocheilus lucius) and razorback sucker (Xyrauchen texanus). The states of Colorado and New Mexico are partners in the program. The bill expands the programs to include the recovery of threatened fish stock. Thus, the bill requires the Upper Colorado River program to continue efforts to restore populations of the humpback chub, which was reclassified from an endangered species to a threatened species in 2001.
Bill Number H.R. 4540 Bill Title Water Infrastructure Enhancement Act Passed (S/H)	Date Introduced 07/11/23 Assigned Committee(s) Energy and Commerce Hearing(s)	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

	7/14/23: Referred to the Subcommittee on Environment, Manufacturing, and Critical Materials		
Bill Sponsor Rep. Cuellar, Henry [D-TX-28]	Co-sponsors 3 Democrats including NM 5 Republicans including TX		
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) Senate - 09/11/2024 Committee on Energy and Natural Resources Subcommittee on Water and Power. Hearings held. Co-sponsors House: 7 Democrats including NM, CA, KS,NV 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 Rep. Neguse, Joe [D-CO-2]; Sen. Bennet, Michael F. [D-CO]	Date Introduced 06/22/23 Assigned Committee(s) Natural Resources; Energy and Natural Resources Hearing(s) 02/06/2024: House, Ordered to be Reported by Unanimous Consent 06/12/2024: Senate, hearings held Co-sponsors House: 1 Republican, CO Senate: 1 Democratic, CO	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.
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	Date Introduced 06/22/23 Assigned Committee(s) Energy and Natural Resources	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

Passed (S/H) Bill Sponsor Sen. Feinstein, Dianne [D-CA]	Hearing(s) 7/19/23: Committee on Energy and Natural Resources Subcommittee on Water and Power. Hearings Held. Co-sponsors Senate: 1 Democratic, CA		
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) 7/19/23: Committee on Energy and Natural Resources Subcommittee on Water and Power. Hearings Held. 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 Democratic, 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 Canal Conveyance Capacity Restoration 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) Co-sponsors	WSWC Keywords Congress.gov Link	Summary of Bill To provide financial assistance for projects to address certain subsidence impacts in the State of California
Bill Number S. 2160/ H.R. 6107 Bill Title Urban Canal Modernization Act Passed (S/H)	Date Introduced 06/22/23 Assigned Committee(s) Energy and Natural Resources Hearing(s) House - 09/19/2024 Ordered to be Reported (Amended) by Unanimous Consent 7/19/23: ENR Subcommittee hearing	WSWC Keywords Congress.gov Link	Summary of Bill Authorizes O&M work for urban canals for at-risk populations.

Bill Sponsor Sen. Risch, James E. [R-ID]; Rep. Simpson, Michael K. [R-ID-2]	Co-sponsors House: 2 Republicans from ID, WA Senate: 1 Democratic, OR; 1 Republican, ID		
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 1 Democrat 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 Yadira Caraveo (D-CO)(Previously 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. 06/14/20924: House, Yadira Caraveo (D-CO) asked to be considered first sponsor, agreed to without objection. Co-sponsors House: 1 Democratic, CO Senate: 1 Democratic, 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: 3 Democrats from WA, OR, NM 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) 9/24/2024 Passed House 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 Rep. Kean, Thomas H. [R-NJ-7]	Date Introduced 06/13/23 Assigned Committee(s) Science, Space, and Technology Hearing(s) Co-sponsors 1 Republican	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.
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 39 Democratic co-sponsors, including AZ, 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	Date Introduced 06/12/23	WSWC Keywords	Summary of Bill To amend the Healthy Forests Restoration Act of 2003 to reauthorize and improve the Water Source Protection

Bill Title Headwaters Protection Act Passed (S/H) Bill Sponsor Rep. Costa, Jim [D-CA-21]; Sen. Bennet, Michael F. [D-CO]	Assigned Committee(s) Agriculture; Natural Resources Hearing(s) Co-sponsors House: 5 Democratic and 3 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	Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/4018	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 Democratic, CA; 1 Republican Senate: 1 Democratic; 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 H.R. 3977/S. 1898 Bill Title Navajo-Gallup Water Supply Project Amendments Act Passed (S/H) Bill Sponsor	Date Introduced 06/09/23 Assigned Committee(s) Natural Resources; Indian Affairs Hearing(s) 7/12/23: SIA hearing 11/15/2023 Senate Committee on Indian Affairs. Ordered to be reported with an amendment in the nature of a substitute favorably. Co-sponsors	WSWC Keywords Congress.gov Link	Summary of Bill The bill would amend the Northwestern New Mexico Rural Water Projects Act to authorize an expansion of the project service area to meet the needs of additional Navajo Nation tribal members in NM and AZ at no additional cost, extends the project deadline beyond 2024 to 2029 to allow time for project completion, and increases the funding authorization from \$870M to \$2.175B to match updated construction costs.

Rep. Leger Fernandez, Teresa [D-NM-3]; Sen. Lujan, Ben Ray [D-NM]	House: 1 Republican, UT; 1 Democrats, NM Senate: 1 Republican, UT; 1 Democratic, NM		
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: 2 Democrats; 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 2 Republicans, 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. 3966 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 Democratic, CO Senate: 4 Republicans including ID, WY, MT 1 Democratic, 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) Bill Sponsor	Date Introduced 05/31/23 Assigned Committee(s) Energy and Natural Resources Hearing(s) 10/25/2023: Committee on Energy and Natural Resources Subcommittee on Public Lands, Forests, and Mining. Hearings held. Co-sponsors	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

Sen. Cortez Masto, Catherine [D-NV]; Rep. Neguse, Joe [D-CO-2]	House: 5 Democrats including CA, NV, NM		
Bill Number H.R. 3746 Bill Title Fiscal Responsibility Act Passed (S/H) #REF! 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 low-income ratepayer assistance (ARPA §2912(a)). Section 65 rescinded funds for the Fish and Wildlife Service (ARPA §6003). Section 66 rescinded unobligated funds for the Bureau of Indian Affairs, including \$20M to provide and deliver potable water to tribes (ARPA §11002(a)). Section 72 rescinded a portion of the \$100M appropriated to EPA to address health outcome disparities from pollution and COVID-19, including grants to states and publicly owned water systems for technical assistance under Safe Drinking Water Act §1442 (ARPA §6002(a)), leaving \$22M for all the listed programs.
Bill Number H.R. 3675 Bill Title Western Water Accelerated Revenue Repayment 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. 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. This bill permanently authorizes a provision under the Water Infrastructure Improvements for the Nation Act that (1) allows certain water users (e.g., agriculture and municipal water users) in western states to prepay what they owe under contracts with the Bureau of Reclamation for the storage and supply of water resources; and (2) requires a specified portion of the receipts generated from such prepayments be directed to the Reclamation Water Storage Account for the construction of water storage.
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	Date Introduced 05/18/23	WSWC Keywords	Summary of Bill Amends the CWA and SDWA to authorize grants for smart water infrastructure technology for drinking water,

Bill Title Water Infrastructure Modernization Act Passed (S/H) Bill Sponsor Rep. Gallego, Ruben [D-AZ-3],	Assigned Committee(s) T&I, Energy and Commerce Hearing(s) Co-sponsors 1 Republican, CA	Congress.gov Link 	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
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: 8 Republicans Senate: 1 Democratic, 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 / H.R. 7944 Bill Title Water Systems PFAS Liability Protection Act	Date Introduced 05/03/23 Assigned Committee(s) Environment and Public Works; House - Energy and Commerce; Transportation and Infrastructure	WSWC Keywords Congress.gov Link	Summary of Bill The bill would exempt state and local water entities (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.

Passed (S/H) Bill Sponsor Sen. Lummis, Cynthia M. [R-WY]; Rep. Curtis, John R. [R-UT-3]	Hearing(s) Co-sponsors Senate: 9 Republicans including AK, ID, NE, ND, OK House: 8 Republicans including CA, Or, UT; 6 Democrats including CA, KS, TX, WA		
Bill Number <u>H.R.3027</u> 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 Democratic 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 14 Democratic co-sponsors including CA, NV, OR	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 H.R. 2787 / S. 1233 Bill Title	Date Introduced 04/20/23 Assigned Committee(s)	WSWC Keywords Infrastructure Congress.gov Link	Summary of Bill To amend the Consolidated Farm and Rural Development Act to modify provisions relating to rural decentralized water systems grants.

