



# Western States Water

## Addressing Water Needs and Strategies for a Sustainable Future

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### **ADMINISTRATION/WATER QUALITY** **EPA/CWA Section 404/Alaska**

On August 27, the Environmental Protection Agency (EPA) issued an administrative complaint against the Alaska Department of Transportation and Public Facilities alleging the State discharged dredged and/or fill material without a Clean Water Act (CWA) Section 404 permit into wetlands adjacent to the Gastineau Channel at multiple locations in Juneau, Alaska. The complaint detailed nine discharge locations in the Mendenhall Wetlands State Game Refuge which are “wetlands that are adjacent to and have a continuous surface connection to a relatively permanent unnamed tributary that connects to the Gastineau Channel.” The complaint reads: “The Gastineau Channel is subject to the ebb and flow of the tide and is a traditional navigable water. As such, the relatively permanent unnamed tributary and its adjacent wetlands are ‘navigable waters’ within the meaning of CWA Section 502(7).... Respondent is liable for the administrative assessment of civil penalties for violations in an amount not to exceed \$26,685 per day for each day during which each violation occurred, up to a maximum of \$333,552.”

### **ADMINISTRATION/WATER RESOURCES** **USBR/Water Supply Forecasting/Snow Surveys**

On September 23, the Bureau of Reclamation awarded \$4.6M to five projects to advance snow monitoring technologies for water supply forecasting, which with the required minimum \$4.6M cost share match will total over \$9.2M for snow monitoring. Reclamation’s Research and Development Office sought proposals for projects implementing airborne LiDAR snow surveys for the improvement of water supply forecasting and water management decision making. All of the selected projects include acquisition of LiDAR snow survey flights, demonstration of the use of LiDAR snow survey data in water supply forecasting, and the development of techniques to maximize the value of the snow survey data. Project awards include: Arizona State University, Fusing Airborne and CubeSat Methods for Snow Estimation and Supply Forecasting into Salt River Project Reservoirs; Friant Water Authority, Snow Water

Supply Forecasting in the Upper San Joaquin River Watershed; Oregon State University, Fusing LiDAR and In-Situ Community Measurements to Improve Estimates of Snowpack; Oregon State University, The Utility of Aerial LiDAR Snow Surveys to Improve Water Supply Forecasts Across the Western United States (comparing the relative importance of current snow conditions and future weather); and Utah Division of Water Resources, Wings Over Weber.

### **CONGRESS/WATER QUALITY** **House/Abandoned Mines/Good Samaritan**

On September 18, the House Committee on Transportation and Infrastructure approved the Good Samaritan Remediation of Abandoned Hardrock Mines Act (H.R. 7779) by voice vote. The act was introduced in the House by Rep. Celeste Maloy (R-UT) and Rep. Mary Sattler Peltola (D-AK). It directs EPA to establish a pilot program for Good Samaritans to remediate historic mine residue at abandoned hardrock mine sites without being subject to enforcement or liability under the CWA or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). The Senate passed a companion bill (S. 2781) by unanimous consent in August. The act has also been included in the FY2025 National Defense Authorization Act “manager’s package.”

Maloy said: “This bill is a win for Utah. Right now, ‘Good Samaritans’ are not legally able to clean up abandoned hardrock mines, stopping remediation efforts before they even begin. Passage of this bill was the necessary next step towards allowing the cleanup of thousands of abandoned hardrock mine sites scattered across Utah and the West without the threat of taking on liability from the EPA. I will continue working with my House colleagues to make sure we get it across the finish line.”

Peltola said: “Despite having no legal or financial responsibility, state agencies, non-profits, and advocates are eager to contribute to abandoned hardrock mine cleanup efforts, but over-burdensome permitting requirements bar them from doing so. Too often,

government red tape prevents good work from getting done – that’s why passing our Good Samaritan bill out of committee is a great step forward.”

