



# Western States Water

## Addressing Water Needs and Strategies for a Sustainable Future

682 East Vine Street / Suite 7 / Murray, UT 84107 / (801) 685-2555 / Fax 685-2559 / [www.westernstateswater.org](http://www.westernstateswater.org)

Chair - Jon Niermann; Executive Director - Tony Willardson; Editor - Michelle Bushman; Subscriptions - Julie Groat

### **ADMINISTRATION** **Corps/CWA/WOTUS**

On March 22, the Office of the Assistant Secretary of the Army (Civil Works), issued a memorandum titled "Civil Works Actions to Sustain and Advance the Nation's Waters and Wetlands After the Sackett Decision." The memorandum directs the U.S. Army Corps of Engineers (Corps) on how to appropriately respond to the "limited interpretation WOTUS contained in the *Sackett* decision" in taking civil works and regulatory program actions. It also set forth a requirement that the Corps provide a status update within one year on the implications of actions taken under the *Sackett* decision and the Memorandum.

The memo details how the Corps will respond to *Sackett* in regards to aquatic ecosystem restoration. The Corps is directed to increase support for Ecosystem Restoration projects, by prioritizing projects that restore hydrologic connectivity and improve integrity of ephemeral streams. The memo also directs continued support to technical assistance programs and increased outreach to highlight assistance opportunities. The Corps is also directed to prioritize nature-based solutions, such as strategies to increase beneficial use of dredged material.

In regards to regulatory program actions, the Corps is directed to show continued transparency in issuing approved jurisdictional determination. The memo also directs that the Corps will continue to follow the provisions of the 2008 Mitigation Rule and "continue to evaluate compensatory mitigation proposals to determine whether the proposal is sufficient to offset losses of aquatic resource functions and services caused by permitted activities, regardless of jurisdictional status of the aquatic and other resources provided by a compensatory mitigation project." The Memo points out that "The definition of 'waters of the United States' is limited to the question of Clean Water Act jurisdiction, not for deciding what categories of resources can be restored, enhanced, established, or preserved to provide compensatory mitigation."

### **ADMINISTRATION/WATER RESOURCES** **USBR/Water Management Tools**

On April 17, the Bureau of Reclamation (USBR) announced \$13.3M in WaterSMART cost-share grants for 51 applied science projects in 12 states for the development of hydrologic information and water management tools for multiple uses. The projects selected include the development of modeling and forecasting tools, hydrologic data platforms, improved GIS, and access to new data sets. The projects will help inform decision-making and provide support for water supply reliability, management of water deliveries, water marketing activities, drought management activities, conjunctive use of ground and surface water, water rights administration, the ability to meet endangered species requirements, watershed health, conservation and efficiency, and other water management objectives. Funding for the grants came through USBR's Basin Study Program (\$8.1M) and the Infrastructure Investment and Jobs Act (IIJA) (\$5.1M).

USBR Commissioner Camille Touton said: "These grants support improved water management tools that will allow water managers to make more informed decisions, especially in terms of managing through drought and climate change. It's especially promising to see all of the partnerships formed between universities and communities to tackle some of these scientific projects." <https://www.usbr.gov/newsroom/news-release/4802>

### **USBR/WaterSMART**

On April 23, the USBR announced \$11.1M in funding to support collaborative planning and design projects that improve water sustainability and efficiency. The 34 grants through USBR's WaterSMART program will support projects in 11 states, including Alaska, Arizona, California, Idaho, Montana, New Mexico, Oregon, Texas, Utah, and Washington. Funding for these grants is provided through IIJA and the Inflation Reduction Act (IRA). Some projects selected to receive these FY 2023 Planning and Project Design grants include: (1) the water main upgrade design for North Pole, Alaska; (2) water strategy development to address

water shortfalls for the La Feria Irrigation District No. 3, La Feria, Texas; and (3) exploration and design for two new culinary wells in Providence, Utah.