No Title	Agriculture	https://www.congress.gov/bill/118th-congress/house-bill/2787	
Passed (S/H)	Hearing(s)		
Bill Sponsor Rep. Sewell, Terri A. [D-AL-7] Sen. Booker, Cory A. [D-NJ]	Co-sponsors House: 1 Republican Senate: 1 Republican		
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 2 Republicans including UT 1 Democratic, CA	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 Bill Title Assistance for Rural Water Systems Act Passed (S/H)	Date Introduced 03/30/23 Assigned Committee(s) Agriculture, Nutrition, and Forestry Hearing(s)	WSWC Keywords Rural infrastructure Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/1079	Summary of Bill To amend the Consolidated Farm and Rural Development Act to provide additional assistance to rural water, wastewater, and waste disposal systems

Bill Sponsor Sen. Shaheen, Jeanne [D-NH]	Co-sponsors 3 Republicans including AK 1 Democratic		
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 04/09/2024: Senate, placed on Legislative Calendar under general orders Co-sponsors House: 4 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, ND	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/H.R.1556 Bill Title	Date Introduced 03/29/23 Assigned Committee(s)	WSWC Keywords WOTUS Congress.gov Link	Summary of Bill To amend the CWA to modify the definition of navigable waters. The bill would define "navigable waters" as (1) the territorial seas; (2) interstate waters that are used, or are susceptible to use in the natural and ordinary condition of those waters, as a means in transport of interstate or foreign commerce; (3) relatively permanent standing or

Define WOTUS Act Passed (S/H) Bill Sponsor Sen. Braun, Mike [R-IN]; Rep. Miller, Mary E. [R-IL-15]	Environment and Public Works House - Transportation and Infrastructure Hearing(s) Co-sponsors Senate: 2 Republicans House: 1 Republican	https://www.congress.gov/bill/118th-congress/senate-bill/1022	those waters, as a means in transport or interstate or foreign commerce; (3) relatively permanent, standing, or continuously flowing bodies of water that form geographical features commonly known as streams, rivers, or lakes, that flow directly into waters described in clause (2); and wetlands that are adjacent to and have a continuous surface water connection to waters described in clause (2) or (3). The bill would also provide certain exclusions for "navigable waters," and define "continuous surface connection" and "relatively permanent, standing, or continuously flowing bodies of water."
Bill Number H.R. 2199 Bill Title No Title Passed (S/H) Bill Sponsor Rep. Biggs, Andy [R-AZ-5]	Date Introduced 03/29/23 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.
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 11 Democrats including CA, TX 6 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) 12/18/23: Passed Senate with amendment by Unanimous Consent 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) Co-sponsors Senate: 2 Republicans from ID, 1 Democratic from NV House: none	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	Date Introduced 03/22/23 Assigned Committee(s) Senate Finance Several House Committees	WSWC Keywords Infrastructure Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/938	Summary of Bill This bill increases funding for water infrastructure, including funding for several programs related to controlling water pollution or protecting drinking water. Specifically, it establishes a Water Affordability, Transparency, Equity, and Reliability Trust Fund. The fund may be used for specified grant programs. The bill increases the corporate income tax rate to 24.5% to provide revenues for the fund. In addition, the bill revises requirements concerning the clean water state revolving fund (SRF) and the drinking

Passed (S/H) Bill Sponsor Sen. Sanders, Bernard [I-VT] Rep. Watson Coleman, Bonnie [D-NJ-12]	Hearing(s) Co-sponsors House: 99 Democrats including CA (19), TX (4), AZ (2), NV (2), WA (2), NM (1), OR (1) Senate: 5 Democrats including OR (2).		In addition, the bill revises requirements concerning the clean water state revolving fund (SRF) and the drinking water SRF, including by prohibiting states from providing financial assistance using amounts from the clean water SRF for projects that will provide substantial direct benefits to new communities other than projects for constructing an advanced decentralized wastewater system. It also creates or reauthorizes several grant programs related to water infrastructure, such as grants for removing lead from drinking water. 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.
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/H.R.1721 Bill Title Healthy H2O Act Passed (S/H) Bill Sponsor Sen. Baldwin, Tammy [D-WI]; Rep. Pingree, Chellie [D-ME-1]	Date Introduced 03/15/23 Assigned Committee(s) Senate - Agriculture, Nutrition, and Forestry Hearing(s) Co-sponsors Senate: 9 Democrats including OR, CA, NM; 1 Republican; 1 Independent House: 29 Democrats and 8 Republicans including CA, NM, TX, WA, CO, & OR	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 homeowners, 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	Date Introduced 03/14/23	WSWC Keywords CWA 401	Summary of Bill Under §30002, the bill would amend CWA §401, limiting the authority and timing for states to issue certifications. The

Bill Title Lower Energy Costs Act Passed (S/H) 3/30/23: Passed House 225-204 Bill Sponsor Scalise, Steve [Rep.-R-LA-1] Sen. Kennedy, John [R-LA]	Assigned Committee(s) Natural Resources, Energy and Commerce, Agriculture, Transportation and Infrastructure, Budget Hearing(s) Co-sponsors House - 49 co-sponsors	Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/1	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. 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 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 Senate: 2 Independent and 9 Democratic cosponsors including NM, OR House: 10 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 Urban Waters Federal Partnership Act Passed (S/H) Bill Sponsor	Date Introduced 03/08/23 Assigned Committee(s) Environment and Public Works; House T&I, Natural Resources Hearing(s) Co-sponsors	WSWC Keywords water resources Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/702	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 assistance, funding for projects that provide habitat or water quality improvements, increase river recreation, enhance community resilience, install infrastructure, strengthen community engagement and education regarding water resources, and carry out community-based capacity building

Sen. Sinema, Kyrsten [I-AZ]; Stanton, Greg [D-AZ-4]	Rep.	Senate: 1 Republican cosponsor, TX; 1 Democratic cosponsor, AZ House: 2 Republicans		
Bill Number H.R. 1407 / S. 726 Bill Title Financing Lead Out of Water Act Passed (S/H) Bill Sponsor Rep. Kildee, Daniel T. [D-MI-8] Sen. Bennet, Michael F. [D-CO]		Date Introduced 03/07/23 Assigned Committee(s) House Ways and Means Senate Finance Hearing(s) Co-sponsors House: 21 Democrats including CA, CO, NM; 7 Republicans Senate: 7 Democrats including CA	WSWC Keywords water quality Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/1407	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 Number H.R. 1367 / S. 660 Bill Title Water System Threat Preparedness and Resilience Act Passed (S/H) Bill Sponsor Rep. Schakowsky, Janice D. [D-IL-9] Sen. Markey, Edward J. [D-MA]		Date Introduced 03/03/23 Assigned Committee(s) Transportation and Infrastructure; Energy and Commerce Environment and Public Works Hearing(s) Co-sponsors	WSWC Keywords Infrastructure Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/1367	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 Number H.R. 1304 / S. 595 Bill Title Rio San José and Rio Jemez Water Settlements Act Passed (S/H) Bill Sponsor Rep. Leger Fernandez, Teresa [D-NM-3] Sen. Heinrich, Martin [D-NM]		Date Introduced 03/01/23 Assigned Committee(s) Natural Resources Indian Affairs Hearing(s) Senate - 12/12/2023 Placed on Senate Legislative Calendar under General Orders. Calendar No. 274. Co-sponsors House: 2 Democratic cosponsors from NM Senate: 1 Democratic, NM	WSWC Keywords Indian water rights Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/1304	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 Number H.R. 1274 / S. 612 Bill Title Lake Tahoe Restoration Reauthorization Act Passed (S/H)		Date Introduced 03/01/23 Assigned Committee(s) Natural Resources; Transportation and Infrastructure; Agriculture Energy and Natural Resources Hearing(s)	WSWC Keywords water quality Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/1274	Summary of Bill To reauthorize the Lake Tahoe Restoration Act

09/26/2024 Presented to President. 09/24/2024 House Agreed to by voice vote 07/10/2024 Passed Senate without amendment by Voice Vote Bill Sponsor Rep. Amodei, Mark E. [R-NV-2] Sen. Cortez Masto, Catherine [D-NV]	Co-sponsors House: 4 Democratic and 2 Republican cosponsors from NV and CA Senate: 4 Democrats from NV and CA		
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 Senate: 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 Republicans	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 S. 482	Date Introduced 02/16/23	WSWC Keywords Hydropower and water supply	Summary of Bill 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

Bill Title Klamath Power and Facilities Agreement Support Act Passed (S/H) Bill Sponsor Sen. Wyden, Ron [D-OR]	Assigned Committee(s) Energy and Natural Resources Hearing(s) 07/18/2023: Hearings held Co-sponsors 1 Democrat, OR	Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/482	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 2 Democrats, including KS; 1 Republican	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 Senate: 1 Democrat	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 11 Democrats including CA, WA, AK; 15 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 Water Quality and Environmental Innovation Act Passed (S/H)	Date Introduced 02/08/23 Assigned Committee(s) Transportation and Infrastructure; Energy and Commerce; Science, Space, and Technology Hearing(s)	WSWC Keywords water quality Congress.gov Link https://www.congress.gov/bill/118th-congress/house-bill/873	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 threats to water quality; or (2) for the research, development, or design of such technologies. At the start of each fiscal year from FY24 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 Sponsor Rep. Donalds, Byron [R-FL-19]	Co-sponsors 5 Republicans including TX, AZ 1 Democratic		
Bill Number S. 306 Bill Title Tule River Tribe Reserved Water Rights Settlement Act Passed (S/H)	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 1 Democrat, 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 water rights settlement.
Bill Sponsor Padilla, Alex [Sen.-D-CA]			
Bill Number H.R. 797/ S.271 Bill Title Farm System Reform Act Passed (S/H)	Date Introduced 02/03/23 Assigned Committee(s) Agriculture; Transportation and Infrastructure Hearing(s)	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 Sponsor Khanna, Ro [Rep.-D-CA-17]; Sen. Booker, Cory A. [D-NJ]	Co-sponsors House: 39 Democratic cosponsors including CA, OR, WA, TX Senate: 3 Democrats and 1 Independent		
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 Bill Sponsor Graves, Sam [Rep.-R-MO-6] Capito, Shelley Moore [Sen.-R-WV]	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.
	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: 3 Democrats from WA, OR, NM	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: 2 Bipartisan Cosponsors from MN and SD House: 1 Democratic, 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 specific 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 Nogales Wastewater Improvement Act Passed (S/H)	Date Introduced 01/30/23 Assigned Committee(s) Indian Affairs Hearing(s)	WSWC Keywords International waters Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/128	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, 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

