



Western States Water

Addressing Water Needs and Strategies for a Sustainable Future

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ADMINISTRATION/WATER RESOURCES **Corps/North Dakota/Infrastructure**

On October 31, the U.S. Army Corps of Engineers (Corps), the North Dakota Department of Transportation, and the Metro Flood Diversion Authority announced a new milestone in the Fargo-Moorhead flood control project. The \$3.2B project is a 30-mile long stormwater diversion channel in North Dakota with upstream staging of floodwaters. This portion of the project raised the grade of a four-mile section of I-29 to bring the roadway out of the 500-year flood elevation. See <https://www.mvp.usace.army.mil/Media/News-Releases/>

The Corps description of the project said: "The Red River of the North has exceeded the National Weather Service flood stage of 18 feet in 60 of the past 124 years (1902 through 2023), with seven of the top 10 floods occurring in the last 30 years. A 500-year event would flood nearly the entire city of Fargo, a large portion of the city of Moorhead and several smaller communities in the area. Flooding occurs not only from the rivers but also from large rainfall events that overwhelm storm drainage systems. Average annual flood damages are estimated at approximately \$238 million. Although emergency flood fights have been very successful, the area has a significant risk of catastrophic flooding." The Corps also noted that this is the first project to use a public-private partnership (P3) agreement, executed in 2016 and amended in 2019, which limited the federal cost share to \$750M plus inflation. Non-federal construction of the channel began in August 2022. See https://www.mvp.usace.army.mil/FMM_FRM/

Assistant Secretary of the Army for Civil Works Michael Connor said that the P3 saved about \$300M in construction costs and shaved 10 years off the construction timeline, which is scheduled to be completed by 2027. "This project absolutely represents innovation in carrying out what essentially is the ultimate climate resilience project from my perspective, given the risks and the floods already experienced as well as those that we know will come." Col. Eric Swenson, Commander of the Corps St. Paul District, said: "We're going to get this project done on time and under budget for the people that live in this great metro. This project continues to be an example of how local state and

federal government can work together to protect and serve the public." (MPR News 10/28/23)

ADMINISTRATION/WATER RIGHTS **USBR/IIJA/Indian Water Rights Settlements**

On October 26, the Bureau of Reclamation (USBR) announced a \$327M investment to fulfill Indian water rights settlements through the Infrastructure Investments and Jobs Act (IIJA). The funding aims to support major water projects in the western United States, ensuring reliable water supplies for tribal communities. When the IIJA was signed into law in 2021, there were 34 congressionally enacted Indian water rights settlements. The Department of the Interior (DOI) will allocate approximately \$207M from the IIJA and an additional \$120M from the Reclamation Water Settlements Fund to settlements enacted before the law's execution. The Reclamation Water Settlements Fund, established by Congress in 2009, receives \$120M in mandatory funding annually from 2020 through 2029. The IIJA separately allocated over \$13B directly to tribal communities, with \$2.5B dedicated to a new Indian Water Rights Settlement Completion Fund.

DOI Secretary Deb Haaland emphasized the importance of fulfilling trust responsibilities and delivering long-promised water resources to indigenous communities. She said: "Through the President's Investing in America agenda, the Interior Department is continuing to uphold our trust responsibilities and ensure that Tribal communities receive the water resources they have long been promised. Reliable water is crucial to ensuring the health, safety and empowerment of Indigenous communities. I am grateful that Tribes, some of whom have been waiting for this funding for decades, are finally getting the resources they are owed."

Total FY24 allocations for these projects include: Navajo-Gallup Water Supply Project (\$164M); Aamodt Litigation Settlement (\$69.1M); Blackfeet Water Rights Settlement (\$35.8M); Ak-Chin Indian Water Community Rights Act (\$22.5M); Crow Tribe Water Rights Settlement (\$12.8M); Southern Arizona Water Rights Settlement Farm Extension (\$9M); Nez Perce Settlement (\$6.1M); Animas-La Plata Project (\$3.4M); Navajo-Gallup Operations and Maintenance (\$2M); San Carlos Apache

Tribe Distribution System (\$1.5M); and San Carlos Irrigation Project Rehab (\$400,000).

