



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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ADMINISTRATION

EPA/Infrastructure

On March 8, the Environmental Protection Agency (EPA) released an implementation memorandum on the Clean Water and Drinking Water State Revolving Fund (SRF) provisions of the Investments in Infrastructure and Jobs Act (IIJA). It outlines nine key priorities; provides detailed technical information about program requirements for the five SRF funds in IIJA; suggestions for states, including revisions to the definitions of disadvantaged communities; and reviews IIJA amendments to the Clean Water Act (CWA) and Safe Drinking Water Act (SDWA) applicable to the SRF programs. EPA anticipates that the implementation memorandum will apply to all five years of IIJA appropriations, with updates for allotment tables, questions and answers, and any other necessary program updates. See <https://www.epa.gov/dwsrf/bipartisan-infrastructure-law-srf-implementation-memorandum>.

CONGRESS

Colorado River/Fish Recovery

On March 15, the House passed the Upper Colorado and San Juan River Basins Recovery Act (H.R. 5001) by a vote of 397-27. The bill reauthorizes the Department of the Interior's endangered fish recovery programs for the two river basins (PL 106-392) through FY24. Sponsor Joe Neguse (D-CO) said: "These successful recovery programs are the result of states, tribes and water users coming together to ensure we are advancing local water projects and protecting the fish that are native to the Upper Colorado and San Juan River Basins. And as our state experiences unprecedented drought and damaging western wildfires, continuing water development while preserving species is even more important." Rebecca Mitchell, Director, Colorado Water Conservation Board said: "The recent down-listing of the Humpback chub from endangered to threatened status is evidence of successful cooperation through the Colorado Basin endangered fish recovery programs." The bill would extend programs which currently study, monitor, and stock the fish, manage habitat and river flows, and combat invasive species. The programs work to recover four threatened and endangered species: the humpback

chub, bonytail, Colorado pikeminnow, and razorback sucker. <https://neguse.house.gov/media/press-releases>

SRFs/State Allocations

On March 16, the Senate Environment and Public Works Committee held an oversight hearing on the Clean Water State Revolving Loan Fund Formula. Witnesses testifying at the hearing included: Jonathan Ramseur, Congressional Research Service; Tom Sigmund, National Association of Clean Water Agencies; Kyle Dreyfuss-Wells, Northeast Ohio Regional Sewer District; and Laura Watson, Washington State Department of Ecology.

Ramseur's testimony provided historical background of the program, including ways the program has expanded over time (in terms of eligible projects and financing options) and how the allotment formula for distributing funds to the states was modified between 1973 and 1987. He said that EPA's 2016 report to Congress, Review of the Allotment of the Clean Water State Revolving Fund, noted that "most states do not currently receive appropriated funds in proportion to their reported water quality needs or population, which demonstrates the inadequacy of the current allotment." Ramseur provided a chart comparing the results of EPA's three proposed options for adjusting the allotment formula, with the expected percentage change from the current allotment for each state. The proposed allocation changes would increase Clean Water SRF funding for: Arizona (143-216%); California (15-31%); Colorado (81-101%); Idaho (0-43%); Kansas (18-30%); Nebraska (22-55%); Nevada 74-94%; Oklahoma (5-35%); Oregon (4-13%); and Texas (4-10%). The changes would decrease funding for Alaska (-18%) and Washington (+2% to -12%). The changes would not increase or decrease funding (under any option) for: Montana; New Mexico; North Dakota; South Dakota; or Wyoming.

Sigmund proposed that no state see a reduction in funds given the high demand for clean water investments. He recommended that EPA and the states undertake a comprehensive Clean Watershed Needs Survey that accounts for the scope of needs around the country. He thanked Congress for the \$5M in the IIJA

authorized for this purpose, and the \$1.5M in the FY22 Appropriations. “An updated survey is a critical step to inform any formula update and we urge Congress to appropriate the full authorization to help EPA and provide resources to the states to encourage full participation.”

Watson noted that, after a 10-year hiatus, the Clean Watersheds Needs Survey data collection launched in March and will continue through 2022. “Each state carries out this data collection effort and documents needs in an EPA database.” She said this process is time intensive and often results in an underestimate of needs because not all clean water projects have the appropriate documentation required by EPA. The survey is used to provide information to states and EPA, but has not been used to inform allotment of funds, unlike a similar survey used for the Drinking Water SRFs. See <https://www.epw.senate.gov/public/index.cfm/hearings>.