Bill Sponsor Sen. Sinema, Kyrsten [I-AZ]; Rep. Grijalva, Raúl M. [D-AZ-7]	07/09/2024 Read twice and referred to the Committee on Indian Affairs Co-sponsors Senate: 1 Democrat, AZ House: 1 Democrat, 1 Republican, AZ		Nogales, Arizona, must pay for the Nogales sanitation project.
Bill Number S. 115/H.R.3167 Bill Title Clean Water Allotment Modernization Act Passed (S/H) Bill Sponsor Sen. Rubio, Marco [R-FL]; Rep. Waltz, Michael [R-FL-6]	Date Introduced 01/26/23 Assigned Committee(s) Environment and Public Works Hearing(s) 5/10/23: Referred to the Subcommittee on Water Resources and the Environment Co-sponsors Senate: 1 Republican, FL; 1 Democratic, AZ House: 8 Republicans, FL	WSWC Keywords SRFs Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/115/	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. In FY24-FY2028, the EPA must provide an initial allotment to each state that is equal to the amount the state received in FY23. 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 FY24, 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.
Bill Number S. 64/H.R. 7544 Bill Title Water Rights Protection Act Passed (S/H) Bill Sponsor Sen. Barrasso, John [R-WY]; Rep. Maloy, Celeste [R-UT-2]	Date Introduced 01/24/23 Assigned Committee(s) Energy and Natural Resources Hearing(s) Co-sponsors Senate: 2 Republican co-sponsors from ID House: 5 Republicans from AZ, CO, ID, KS, UT	WSWC Keywords water rights Congress.gov Link https://www.congress.gov/bill/118th-congress/senate-bill/64	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 Number H.R. 5770 Bill Title Water Data Improvement Act Passed (S/H) 07/08/2024: Passed House Bill Sponsor Rep. Neguse, Joe [D-CO-2]	Date Introduced 01/17/23 Assigned Committee(s) House - Natural Resources Hearing(s) 09/11/2024 Senate Committee on Energy and Natural Resources Subcommittee on Water and Power. Hearings held Co-sponsors 1 Republican, AZ 1 Democratic, NV	WSWC Keywords Congress.gov Link	Summary of Bill To reauthorize certain United States Geological Survey water data enhancement programs through 2028.
Bill Number H.R. 289 Bill Title	Date Introduced 01/11/23 Assigned Committee(s)	WSWC Keywords water supply Congress.gov Link	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

Protect Our Water Rights Act	Natural Resources	https://www.congress.gov/bill/118th-congress/house-bill/289	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 and refuge purposes, and to the extent practicable, maximize storage in the Upper Klamath Lake.
Passed (S/H)	Hearing(s)		
Bill Sponsor LaMalfa, Doug [Rep.-R-CA-1]	Co-sponsors		
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. 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 12 Republicans, 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 Passed (S/H) Bill Sponsor Rep. McClintock, Tom [R-CA-5]	Date Introduced 01/09/23 Assigned Committee(s) Natural Resources; Agriculture Hearing(s) Co-sponsors 6 Republican co-sponsors, including CA, OR	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.
Bill Number H.R. 186 Bill Title	Date Introduced 01/09/23 Assigned Committee(s)	WSWC Keywords water storage projects Congress.gov Link	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 Secretary of the Interior and Agriculture, and designates the Bureau of Reclamation as the lead

Water Supply Permitting Coordination Act	Natural Resources	https://www.congress.gov/bill/118th-congress/house-bill/186/	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.
Passed (S/H)	Hearing(s) 02/21/2023 Referred to the Subcommittee on Water, Wildlife, and Fisheries		
Bill Sponsor McClintock, Tom [Rep.-R-CA-5]	Co-sponsors 5 Republican co-sponsors, including CA, OR, and UT		

Litigation Update
205th WSWC Meeting
Lawrence, Kansas
Compiled By:
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This summary describes developments regarding notable litigation that pertains to WGA/WSWC policies or cases that are otherwise of interest. It focuses primarily on developments that have taken place since the beginning of 2023.

Case Name	Issues	NPDES Permits with Narrative Limits
<i>San Francisco v. EPA</i>	San Francisco's wastewater treatment plant discharges treated effluent and combined stormwater-sewer overflows into the near-shore Pacific Ocean, which requires joint NPDES permits from EPA and the local region of the State Water Quality Control Board. In addition to numeric limitations that apply during dry weather, the permit includes a set of comprehensive management requirements for operations during wet weather. Because EPA determined the management requirements would not necessarily achieve WQS, they added provisions that demand the city not violate WQS, but without setting pollutant limits. The city challenged the generic prohibitions in the permit as not compliant with the CWA. The 9th Circuit panel found that the provisions of 33 USC §1311(b)(1)(C) and 40 CFR §122.44(d) empower EPA and states to impose generic prohibitions against violating WQS when necessary, and that EPA possesses the discretion to translate WQS into WQBELs expressed numerically or as generic prohibitions and management practices. The city petitioned for certiorari, arguing that this approach "will encourage EPA and states to continue imposing water quality prohibitions that cause permittees to labor under NPDES permits that fail to define their pollution control obligations with the clarity that the [CWA] demands." Issue: Whether the CWA allows EPA (or an authorized state) to impose generic prohibitions in NPDES permits that subject permit-holders to enforcement for violating water quality standards without identifying specific limits to which their discharges must conform.	
Case Number		
#23-753		
#21-70282		
Court		
U.S. Supreme Court		
9th Circuit		
Relevant Dates		
7/31/23: 9th Circuit decision		
1/8/24: Petition for Cert 5/28/24: Cert granted 9/3/24: Amicus briefs from California and Washington filed 10/16/24: Oral Arguments		
Related Cases		
Notes		
https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/23-753.html		
Case Name	Issues	State WQS to protect Tribal Reserved Treaty Rights (89 FR 35717)
<i>Idaho v. EPA</i>	Attorneys general for the States of Alaska, Idaho, Iowa, Louisiana, Montana, Nebraska, North Dakota, South Carolina, South Dakota, Texas, Utah, and Wyoming challenged EPA's Water Quality Standards (WQS) Regulatory Revisions To Protect Tribal Reserved Rights. The States asked the court to vacate the rule as a violation of the Constitution and the Administrative Procedures Act, and because it exceeds EPA's authority under the Clean Water Act (CWA). The States argued that Congress did not "give the EPA the power to commandeer states into protecting and adjudicating alleged tribal reserved rights for the government" and that the CWA focuses on water quality, not on protecting specific rights for tribal or non-tribal members of the public. The rule requires case-by-case inquiries into undefined reserved rights that can only be resolved by courts, often over the course of a decade or more. "[T]reaty rights promised by the federal government to the tribes are socially, politically, and legally complex issues." EPA provides no guidance or mechanism for dispute resolution for "inevitable disagreements—between the tribes themselves, between tribes and States and between the tribes and the federal government—over the extent and nature of any alleged reserved rights." Such disagreements "have been the subject of countless lawsuits." The States alleged that the delegation of this effort to evaluate claimed tribal reserved rights to State water management agencies is an "unworkable task." It would also require a reevaluation of the myriad existing permits and certifications, postponing triennial review processes, likely resulting in WQS "that are orders of magnitude more stringent than those required under existing regulations," "standards that cannot be reasonably met using cost effective technologies," and "the vast majority of waters being deemed impaired." It would impact thousands of regulated entities with existing permitted discharges associated with important economic activities. The States argued that the rule also purports to require state water quality agencies to ensure that tribes have the right to quantities of water needed to secure their claimed rights and uses, such as certain flow rates for fishing rights, "even if the states have determined water quantities inconsistent with the tribal claims." "The EPA now grants itself the ability to disapprove State water quality standards it determines are not sufficiently protective.... This puts EPA in the position of choosing whose claim to water should be protected—undermining and interfering with the States' longstanding role, as well as previously negotiated or litigated claims and decreed water rights." This puts vested water rights at risk. The twelve Tribes that filed a motion to intervene noted that EPA has previously used its oversight authority to disapprove of state WQS that violate CWA requirements because they were insufficiently protective of Tribal reserved rights. They said the States often fail to consider Tribal uses in the WQS process,	
Case Number		
1:24-cv-00100		
Court		
U.S. District Court for the District of North Dakota		
Relevant Dates		
5/28/24: Complaint filed 6/14/24: Amended Complaint and Motion for Prelim. Injunction 6/28/24: Tribes' Motion to Intervene 7/24/24: Tribes' Answer to Amended Complaint 9/5/24: EPA's Answer to Amended Complaint [11/4/24: Plaintiffs MSJ due] [1/3/25: EPA's Cross-MSJ due]		
Related Cases		