WATER QUALITY **Arizona/Water Reuse**

On November 2, the Arizona Department of Environmental Quality (ADEQ) published its Advanced Water Purification (AWP) Proposed Program Roadmap. The 81-page document presents "water treatment methodologies designed to convert treated wastewater into safe, reliable purified water" to help alleviate water scarcity. It addresses chemical and pathogen removal standards, technical requirements, design criteria, operational and monitoring requirements, reporting, and certification. The press released noted: "AWP uses safe and proven technologies and has been successfully implemented in Colorado, Texas, California and other communities worldwide." ADEQ is seeking public feedback through December 2, and the comments will be considered as the agency drafts the AWP proposed rule at the end of the year.

Phoenix Mayor Kate Gallego said: "As we continue to face a historic drought coupled with record growth in our region, we must continue to innovate new strategies to sustain and maximize our water supply. Earlier this year, I was excited to announce Phoenix's first steps in creating a regional Advanced Water Purification facility that, in accordance with these new guidelines from the state, will deliver up to 60 million gallons of water per day for valley cities. Along with robust conservation programming and smart development policies, Advanced Water Purification is a safe, sustainable way to bolster our water resources for generations." See <https://www.azdeq.gov/PR/AWP>.

WATER RESOURCES **Water Conservation/Turf Removal**

On October 31, the Colorado 74th General Assembly Joint Committee on Water Resources and Agriculture Review held a hearing on proposed legislation to prohibit new nonfunctional turf for state and local governments and homeowners' associations starting in 2025. Nonfunctional turf is defined in the draft bill as predominantly ornamental and not used for civic, community, or recreational purposes. The legislators voted 8-2 in favor of introducing the bill to the General Assembly in January 2024.

On October 13, Governor Gavin Newsom (D-CA) approved AB-1572, which "prohibits the use of potable water to irrigate nonfunctional turf on commercial, municipal, institutional (except for cemeteries), homeowners' association, common interest development, and community service organization properties." The prohibition will be phased in between

2027-2029. The bill codifies some of the provisions of Governor Newsom's April 2021 drought declaration, lifted for most regions of California in March 2023.

California's new law also uses a definition of nonfunctional turf similar to Nevada's 2021 legislative prohibition in AB 356 "that prohibits the use of Colorado River water to irrigate nonfunctional turf on commercial, multi-family, and institutional properties within the service territory of the Southern Nevada Water Authority (SNWA) or its member agencies beginning January 1, 2027." Functional turf is considered an irrigated grass area that provides a recreational benefit to the community, and SNWA provides more detailed definitions as directed by the legislature. <https://www.snwa.com/conservation/understand-laws-ordinances/index.html>

Arizona's Water Infrastructure Finance Authority (WIFA) approved \$19.6M in State Water Conservation Grants for 15 turf removal projects in cities and counties between June and October 2023. <https://www.azwifa.gov/programs/funding-type/wcwf>

Last spring, Utah's legislature approved an additional \$8M for grants and incentives to remove non-functional turf through the Utah Water Savers program that launched in May 2023. It follows a 2022 legislative investment of \$5M.

WATER RIGHTS/ORGANIZATIONS **Tribal Water Rights/NARF**

On November 13, the Native American Rights Fund (NARF) and the Walton Family Foundation announced the creation of a new Tribal Water Institute at NARF to provide resources and training to Tribal Nations to develop their ability to advocate for their water rights and water policy solutions, and to build a pipeline of new leaders. David Gover, NARF Staff Attorney, said: "The Tribal Water Institute helps fill a critical gap. It will provide legal support, train water attorneys, develop policy ideas, and educate state and federal decision makers. By increasing law and policy expertise within Tribal Nations, we can help Indian Country ensure water is available for generations to come."

Moira McDonald, Environment Program Director, Walton Family Foundation, said: "Addressing the West's significant water challenges requires an all-hands on deck approach. Tribal Nations must be included in water decision making. Tribal Nations often have the most senior water rights in the Colorado River Basin and throughout the West. But they are under-represented in federal and state policy discussions. That is unjust and unwise. We need to listen to their voices. More inclusive decision-making will lead to greater benefits for the environment and society as a whole." <https://narf.org/tribal-water-institute/>

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.