Commissioner Touton said: “This important investment in the planning and design of water-related projects is focused on improving water management and infrastructure to enhance water supply reliability and promote sustainable practices in water management...to combat the impacts of long-term drought for current and future generations.”

### **USBR/IHS/Tribal Drinking Water Infrastructure**

On April 23, the USBR and Indian Health Service (IHS) announced a new Memorandum of Understanding (MOU) to speed the delivery of safe drinking water and community sanitation infrastructure projects in tribal communities. The agencies will collaborate to complete studies, planning, and design for domestic water infrastructure projects. The MOU establishes that USBR and IHS will work together to identify, scope, and prepare management plans for such projects.

The agencies also announced over \$1B in funding for tribal drinking water and sanitation projects from the IJA and the IRA. This includes \$700M through IHS and \$320M through USBR. The funding through IHS will provide access to improved sanitation facilities for over 36,000 American Indian and Alaska Native households by supporting 91 projects. Roughly half of tribal households lack access to clean drinking water or adequate sanitation. The MOU will leverage USBR's engineering capacity to accelerate project delivery.

Department of the Interior Principal Deputy Assistant Secretary for Water and Science Michael Brain said: “At the Interior Department, we know that having modern water infrastructure is not only crucial to the health of our kids and families – it’s also important for economic opportunity, job creation and responding to the intensifying effects of climate change. Through this new agreement, and historic resources from President Biden’s Investing in America agenda, we are taking a significant stride towards ensuring essential water and sanitation infrastructure throughout Indian Country.”

IHS Director Roselyn Tso said: “The projects funded through the Bipartisan Infrastructure Law are making substantial improvements in clean water and sanitation systems in our Tribal communities. To date, IHS BIL funding has supported over 765 projects across all IHS areas. As we enter the third year of BIL funding, the IHS is delighted to partner with the Bureau of Reclamation to ensure safe drinking water, reliable sewage systems, and solid waste disposal facilities are made available to Tribal communities throughout Indian Country.”

### **ORGANIZATIONS** **NGA/ECOS**

On April 10, the National Governors Association’s (NGA) Economic Development and Revitalization Task Force and the Environmental Council of the States (ECOS) hosted a Congressional briefing to educate Congressional staff, Administration officials, and stakeholders on environmental priorities of states and territories. The briefing focused on adequate federal funding for federal programs and full funding for State Revolving Funds (SRFs). Speakers included state agency officials from Idaho, Oregon, and Alaska.

Jess Byrne, Director of Idaho Department of Environmental Quality, discussed department capacity as a primary issue. Federal funding is needed not just for attractive issues, but also for categorical grants that allow states to run core environmental programs such as the Clean Air Act, Clean Water Act, Safe Drinking Water Act and the Resource Conservation and Recovery Act. He said: “States are the primary implementers of our nation’s environmental laws [and] the gap between what most states need as far as implementing environmental programs and what we actually have just continues to widen...A lot of the programs, particularly our core programs, that State Environmental agencies implement have direct bearing on economic development within the state, and all State Environmental agencies recognize that and we strive very hard to make sure that we are not impeding economic development simply because we’re either inefficient or because we do not have adequate capacity to implement our programs. As States we’ve done a lot to try to increase efficiency, streamlining processes, minimizing time that it takes for a lot of our activities but, as I mentioned, the gap of capacity and what the demands are still continues to widen. So there’s good news, it’s a relatively simple problem to address and it really does come down to funding.”

Emma Pokon, Commissioner of the Alaska Department of Environmental Conservation discussed the need for investment in Alaska’s rural communities and concerns about long-term erosion of SRF funding. She pointed out the concrete need in Alaska for water infrastructure development. She also emphasized the need for federal funding for federal regulatory programs implemented by the states. She said: “If I could leave you all with one message today it is: federal programs should be federally funded. We as the states are implementing those programs, as Congress intended, where there’s an opportunity for the states to step forward and take on primary implementation, but not having an increase in the federal funding support for that in such a long time produces less effective programs.”

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**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.**