Notes	requirements because they were instrumentally protective of their reserved rights. They said the states often fail to consider Tribal uses in the rule process, and the rule “merely clarifies existing requirements and ensures uniform treatment of Tribal reserved rights essential to Tribal rights holders’ subsistence, cultural, and spiritual practices.” They said: “Tribal reserved rights can include the use of water for various purposes, such as fishing, gathering, ceremonial, domestic, irrigation, and municipal uses. Ensuring sufficient water quality for those uses is essential for the health and wellbeing of Tribal members.... Tribes have a clear interest in the quality of waters where they hold usufructuary or ‘use’ rights and the aquatic resources that depend on these waters.” Some of the Tribes consume higher rights of fish and wild rice than the general population, and they are concerned about contaminants such as mercury, sulfate, and chloride. They argued that this litigation threatens to impair the Tribes’ sovereign and conservation interests, and that the federal government cannot adequately protect their interests in this case. “EPA defends the case as the rule maker that must consider the interests of all citizens, which includes weighing competing interests against each other. The Tribes’ interests are more particularized, given the unique treaty rights reserved for different Tribes and the specific interests in the waters of the state each Tribe occupies.” They noted that while they don’t believe the rule goes far enough to protect treaty rights, it is an essential step forward.	
Case Name <i>Chamber of Commerce et al. v. EPA</i> Case Number #24-1193 Court D.C. Circuit Relevant Dates 6/10/24: Petition filed Related Cases Notes	Issues	PFAS CERCLA rule (89 FR 39124) The U.S. Chamber of Commerce petitioned for direct review of EPA’s new rule “Designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances” (89 FR 39124), under the Administrative Procedures Act and Section 113 of CERCLA.
Case Name <i>AWWA et al. v. EPA</i> Case Number #24-1188 Court D.C. Circuit Relevant Dates 6/7/24: Petition filed [10/7/24: Opening brief due] [3/25/25: Final briefs due] Related Cases Notes	Issues	PFAS National Primary Drinking Water Regulation (89 FR 32532) The American Water Works Association (AWWA) and Association of Metropolitan Water Agencies (AMWA) filed a petition for direct review of EPA’s PFAS drinking water rule. published on April 26. “Petitioners strongly support the protection of public health and the use of a sound scientific process in the development of regulations. EPA did not rely on the best available science and the most recent occurrence data, and used novel approaches as the basis for certain portions of the rule. EPA finalized this rule without following the process mandated by Congress, without allowing the public an adequate opportunity to provide comment, and without addressing the concerns raised by those who work to deliver safe and affordable drinking water to their communities. Petitioners are seriously concerned about the impact of this rule on water affordability, particularly for households that struggle to pay for essential needs. EPA has significantly underestimated the costs of this rule and the adverse impact that it will have on individual water users.”
Case Name <i>State of Alaska v. United States</i> Case Number 1:24-cv-00396 Court U.S. Court of Federal Claims Relevant Dates 3/14/24: Petition filed 9/4/24: Case stayed to 1/6/25 (pending district court case outcome, to preserve judicial resources) Related Cases	Issues	CWA 404 Veto Alaska petitioned for \$700B in compensation for EPA’s 2023 veto action (Final Determination) that blocked the development of the Pebble Mine. Alaska noted that, in authorizing the Statehood Act and Cook Inlet Land Exchange, Congress explicitly recognized that Alaska would develop its mineral resources. The State alleged that these agreements constitute contracts, under which the State would receive land, associated mining rights (subject to lease by the State), and regulatory authority over its lands. They claimed that EPA’s Final Determination decision is a breach of contract by the federal government, as well as a breach of the covenant of good faith and fair dealing. The State further alleged multiple takings counts (permanent categorical taking, permanent non-categorical taking, and temporary taking) stating that EPA’s Final Determination denies all economically beneficial or productive use of the land. They asserted that a finding of either type of permanent taking should entitle them to compensation exceeding \$700B, the 100-year value of Pebble Mine estimated by EPA in 2010. The State argued that even if the EPA were to withdraw its Final Determination or it were to be vacated, the Determination has blocked the U.S. Army Corps of Engineers (Corps) from issuing a Clean Water Act (CWA) permit for the Pebble Mine. This would constitute a temporary taking, entitling the State to just compensation in an amount that exceeds \$10,000.

Alaska v. U.S. Env't Prot. Agency, No. 3:24-cv-84 (D. Alaska)		
Notes		
Case Name	Issues	CWA exemptions for agricultural irrigation, 33 U.S.C. §1342(1)(1)
Pacific Coast Federation of Fishermen’s Associations, Inc., et al. v. Ernest Conant, et al.	The Association of California Water Agencies (ACWA) led an agricultural coalition amicus curiae brief, noting that the Grasslands Bypass Project drainage infrastructure is not unique, and “this case may have far-reaching impacts on farmlands that utilize and rely on irrigation drainage facilities essential to maintaining crop production.” The CWA exemption for agricultural return flows applies to “millions of acres of farmland” and a ruling rendering that exemption essentially nonexistent “would broadly affect western agriculture, forcing thousands of farmers and operators of agricultural drainage systems across the western United States to immediately apply for and operate under onerous NPDES permits or face liability under the CWA.” They emphasized the lower court’s determination that the exemption “cannot be defeated merely because additional nonpoint sources of pollution may enter into agricultural drains that convey agricultural return flows to waters of the United States.”	
Case Number		
2:11-cv-02980		
#23-15599		
Court	BACKGROUND: The underlying case, filed in 2011, arises from water discharges from the Grasslands Bypass Project in California’s Central Valley. The project was created as a result of a previous lawsuit for the purpose of preventing irrigation water from leaching selenium and salt from the agricultural soil into the groundwater. The project collects water used to irrigate agricultural land through an underground perforated tile drainage system, moving “the collected drainage water through a concrete-lined conveyance for many miles before it dispenses into a wetland.” The plaintiffs alleged that the Bureau of Reclamation (USBR) and the Grasslands Water District are discharging pollutants, without a National Pollutant Discharge Elimination System (NPDES) permit, which made their way into the San Joaquin River and San Francisco Bay Delta in violation of the Clean Water Act (CWA). The defendants argued that the agricultural land is exempt from CWA permitting under 33 U.S.C. §1342(1)(1).	
U.S. District Court for the Eastern District of California		
9th Circuit		
Relevant Dates		
2011: Complaint filed 2017: District Court Decision 2019: 9th Circuit Decision (remand) 3/4/24: Agriculture Coalition Amicus Brief [10/21/24: Oral Argument]	In 2017, the district court held that, because the majority of the water came from agricultural lands, the exemption applied. In 2019, the 9th Circuit reversed and remanded that decision, noting that the CWA exemption language is “for discharges composed entirely of return flows from irrigated agriculture.” On remand, the lower court again held that the exemption applied, because the water was either from the agricultural lands or from other nonpoint sources that are exempt. The plaintiffs appealed.	
Related Cases		
Notes		
Case Name	Issues	Delegation of CWA §404 and Endangered Species Act
Center for Biological Diversity (CBD) et al. v. Michael S. Regan, et al.	The Court issued a partial MSJ ruling (2/15/24) that the Environmental Protection Agency (EPA) and the Fish and Wildlife Service (FWS) violated the Endangered Species Act (ESA) when they approved Florida’s application to assume Clean Water Act (CWA) §404 permitting authority. The court held that the agencies had circumvented ESA requirements by approving programmatic Section 7 consultation, providing broad ESA liability protection for all future state permittees. The court vacated the USFWS’ programmatic Biological Opinion (BiOp) and Incidental Take Statement (ITS), as well as EPA’s approval of Florida’s §404 assumption application.	
Case Number		
1:21-cv-00119		
#24-5101, #24-5156, #24-5159		
Court	The intervenor defendants, the State of Florida and the Florida Department of Environmental Protection (FDEP), filed a brief (2/26/24) in support of the partial stay. They noted that they had over 1,000 pending §404 individual and general permit applications for roads and bridges, hospital construction projects, school buildings and facilities, affordable housing, military base projects, power grid reliability projects, and various projects to improve water quality in the Everglades. They emphasized the need for the stay to minimize the disruptive consequences of vacatur. They asked for clarification on several questions the court left unanswered regarding procedures for applications that “may affect” listed species and their continued authority over applications that do not. The Florida intervenor defendants alternatively presented the approach used by New Jersey and Michigan, involving memoranda of agreement (MOAs) that facilitate EPA or USFWS review where the State identifies applications that may affect ESA listed species. They noted that while the court found the Florida Section 7 consultation deficient, the formal	
U.S. District Court for the District of Columbia		
D.C. Circuit Court		
Relevant Dates		

1/1/21: Complaint filed 2/15/24: Partial MSJ decision (vacatur of 404 delegation) 2/26/24: Federal agency defendants and Florida intervenor defendants arguments on partial stay of vacatur 4/23/24: Court denied partial stay of vacatur -- 4/26/24: Florida appealed (#24-5101) 9/16/24: Florida brief 9/23/24: State amicus brief -- 6/10/24: CBD cross-appeal (#24-5156) 9/16/24: Federal agencies and Florida briefs filed 9/23/24: State amicus brief -- 6/11/24: Federal agencies appealed (#24-5159) 9/16/24: Federal agencies and Florida briefs filed 9/23/24: State amicus brief	applications that may affect ESA listed species. They noted that while the Court found the Florida Section 7 consultation deficient, the formal process went “above and beyond what was done in the other two states at the assumption stage” where no programmatic BiOp was ever prepared. BACKGROUND: CBD argued that the FWS’ programmatic BiOp, programmatic ITS, and technical assistance processes “create an ESA scheme that is not authorized by law” and “give [Florida] a workaround regarding the mechanisms that Congress provided for establishing take limits, extending liability coverage, and determining jeopardy to species.” They also allege that the EPA relied on the facially deficient Section 7 statements and failed to consult with the National Marine Fisheries Service (NMFS). The federal agencies argued that even if their Section 7 consultations were insufficient, they had created a technical assistance process between Florida and the agencies to address all of the ESA requirements on a permit-by-permit basis by requiring Florida to consult with FWS regarding each application. They requested that the Court only vacate approval to those projects in the category of “may affect, likely to adversely affect” listed species.	
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.	
Case Number		
2:23-cv-01714		
Court		
U.S. District Court for the Western District of Louisiana		
Relevant Dates	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.	
12/4/23: Complaint filed		
1/12/24: 18 states filed a motion to intervene as defendants		
2/6/24: EPA Answer		
3/7/24: Motion for Preliminary Injunction denied		
5/30/24: Plaintiffs States’ MSJ		
7/30/24: Intervenor Defendant States Cross MSJ		
8/8/24: Court set deadlines for MSJ responses by 9/30/24, and replies by 10/30/24		
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	
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		
3/18/24: Stay (pending outcome of CBD v. EPA, which vacated EPA's approval of Florida's CWA 404 assumption of authority)		
9/18/24: Stay extended to 12/15/24		
Related Cases		
Notes		
Case Name	Issues	2023 WOTUS Rule (88 FR 3004) and Amended Rule (88 FR 61964)
West Virginia et al. v. EPA	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		
4/26/24: EPA, Corps MSJ filed		
6/25/24: various responses filed to MSJs		
7/26/24: EPA, Corps filed reply		
7/30/24: Federal defendants filed supplemental authority: Kentucky v. EPA (6th Circuit remand to allow amended complaints rather than sua sponte dismissal, #23-5343 and #23-5345)		
9/5/24: States filed sur-reply		
Related Cases		