Water Resources Development Act

On March 16, the House Transportation and Infrastructure Subcommittee on Water Resources and Environment held a hearing for representatives to testify on their priorities for the Army Corps of Engineers to help inform the new Water Resources Development Act (WRDA) for 2022. Representatives from western states included: Nanette Barragán (D-CA); Luis Correa (D-CA); Jim Costa (D-CA); Darrell Issa (R-CA); Katie Porter (D-CA); David Valadao (R-CA); Tracey Mann (R-KS); Susie Lee (D-NV); Melanie Stansbury (D-NM); Earl Blumenauer (D-OR); Kurt Schrader (D-OR); Lizzie Fletcher (D-TX); Sylvia Garcia (D-TX); Pete Sessions (R-TX); and Dan Newhouse (R-WA). See: <https://transportation.house.gov/committee-activity>.

WATER QUALITY Abandoned Mines

On March 10, Senators Martin Heinrich (D-NM) and Ben Ray Lujan (D-NM) and Representatives Melanie Stansbury (D-NM) and Teresa Leger Fernández (D-NM) welcomed the FY22 appropriation of \$2.8M for the Department of Interior to accelerate cleaning up abandoned coal mines in New Mexico, in addition to the \$2.4M from the IIJA. Heinrich said: “While I’m excited to see this funding, I’m also eager to get the ball rolling on the additional goal of cleaning up the abandoned hardrock mines that are still a threat to New Mexico’s most precious resource, our water.”

Last month, Heinrich introduced the Good Samaritan Remediation of Abandoned Hardrock Mines Act (S.3571). According to the press release, the bill would “make it easier for ‘Good Samaritans’ such as state agencies, local governments, nonprofits, and other groups, to clean up and improve water quality in and around abandoned hardrock mines.... The U.S. has over

140,000 abandoned hardrock mine features, of which 22,500 pose environmental hazards according to the GAO. Organizations that have no legal or financial responsibility to an abandoned mine – true Good Samaritans – want to volunteer to remediate some of these sites. Unfortunately, liability rules would leave these Good Samaritans legally responsible for all the pre-existing pollution from a mine, even though they had no involvement with the mine prior to cleaning it up. [S. 3571] creates a pilot permitting program to enable not-for-profit cleanup efforts to move forward, while ensuring Good Samaritans have the skills and resources to comply with federal oversight. This pilot program is designed for lower risk projects which will improve water and soil quality or otherwise protect human health.” The bill has bipartisan support and is co-sponsored by Senators: Michael Bennet (D-CO); Mike Crapo (R-ID) Steve Daines (R-MT), Jon Tester (D-MT), Ben Ray Lujan (D-NM); and John Barrasso (R-WY).

WATER RESOURCES California/Water Data

On February 18, the California Department of Water Resources (CDWR) launched its new website, California Water Watch. The website brings together data on precipitation, temperature, reservoirs, snowpack, groundwater, streamflow, soil moisture, and vegetation conditions. It offers users links to forecasting products and the ability to compare data on local conditions by year and region. CDWR Director Karla Nemeth said: “The variability of California’s climate and current water conditions we are experiencing now make this data more important than ever. Climate whiplash is our new reality living in this State, and we are innovating and developing new tools like California Water Watch to provide water managers, researchers, and policymakers with the data necessary to make better informed decisions about our limited water supply.” See <https://cww.water.ca.gov/>.

Oregon/Drought

On March 4, Governor Kate Brown (D-OR) declared a severe, continuing drought emergency in Klamath County based on the low snowpack, low reservoir levels, low streamflow, and forecasted water supply conditions that are not expected to improve. “Drought is likely to have a significant economic impact on the farm, ranch, and natural resources sectors, as well as an impact on drinking water, fish and wildlife, important minimum flows for public instream uses and other natural resources dependent on adequate precipitation, stored water, and stream flow in these areas. Extreme conditions are expected to affect local growers, increase the potential for fire, shorten the growing season, and decrease water supplies.” The Executive Order 22-02 directs state interagency coordination for mitigation efforts. See https://www.oregon.gov/gov/eo/eo_22-02.pdf.

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