On September 17, WGA submitted a letter in support of legal protection of Good Samaritans who clean up abandoned mine sites, and the type of pilot program created by H.R. 7779. WGA included Policy Resolution 2024-08 and the letter they sent to Senate leadership in March (WSW #2602). Following the Committee’s passage of the act, WGA Executive Director Jack Waldorf said: “We appreciate the strong leadership of Representatives Peltola and Maloy on this important issue. Western Governors have supported legal protections for Good Samaritans since at least 1995. This bipartisan and bicameral legislation will pave the way for a comprehensive mechanism to address thousands of hazardous abandoned mine sites throughout the West and across the country. We are pleased to see the Transportation and Infrastructure Committee move this bill forward and encourage the remaining Committees to do the same to expedite its consideration by the full House.”

On September 23, WSWC sent a letter to House leadership expressing support for H.R. 7779. The letter included WSWC policy Position No. 477, and expressed appreciation for language in the bill directing EPA to consult with states and tribes. WSWC recommended that a formal state consultation process be established as part of an EPA pilot program (see WSW #2591).

### **CONGRESS/WATER RESOURCES** **ICWP/WRDA/Weather Act Reauthorization**

On September 4, ICWP wrote a letter to Senate Committee on Commerce, Science, and Transportation leadership to express support for the timely consideration of the Weather Act Reauthorization (H.R. 6093). ICWP said the bill addresses important drought preparedness and mitigation priorities for the National Integrated Drought Information (NIDIS), including flash drought and ecological drought research.

On September 5, the Interstate Council on Water Policy (ICWP) sent a letter to leadership in the Senate Environment and Public Works and House Transportation and Infrastructure Committees regarding each chamber’s respective Water Resources Development Act (WRDA) bills (S. 4367 and H.R. 8812). As the bills are in the reconciliation process, ICWP urged the acceptance of the Senate’s WRDA language directing analysis for the potential reform of the U.S. Army Corps of Engineers’ (Corps) Project Partnership Agreement (PPA) indemnification and operation, maintenance, repair, replacement, and rehabilitation requirements. ICWP wrote: “Including the Senate’s PPA provisions in the final bill will increase opportunities to

leverage non-Federal investments and achieve local, regional, and national water resource goals. PPA requirements are significant barriers for many non-federal sponsors across the nation to conduct critical water resource development projects.”

### **WATER QUALITY** **Office of Inspector General/EPAs/SRFs**

On September 12, the EPA Office of Inspector General (OIG) issued a Management Implication Report finding that some states failed to conduct required financial audits of their state revolving funds (SRFs). The report says that states did not submit audits until OIG requested them in April 2023. Although all states responded, at least nine states did not provide the required audit reports that, at a minimum, specifically identify the states’ Clean Water SRF and Drinking Water SRF financial information. OIG estimated the gap to represent approximately \$13B in assets at greater risk for fraud, waste, and abuse.

OIG wrote: “The failure to conduct the regulatorily required audits has several significant consequences. As discussed above, the EPA relies on these SRF audits as part of its annual review of the SRFs. Without the benefit of the regulatorily required SRF audits, the EPA’s annual reviews could fail to be complete or sufficient. More importantly, from the OIG’s perspective, these audits serve as an important tool in detecting and preventing fraud, waste, and abuse in the SRFs. Without the benefit of these SRF audits, the various stakeholders lack clarity into the state of the funds.... We raise these concerns so that the Agency may take whatever steps it deems appropriate to address state compliance with the regulations requiring SRF audits.”

### **PEOPLE**

On September 19, Governor Jared Polis appointed **Jason Ullmann**, State Engineer, Colorado Division of Water Resources to the WSWC replacing **Tracy Kosloff**, Deputy State Engineer, and **Nate Pearson**, Assistant Director, Colorado Department of Natural Resources as an alternate member replacing **Kelly Romero-Heaney**, Deputy Policy Director. We congratulate Jason and Nate on their appointments and look forward to working with them.

On September 13, **Lt. Gen. Scott Spellmon** retired as the Army’s 55th Chief of Engineers and Commander of the Corps. Previously, he served as the Northwestern Division, Commanding General, headquartered in Portland, Oregon. **William H. “Butch” Graham Jr.** has been named the Army’s 56th Chief of Engineers. Previously, he was the Corps’ Deputy Commanding General for Civil and Emergency Operations.

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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.**