Texas v. EPA, #3:23-cv-17 (see below) Lewis v. United States, 88 F.4th 1073 (5th Cir. 2023) Glyn Envtl. Coal., Inc. v. Sea Island Acquisition, LLC, #2:19-cv-50, S.D. Georgia (2024) [appeal #24-10710 to 11th Cir.] White v. EPA, #2:24-cv-13, E.D. North Carolina (2024) [appeal #24-____ to 5th Circuit] EPA v. Ace Black Ranches, #1:24-cv-113, D. Idaho (2024) Notes		
Case Name <i>Texas et al. v. EPA et al.</i> 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 4/2/24: EPA, Corps MSJ and opposition to Plaintiff's MSJ 6/17/24: TX and ID Reply 7/30/24: Federal defendants filed supplemental authority: Kentucky v. EPA (6th Circuit remand to allow amended complaints rather than sua sponte dismissal, #23-5343 and #23-5345) Related Cases West Virginia v. EPA, #3:23-cv-32 (see above) Notes	Issues 2023 WOTUS Rule (88 FR 3004) and Amended Rule (88 FR 61964) 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. 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. 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	
Case Name <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> Case Number 30-2021-01187275-CU-OR-CJC Court Orange County Superior Court, California	Issues Water rights adjudication (groundwater), SGMA 2014, federal water rights and groundwater On June 11 and 21, 2024, the adjudication was separated into several phases. Phase 1 will address the federal government's reserved water rights claims to groundwater. Phase 2 will adjudicate the safe yield and groundwater in storage. Phase 3 will determine the water rights claims of all other parties. Phase 4 will determine a physical solution. BACKGROUND: The original complaint was filed by Mojave Pistachios, LLC. The cross-complaint by the Indian Wells Valley Water District (IWWVD) seeks "a judgment to comprehensively determine and adjudicate all groundwater rights in the Basin and to provide a physical solution for the perpetual and continuous management of the Basin." IWWVD's website noted that water use in the basin has exceeded groundwater supply for years, resulting in an "overdraft" condition. IWWVD is a member of the Indian Wells Valley Groundwater Authority, formed pursuant to the Sustainable Groundwater Management Act (SGMA). The Authority developed and adopted a groundwater sustainability plan (GSP) and	

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: IWVWD Motion for order to divide the trial into phases, establish the basin boundary, set the phase 1 trial, and partially lift the discovery stay 8/8/24: Order granting the motion to schedule the phase 2 trial (safe yield) at the next status conference (10/2/24); interesting discussion on the intersection of SGMA, GSPs, and adjudications under the Streamlined Act (2015) [4/28/2025: Phase 1 Trial on federal reserved water right claim scheduled]		the Sustainable Groundwater Management Act (SGMA). The Authority developed and adopted a groundwater sustainability plan (GSP), and several lawsuits were filed alleging that the GSP actions to regulate water use and impose fees were unlawful and excessive, leading in part to the present adjudication. IWVWD's website said: "The Basin underlies approximately 382,000 acres or approximately 600 square miles of land. Approximately 301,000 acres of land overlying the Basin are federal property managed by Naval Air Weapons Station China Lake, the Bureau of Land Management, and the Forest Service. The non-federal lands overlying the Basin consist of the City of Ridgecrest and unincorporated land in the Counties of Kern, Inyo, and San Bernardino. Water rights of the federal government are beyond the jurisdiction of the State to regulate. Under applicable law, the federal government may only participate in a water rights lawsuit if such a case is considered to be what is called a 'comprehensive adjudication' involving all stakeholders/pumpers. The District is therefore taking the necessary action of filing a comprehensive adjudication. Such steps will involve all stakeholders/pumpers; protect the general welfare of the Basin; protect the District's right to pump groundwater from the Basin; protect groundwater quality; and to manage water costs to the public. The goal of the District's action is to bring long-term and enforceable sustainability to the Basin."	
Related Cases Mojave Pistachios, LLC v. IWVWD Comprehensive adjudication of the Cuyama Valley Groundwater Basin, another basin in an overdraft condition. (9/2/21)		During a joint case management conference, one of the jurisdictional issues raised was whether the de minimis 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.	
Notes See: https://www.iwvwd.com/basin-adjudication/			
Case Name <i>Center for Biological Diversity et al. v. Spellmon</i>		Issues	Nationwide Permits, ESA
Case Number 4:21-cv-00047		The complaint for declaratory and injunctive relief stems from the Corps issuance of Nationwide Permit 12, a general permit for oil and gas pipeline projects pursuant to CWA 404(e). The lawsuit alleges ESA and APA violations for failure to assess environmental effects, and to fulfill consultation responsibilities under ESA section 7 with the National Marine Fisheries Service and the FWS. The NWP 12 allows oil and gas pipelines to cross water repeatedly without limits to the number of wetlands a project might impact, ignoring the cumulative effects of large interstate pipelines.	
1:22-cv-02586		On August 18, 2022, the federal court in Montana determined that it was not the appropriate venue for the ESA claims, as the events giving rise to the claims did not occur in Montana, and the sole Montana plaintiff could not show Article III standing on the ESA claims. The case was transferred to the District of Columbia for further proceedings.	
Court U.S. District Court for Montana		The federal defendants withdrew their request for court deference to the agency following <i>Loper v. Raimundo</i> , but argued that no deference was needed to uphold the agency action. Additionally, <i>Loper</i> held that courts could consider an agency's long-standing interpretation of a statute. "The Corps' issuance of NWP 12 reflects the best reading of CWA Section 404(e)'s minimal effects threshold because for linear pipeline projects, what 'constitutes separate and distant crossings can vary across the country because of differences in the distribution of waters and wetlands in the landscape, local hydrologic conditions, local geologic conditions, and other factors.' Thus, allowing Corps districts to determine when crossings are sufficiently 'separate and distant' from one another on a case-by-case basis, rather than establishing national thresholds, is the best reading of the statute." The Corps argued that this interpretation has been in place for 33 years.	
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			
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	Indian Reserved Water Rights
Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water Dist.	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 5/29/24: Stay extended (9/1/24)		
Related Cases		
Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District, et al., 13-883		
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 judgment, 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 5/29/24: Stay extended (9/1/24)	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.	
Related Cases 9th Circuit #15-55896 Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water Dist., 5:20-cv-00174	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.	
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	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

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 9/20/24: Administrative closure extended to 10/9/24	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.
Related Cases	
Sierra Club et al. v. Zinke, No. 18-524 (consolidated)	
Notes	

Tab S – Western Governors Association

BRAND West Initiative Survey

The Western Governors' Association (WGA) represents the Governors of the 22 westernmost states and territories. WGA is an instrument of the Governors for bipartisan policy development, information exchange, and collective action on issues of critical importance to the West.

The 2025 WGA Chair Initiative of New Mexico Governor Michelle Lujan Grisham, Building Resilient and Affordable New Developments in the West (BRAND West), will focus on expanding access to housing in western states. The initiative will examine strategies to address housing availability and affordability and promote smart and sustainable development in communities throughout the West.

This survey is intended to assist WGA in executing the initiative by identifying: (1) the current state of the housing market in the West; (2) priority issues for gubernatorial leadership to consider in supporting increased access to housing; (3) best practices for planning and developing housing; (4) federal policy issues for potential WGA advocacy; and (5) individuals or organizations interested in participating in the initiative.

Instructions

This survey is a scoping tool intended to gather feedback, insights, and data on land use, financing, regulatory reforms, growth and infrastructure planning, and other factors influencing the availability and affordability of housing in western states. WGA may develop follow-up surveys targeting specific sectors or issues and may contact respondents for further elaboration or additional details. Please note that you are not required to answer every question to submit your survey; you may select "Not Applicable" or leave responses blank where appropriate.

Thank you for taking the time to share your experiences and expertise. Responses will be accepted throughout the course of the initiative.

* Indicates required question

Name*

Title

Organization*

Email Address*

Location

How would you describe the current state of housing in the West? What data exists – or is still needed – to identify challenges and inform policy efforts focused on improving housing access?

What issues should Governors prioritize to meet housing needs in communities across western states?

What types of regulatory reforms at the state and federal levels could support the development and implementation of housing solutions?

How can specific strategies, including public-private partnerships, innovative financing models, and growth and infrastructure planning, affect access to housing?

Please highlight best practices and solutions that are being employed to plan for and develop housing in the West, especially those that advance a variety of housing price points and densities.

How could the federal government change current programs to help address gaps and barriers in housing availability and affordability? Are there new federal efforts that could assist in addressing these needs?

What individuals, entities, or organizations would be important contributors to a successful WGA initiative? Are there specific projects or research that we should elevate or examine?

Please provide any additional information you believe WGA would find useful as we execute the initiative.

<https://westgov.org/news/article/brand-west-initiative-survey>



MICHELLE LUJAN GRISHAM
GOVERNOR OF NEW MEXICO
CHAIR

SPENCER COX
GOVERNOR OF UTAH
VICE CHAIR

JACK WALDORF
EXECUTIVE DIRECTOR

August 28, 2024

The Honorable Charles Schumer
Majority Leader
United States Senate
S-221, The Capitol
Washington, DC 20510

The Honorable Mitch McConnell
Minority Leader
United States Senate
S-230, The Capitol
Washington, DC 20510

The Honorable Maria Cantwell
Chair
Committee on Commerce, Science,
and Transportation
United States Senate
254 Russell Senate Office Building
Washington, DC 20510

The Honorable Ted Cruz
Ranking Member
Committee on Commerce, Science,
and Transportation
United States Senate
512 Dirksen Senate Office Building
Washington, DC 20510

Dear Majority Leader Schumer, Minority Leader McConnell, Chair Cantwell, and Ranking Member Cruz:

Western Governors are encouraged that H.R. 6093, the Weather Act Reauthorization Act of 2023 (Weather Act), passed the House with bipartisan support. Western states need reliable water resource information and weather forecasting to support sound water management and minimize the detrimental effects of extreme weather events. We encourage the Senate to pass comprehensive weather legislation that addresses these needs.

The Weather Act reauthorizes several programs under the National Oceanic and Atmospheric Administration (NOAA) that are critical to farmers, ranchers, and resource managers in our states and territories. For example, the National Integrated Drought Information System (NIDIS) provides water resource availability status, trends, and projections. Frequent and severe drought conditions across the West exacerbate wildfires, harm agricultural producers, and threaten water supplies at a time when our communities already face challenges in meeting water demands. Western Governors supported the creation of NIDIS and continue to support its mission of proactively managing drought-related risks by improving monitoring, forecasting, and planning.

The legislation will also enable NOAA to continue working closely with western states to improve predictive and adaptive capabilities for extreme weather events and resulting variability in water supplies. While reliable short-term forecasting is readily available, there remains a need to improve sub-seasonal to seasonal forecasting capabilities. Western Governors support the creation of a sub-seasonal to seasonal forecasting pilot program to improve precipitation forecasting capabilities and support water management decisions. Additional detail on Western Governors' support for water data can be found in WGA Policy Resolution 2024-07, Water Resource Management (attached).

Western Governors also support measures in this legislation to improve communications on hazardous weather events. Our policy on this important issue is articulated in WGA Policy Resolution 2024-05, Disaster Preparedness and Response (attached). Clear, consistent, truthful, and timely communication about the scale and scope of disasters and emergencies is critical to

The Honorable Charles Schumer
The Honorable Mitch McConnell
The Honorable Maria Cantwell
The Honorable Ted Cruz
August 28, 2024
Page 2

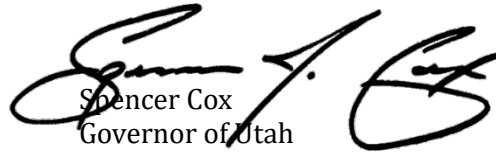
developing and executing an effective response from governments, promoting public confidence in those response actions, and empowering citizens to make informed decisions about their safety and welfare. It is crucial to ensure processes and procedures include provisions for all levels of government – federal, state, territorial, tribal, and local – to effectively communicate and cooperate on response efforts.

We appreciate the bipartisan effort to pass this legislation through the House of Representatives and encourage the Senate to take a similar approach and ensure these measures are passed into law. Please contact us if we may be of assistance as the Weather Act moves through the legislative process.

Sincerely,



Michelle Lujan Grisham
Governor of New Mexico
Chair, WGA



Spencer Cox
Governor of Utah
Vice Chair, WGA

Attachments



MICHELLE LUJAN GRISHAM
GOVERNOR OF NEW MEXICO
CHAIR

SPENCER COX
GOVERNOR OF UTAH
VICE CHAIR

JACK WALDORF
EXECUTIVE DIRECTOR

September 3, 2024

The Honorable Joe Manchin
Chairman
Committee on Energy and
Natural Resources
United States Senate
304 Dirksen Senate Building
Washington, DC 20510

The Honorable John Barrasso
Ranking Member
Committee on Energy and
Natural Resources
United States Senate
304 Dirksen Senate Building
Washington, DC 20510

Dear Chairman Manchin and Ranking Member Barrasso:

In the West, reliable and accessible data on water resources is essential to sound water management. Western Governors support federal programs dedicated to improving water data and, in WGA Policy Resolution 2024-07, Water Resource Management in the West, highlight the programs most critical in our states, including the U.S. Geological Survey (USGS) Groundwater and Streamflow Information Program. We were encouraged that the House of Representatives passed the bipartisan H.R. 5770, the Water Monitoring and Tracking Essential Resources (WATER) Data Improvement Act, extending the authorization for USGS water data enhancement programs and urge the Committee to consider this legislation.

H.R. 5770 reauthorizes the Federal Priority Streamgauge (FPS) Network and the National Groundwater Monitoring Network (NGWMN) through fiscal year 2028. The FPS Network provides streamflow information used by a variety of water users to support both real-time decision making and long-term planning. The NGWMN facilitates collaboration among federal, state, tribal and local agencies to make groundwater data from nearly 20,000 wells publicly available. As drought is anticipated to increase in frequency and severity across the West, these two programs are critical resources for water management and widely used by both public and private water managers.

Please contact us if we can be of assistance as you consider advancing this important measure through the legislative process.

Sincerely,

Michelle Lujan Grisham
Governor of New Mexico
Chair, WGA

Spencer Cox
Governor of Utah
Vice Chair, WGA

Attachment



MICHELLE LUJAN GRISHAM
GOVERNOR OF NEW MEXICO
CHAIR

SPENCER COX
GOVERNOR OF UTAH
VICE CHAIR

JACK WALDORF
EXECUTIVE DIRECTOR

September 17, 2024

The Honorable Sam Graves
Chairman
Committee on Transportation
and Infrastructure
House of Representatives
2165 Rayburn House Office Building
Washington, DC 20515

The Honorable Rick Larsen
Ranking Member
Committee on Transportation
and Infrastructure
House of Representatives
2165 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Graves and Ranking Member Larsen:

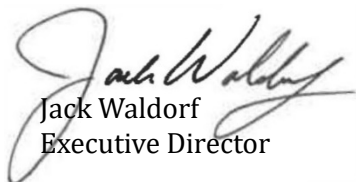
In advance of the Committee's consideration of H.R. 7779, The Good Samaritan Remediation of Abandoned Hardrock Mines Act, attached please find Western Governors' Association (WGA) Policy Resolution 2024-08, Cleaning Up Abandoned Hardrock Mines in the West.

In the resolution, Western Governors call for the legal protection of Good Samaritans who clean up abandoned mine sites and specifically support the type of pilot program created by this legislation. By addressing liability concerns for Good Samaritans at individual mine sites, such a pilot program can pave the way to establishing a comprehensive and permanent mechanism to address thousands of abandoned mine sites deemed environmentally or physically hazardous.

Also attached is a copy of the Governors' correspondence in support of the Senate companion legislation, S. 2781. We hope you will take Western Governors' bipartisan policy into account as you mark up this important legislation.

Thank you for your consideration of this request. Please contact me if you have any questions or require further information.

Sincerely,



Jack Waldorf
Executive Director

Attachments



Policy Resolution 2024-07

Water Resource Management in the West

A. **BACKGROUND**

Water is a crucial resource for communities, industries, habitats, agriculture, and western states. The scarce nature of water in much of the West makes it particularly important to our states. States are the primary authority for allocating, administering, and protecting water resources, and they are responsible for water supply planning and development 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. Many communities in the West anticipate challenges in meeting future water demands. Growth and development can only continue upon our recognition of continued state stewardship of our unique resources and corresponding responsibilities. Investment in new and aging water infrastructure creates jobs and a foundation for long-term economic growth in communities throughout the West. Western Governors recognize the strong partnership between states, tribes, and federal water management agencies and hope to continue the tradition of collaboration.

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, acknowledging 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:** 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 tools under state laws to conserve and recover species.

2. **Infrastructure Needs:** The need for new infrastructure, the need to address aging infrastructure for existing water and wastewater facilities, and the need for additional water projects cannot be ignored. Water storage and delivery, wastewater, and stormwater infrastructure investments are essential to our nation's continued insurance of public health and safety, economic prosperity, water quality 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 maintain and improve existing infrastructure while seeking creative solutions to develop new infrastructure with limited resources. The National Dam Safety State Assistance Grant Program and the Rehabilitation of High Hazard Potential Dams (HHPD) Grant Program are important programs to address dam safety infrastructure to protect the public and water supplies.
- a. **Federal Support for Infrastructure Investment:** Congress should provide adequate support for the CWA and SDWA State Revolving Funds (SRF). Western Governors urge Congress to ensure that SRFs' authorized funding levels are fully appropriated and distributed to states under the program formula. Additional congressionally directed spending and community grants should not diminish resources otherwise made available to states. Further, Congress should support restoration and repair of aging water infrastructure and commit to aiding efforts to address the recurring drought conditions across the West. Congress should 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 from multiple sources so that all projects and studies authorized in such legislation can be completed in a timely manner.

Capital budgeting and asset management principles should be used to determine funding priorities based on long-term sustainability and not annual incremental spending choices. The principles should be accompanied by dedicated sources of funding with appropriate financing, cost-sharing, pricing, and cost recovery policies.

Congress 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.

Western Governors recognize and support the following federal programs:

- 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. Department of Agriculture (USDA) has many voluntary programs that support agricultural producers and rural communities with water use efficiency, water management, flood prevention and recovery, water quality, and ecosystem

restoration. Congress and the Administration should continue to fund and support communities through these programs.

- The U.S. Army Corps of Engineers' Planning Assistance to the States (PAS or "Section 22") Program funds critical work in western states for comprehensive water resources planning.

- b. **Additional Investment Tools:** Federal and state policymakers should 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 state volume caps for private activity bonds used for water and wastewater projects, guarantee tax-exempt status for bonds issued by state or local agencies to finance water infrastructure, guarantee loans, and 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, safeguard and solidify states' permitting and certification authority, and protect indigenous peoples' rights.
- d. **Infrastructure Planning and Permitting:** Federal infrastructure planning and permitting guidelines, rules and regulations should be coordinated with state permitting 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 offer 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 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:** Western Governors encourage adoption of strategies to sustain water resources and extend existing water supplies further through water conservation, water reuse and recycling, ground water recharge, desalination, reclamation of brackish waters, reservoir storage, 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 Water Planning:** Western Governors encourage federal agencies and Congress to provide resources such as funding and technical support to states and local water planning groups.
 - e. **Forest Health and Soil Stewardship:** Governors support policies and practices that encourage healthy and resilient forests and soils to improve water availability, water quality, soil moisture, and reduce sediment runoff.
 - 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. Congress and the administration should provide resources when requested to assist in the settlement of these issues.
 - 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. Federal agencies and Congress should strive to improve state-federal coordination to benefit and not hinder our shared constituents.
- 4. **Cybersecurity:** WGA encourages federal agencies to work with states and provide assistance and guidance on cyber threats to critical water infrastructure. Flexibility should be provided to state plans to address their emerging cybersecurity threats.
 - 5. **Western States Need Reliable Water Resource Information:** Information and data on the status, trends and projections of water resource availability is essential to sound water management.
 - a. **Water Data:** Western Governors support federal programs dedicated to the improvement of data on water use, snowpack, streamflow, soil moisture, groundwater levels, evapotranspiration, and water-related forecasts, including the USDA 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 its five-year surveys of estimated use of water in the United States; 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 urge the federal government to prioritize improving the sub-seasonal and seasonal precipitation forecasting capabilities that 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 enables 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.

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Policy Resolution 2024-08

Cleaning Up Abandoned Hardrock Mines in the West

A. **BACKGROUND**

The West has a proud legacy of providing critical and essential minerals for our nation's economy and today's modern mines operate in a highly regulated and responsible manner that protects their people, communities, and environment. Unfortunately, historic abandoned mines that operated before modern environmental laws and regulations were promulgated continue to pose environmental risk. Cleanup of these historic abandoned mines is hampered by lack of funding, concerns about liability, and complex land and mineral ownership. In recognition of the numerous economic, environmental, and social benefits that may result from abandoned hardrock mine remediation, states, municipalities, federal agencies, volunteer citizen groups, the mining industry, and private parties have engaged in or are interested in voluntarily cleaning up abandoned mines. Parties that voluntarily engage in abandoned mine cleanup but have no liability or responsibility requiring them to do so are referred to in this resolution as Good Samaritans.

Currently, Good Samaritans have potential liability for their cleanup under Sections 301 and 402 of the Clean Water Act (CWA), because they can inherit liability for any discharges from an abandoned mine; they may face additional liability for voluntary cleanup activities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA). Good Samaritans are exposed to these liability risks, despite not having owned or operated the mine, voluntarily bearing the costs of cleanup, and providing numerous environmental benefits through successful remediation. In western states with established abandoned hardrock mine lands programs, abandoned hardrock mine cleanup projects on public lands are led by state agency project managers. Allowing deferral of project leads to states on pilot programs will facilitate improved cleanup response times due to their expertise and knowledge of the area.

On March 5, 2020, the U.S. Government Accountability Office (GAO) published its report, Abandoned Hardrock Mines: Information on Number of Mines, Expenditures, and Factors that Limit Efforts to Address Hazards (GAO-20-238). 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.

B. **GOVERNORS' POLICY STATEMENT**

1. Western Governors call on Congress to legally protect Good Samaritans who clean up abandoned mines, including local and state government agencies, from becoming legally responsible under Sections 301 and 402 of the CWA for any continuing discharges from the abandoned mine.
2. Western Governors call on Congress and federal agencies to develop legislative and administrative remedies to address potential CERCLA and RCRA liabilities for Good

Samaritans. The federal government should also develop remedies for long term liabilities associated with remining, which deter those best equipped with technology and expertise (*i.e.*, state and local governments, non-governmental organizations, the mining industry) from improving conditions at abandoned mines.

3. As the costs to clean up abandoned hardrock mines are significant, Western Governors support efforts by Congress and the Administration that would facilitate cleanups by Good Samaritans. To this end, the requirements for Good Samaritan project approvals and reviews should not deter cleanups, while still ensuring there are significant measurable environmental gains from the project. Governors would also support 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.
4. Many states have agencies with robust programs that administer the CWA, regulate and require financial assurance for reclamation of hardrock mines, remediate affected waters, and implement abandoned mine programs. Due to existing expertise, states are best suited to determine which entities are eligible for Good Samaritan status and to review and determine the adequacy of Good Samaritan reclamation plans. The execution of the states' management of permit applications and determination of eligibility shall be consistent across the nation with the passage of federal legislation that facilitates Good Samaritan remediation of abandoned hardrock mines.
5. Federal land managers and state officials that responded to the March 5, 2020, GAO Report consistently expressed that their backlog of work on these mines far exceeds their current staff and budget levels. Western Governors support full appropriations of the Abandoned Hardrock Mine Reclamation Program created under Section 40704 of the Infrastructure Investment and Jobs Act, to address the backlog of abandoned hardrock mine inventory through both federal and state programs.
6. Western Governors support legislation to clarify and, where possible, minimize liabilities associated with developing reclaimed abandoned hardrock mine sites with solar arrays and other reuse projects with beneficial economic, environmental, and social effects.

C. GOVERNORS' MANAGEMENT DIRECTIVE

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Policy Resolution 2024-09

Water Quality in the West

A. **BACKGROUND**

Clean water is essential to strong economies, healthy ecosystems, 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. The scarce nature of water makes even wastewater a valuable resource in the West and more flexibility is needed to determine how to best manage these varying resources. Because of their unique understanding of these needs, states are in the best position to manage and protect their water resources. The Clean Water Act (CWA) codifies the authority of states as co-regulators and recognizes the authority of states to allocate quantities of water. The Environmental Protection Agency (EPA) should uphold the state authority and co-regulator relationship when implementing the CWA and Safe Drinking Water Act (SDWA). 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.

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 Section 404 license and other permitting and actions 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.
4. **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. Further, research and development into technologies that allow states to better address nutrient pollution is needed.

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.
5. **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.
6. **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.
7. **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.
8. **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. Federal

regulations intended to protect tribal reserved rights should respect states' authority to promulgate water quality standards within their boundaries; recognize that rights must be adjudicated through appropriate legal processes, not through promulgation of water quality standards; and not harm state-tribal relations or place states in the middle of tribal treaty disputes that may not be appropriate for states to attempt to resolve. Furthermore, Western Governors oppose shifting federal trustee responsibilities to the states by imposing the burden of determining the nature and extent of tribal reserved rights over to states.

Safe Drinking Water Act (SDWA)

9. **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 to find sustainable solutions for small and rural systems, which often lack the resources needed to comply with federal treatment standards.
10. **Drinking Water Standards:** Naturally occurring contaminants often occur 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.
11. **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 at least (at a minimum) be balanced against the anticipated human health benefits before implementing or revising drinking water standards, while recognizing that states may choose to set more health protective standards.
12. **Emerging Contaminants/Pharmaceuticals:** The possible health and environmental effects of emerging contaminants, including per- and polyfluoroalkyl substances (PFAS), 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 and resources to address these contaminants.

Compliance with Federal Water Quality and Drinking Water Requirements

13. **Cybersecurity:** WGA encourages federal agencies to work with states and provide assistance and guidance on cyber threats to critical water infrastructure. Flexibility should be provided to state plans to address their emerging cybersecurity threats.
14. **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. Western Governors urge Congress to ensure that SRFs authorized funding levels are fully appropriated and distributed to states under the program formula. Additional congressionally directed spending and community grants should not diminish resources otherwise made available to states.

15. **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.
16. **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.
17. **EPA Grant Funding for Primary Service – Rural Water and Wastewater Programs:** Some rural communities still lack basic water, wastewater, 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 U.S. Department of Agriculture’s Rural Utilities Service programs and EPA’s SRF, are necessary to supplement state resources.

Water Quality Monitoring and Data Collection

18. **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.

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Policy Resolution 2023-10 Infrastructure Permitting

A. **BACKGROUND**

Western states and territories face a host of challenges in balancing the protection of human health and the environment with the many needs of growing populations. Robust permitting processes help achieve that balance by ensuring environmental protection and public participation. Current permitting processes governing land management activities and infrastructure development can negatively affect the pace and scale of critically important projects: to provide wildfire mitigation and habitat improvements, to ensure safe roads and bridges, to build drinking water and wastewater capacity, to improve energy systems including transmission and distribution, to construct and place broadband and other telecommunications infrastructure, and to address supply chain shortages. These review processes can be improved and streamlined while still providing meaningful opportunities for public input and promoting a safe and healthy environment for our citizens.

B. **GOVERNORS' POLICY STATEMENT**

1. A clear, consistent, focused, and effective environmental review process is essential to protect environmental resources, ensure public participation, and facilitate timely decision making in the design, financing and execution of critical infrastructure and land management projects. Western Governors urge Congress and the Administration to streamline the review of critical infrastructure projects and land management activities, where appropriate, to achieve the goals of federal legislation that invests in improving infrastructure and enhancing ecosystem function.
2. The National Environmental Policy Act (NEPA) requires federal agencies to integrate environmental considerations into their decision-making processes, which have been defined through regulations and guidance issued by the Council on Environmental Quality (CEQ). Federal agencies' NEPA review processes should seek to comply with CEQ requirements as efficiently and effectively as possible. Litigation risk should not cause agencies to take an overly cautious approach to the permitting process. Instead, federal agencies should fully utilize existing mechanisms to streamline the environmental review process, such as any available categorical exclusions, where appropriate, while ensuring that robust consideration of environmental factors remains integral to the process.
3. CEQ should revise its guidance to direct agencies to consider only those impacts that are reasonably foreseeable and have a proximate relationship to the proposed action and also include robust socioeconomic analysis.
4. Western Governors believe Congress and the Administration should take steps to mitigate the risk of excessive project delays associated with legal challenges. Judicial review of federal decisions can significantly delay project implementation and can cause significant cost increases due to the rising cost of materials and labor. Agencies should initiate tribal, state, and county consultation in the earliest stages of the review process.

5. Federal permitting policies and efforts to streamline permitting processes should be flexible enough to meet the diverse needs of local communities. While significant investment in energy generation and transmission, transportation infrastructure, and land and water management is needed across the West, the specific types of projects pursued within each municipality, state, territory and tribe will differ based on factors including geography, geology, economy, climate, as well as the differing policy goals of each jurisdiction. Creating a robust federal permitting framework that is accommodating of the diverse natural and political landscape of the West is essential for the success of the region as a whole.
6. Western Governors are concerned that lengthy reviews in federal permitting processes are impeding states' ability to invest federal funding that would provide environmental or conservation benefits and for which individual projects are typically similar in scope, such as construction of wildlife crossings on highways or fiber for wildfire monitoring cameras. CEQ should consider how best to streamline review processes for similar projects delivering an environmental or conservation outcome to ensure that federal funds are invested effectively.
7. The Administration and Congress, in continuing to evaluate permitting processes, should consider how to make these processes more accessible to underserved or historically disadvantaged communities, small and rural communities, and recipients of smaller awards to ensure that it is cost-effective for these groups to access federal funding. For example, small communities often choose not to apply for federal funding for transportation and infrastructure improvements because of the complexity and cost of the federal permitting process as well as the cost of compliance with federal requirements.
8. Western Governors recognize the value of interagency reviews, such as reviews under Section 309 of the Clean Air Act, which authorizes the Environmental Protection Agency (EPA) to review all federal actions affecting the quality of the environment, but urge Congress and federal agencies to evaluate and address steps that may cause undue delays in permitting, including by improving coordination of federal agency activities.
9. Western Governors recognize the importance of highly qualified staff in local agency field offices that evaluate and process permitting applications. Governors are concerned by shortages of realty specialists in local field offices, especially as many staff responsible for permitting at these agencies are becoming eligible for retirement. Significant federal investment in infrastructure and land management projects increases the workload on agency staff, exacerbating existing shortages. It also increases the need for technical assistance for local communities and states applying to use federal funds. Federal land management agencies that receive funding for staffing to implement federal investments should prioritize hiring qualified permitting staff in local field offices to ensure permits are processed in a timely manner and technical assistance needs are met.
10. The Federal Infrastructure Permitting Dashboard operated by the Federal Permitting Improvement Steering Council (FPISC) adds transparency, accessibility, and agency accountability to the permitting process. The Administration and Congress should continue to empower and support the FPISC in its efforts to improve the federal permitting process. However, the FPISC, which is limited to select projects that qualify for inclusion, is only a temporary solution while comprehensive permitting reforms are developed and implemented. Fundamentally, Congress and the Administration must pursue

comprehensive reforms that increase transparency, accessibility, and agency accountability for all projects.

C. GOVERNORS' MANAGEMENT DIRECTIVE

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Tab T – State Reports

Tab W – Newsletter Index

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January 5, 2024 - October 11, 2024

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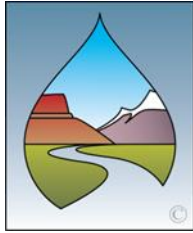
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Tab XYZ – Sunsetting Positions for Spring
2025 Meetings (#478-#481)



POSITION STATEMENT
of the
WESTERN STATES WATER COUNCIL
in support of
RURAL WATER INFRASTRUCTURE NEEDS & PROJECTS
Arlington, Virginia
April 6, 2022

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

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

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

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

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

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

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

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

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

¹ [Bureau of Reclamation Implementation of the Bipartisan Infrastructure Law \(usbr.gov\)](https://www.usbr.gov/ruralwater/docs/Rural-Water-Assessment-Report.pdf).

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

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

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

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

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

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

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

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

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

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

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

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

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



**POSITION STATEMENT
of the
WESTERN STATES WATER COUNCIL
in support of
RENEWABLE HYDROPOWER DEVELOPMENT
Arlington, Virginia
April 6, 2022**

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

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

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

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

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

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

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

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

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

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

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

NOW THEREFORE BE IT RESOLVED that the Western States Water Council supports federal legislative and administrative actions to authorize and implement reasonable hydropower projects

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

² Ibid, pg. 95.

and programs that enhance our electric generation capacity and promote economic development, through efficient permitting processes, while appropriately protecting environmental resources and respecting States' 401 certification authority under the Clean Water Act and States' authority over water allocation within their borders.

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

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



RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding
MIGRATORY BIRDS AND THE
MANAGEMENT OF STATE WATER RIGHTS AND RESOURCES

Arlington, Virginia
April 6, 2022

WHEREAS, the Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 *et seq.*) prohibits the taking of various migratory birds; and

WHEREAS, in December of 2021, the United States Fish and Wildlife Service (USFWS) revoked its regulation establishing that a taking under the MBTA does not include an incidental taking (86 FR 54642); and

WHEREAS, the USFWS seeks to promulgate a new regulation under the MBTA that would for the first time codify a prohibition on incidental takes and would also allow incidental takes for government agency activities through general and specific permits; 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 benefitting the public good as a whole, 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 migratory birds and the environments upon which they depend; and

WHEREAS, various state and local governmental agencies own or operate water use or distribution facilities which benefit water users and the public as well as migratory birds and their respective environments; and

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

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

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

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

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



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding
CLEAN WATER ACT JURISDICTION
Arlington, Virginia
April 6, 2022**

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

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

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

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

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

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

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

WHEREAS, the Supreme Court has interpreted the jurisdictional scope of the CWA in *U.S. v. Riverside Bayview Homes, Inc.*, 474 U.S. 121 (1985); *Solid Waste Agency of Northern Cook County (SWANCC) v. Corps*, 531 U.S. 159 (2001); and *Rapanos v. United States*, 547 U.S. 715, 723 (2006); and has granted certiorari in *Sacket v. EPA* (#21-424); and

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

WHEREAS, Justice Kennedy’s “significant nexus” test in *Rapanos* requires a connection between waters that is more than speculative or insubstantial to establish jurisdiction; and

WHEREAS, Justice Scalia’s plurality opinion in *Rapanos* held that the phrase “waters of the United States” includes only relatively permanent, standing, or continuously flowing bodies of water; and

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

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

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

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

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

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

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

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

1. Creates an enduring and broadly supported definition
2. Acknowledges and addresses the needs, priorities, and concerns of states as co-regulators.
3. Includes robust, meaningful, and representative state participation and consultation in the development and implementation of any rule, acknowledging the inherent federalism implications.
4. Gives full force and effect to Congress' intent to maintain a reasonable balance of state and federal authority and the purposes of CWA Sections 101(b) and 101(g).
5. Complies with the limits set by Congress as interpreted by the Supreme Court, and appropriately incorporates those limits.
6. Specifically identifies waters and features outside the scope of the CWA jurisdiction including but not limited to groundwater and historically recognized agricultural exemptions.
7. Acknowledges that states have authority to protect all “waters of the state,” and that excluding waters from federal jurisdiction does not always mean that they will be exempt from state regulation and protection.
8. Continues to provide access to appropriate technical and financial assistance to the states to protect and improve water quality under existing EPA programs without regard to jurisdictional determinations.
9. Provides a clearly delineated process for resolving differences of opinion over federal and non-federal jurisdiction, and jurisdiction between different States and tribes (treated as states).
10. Provides for mapping of jurisdictional waters as a joint federal/state/tribal effort employing the best available data and tools, with appropriate provisions and processes for map maintenance.
11. Includes an appropriate delay in the effective date of any new rule or otherwise allows for a transition enabling states to take such actions as may be necessary to address any gaps in state law, regulation and protection, and to ensure sufficient time for tools to be developed by federal agencies, in collaboration with states, that facilitate implementation of the new rule.

12. Recognizes the need to balance definitional clarity with flexibility in implementation to address the unique landscapes, flow regimes, and legal frameworks in various regions of the Nation and appropriately weighs all factors of science, law, and effective policy to draw jurisdictional conclusions that are appropriate, and that do not impinge on the rights of States.
13. Considers a regional approach to the definitions of terms for foundational and any categorical waters in the rule including terms such as “relatively permanent” and “significant nexus” and defines regions building upon existing classification systems based on hydrology, geology, and climate.
14. Provides, in the rule development process, a representative number of states, as co-regulators, with diverse perspectives and regions to engage actively in an integrated way with the EPA and Corps staff to provide direct and effective feedback on the implementability of a proposed rule which requires ample time for development of new regulatory language.