

AGENDA

208th FULL COUNCIL

DoubleTree San Pedro Port of Los Angeles
San Pedro, California

September 26, 2025

Call to Order at: 8:00 a.m. (Pacific Daylight Time)

Conducting: Julie Cunningham, Chair

Madeo Room

TAB

1. **Welcome and Introductions**
2. **Approval of Minutes**
3. **Committee Reports**
 - a. Water Resources Committee – Anna Pakenham Stevenson
 - b. Water Quality Committee – Jennifer Zygmunt
 - c. Legal Committee – Sara Gibson
 - d. Executive Committee – Julie Cunningham

F 4. **Future Council Meetings**

5. **Resolutions of Appreciation**

6. **WestFAST Report**

7. **State Reports**

XYZ 8. **Sunsetting Positions for Spring 2026 Meetings – #490 - #503**

Position #490 - water quality standards and federal reserved treaty rights for tribes

Position #491 - urging Congress to support subseasonal to seasonal weather research, forecasting, and innovation

Position #492 - regarding the USBR's maintenance, repair and rehabilitation needs

Position #493 - regarding the Reclamation Safety of Dams Act of 1978

Position #494 - regarding the transfer of federal water and power projects and related facilities

Position #495 - regarding the National Levee Safety Act of 2007, levees and canal structures

Position #496 - regarding the clean and drinking water state revolving funds and state and tribal assistance grants

Position #497 - regarding the rural water and wastewater project/infrastructure needs and USDA programs

Position #498 - supporting national dam safety programs

Position #499 - opposes any federal legislation intended to preempt state water law

Position #500 - supporting NOAA data, forecasting, and research programs

Position #501 - requests Congress fully appropriate receipts accruing to the Reclamation Fund for their intended purpose

Position #502 - support federal authorization and financial support through the USGS for State Water Resources Research Institutes

Position #503 - regarding water-related federal rules, regulations, directives, orders and policies

9. **Wrap-Up and Action Items**

10. **Other Matters**

Noon **Adjourn**

Tab F – Future WSWC Meetings

WESTERN STATES WATER COUNCIL

FUTURE MEETINGS

2026 WSWC Meetings Projections

Spring – Washington, D.C.
April 20-24, 2026 (tentative)

Will Summer Meeting be held virtually?

Summer/Fall Options

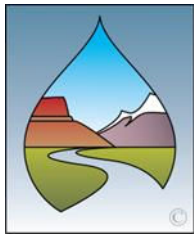
- Oregon last held 8/3/2018 in Newport
- New Mexico last held 10/20/2017 in Albuquerque

2027 WSWC Meetings Projections

Spring	Idaho last held 10/26/2018 in Coeur d'Alene
Summer	Washington last held 7/18/2019 in Leavenworth
Fall	Arizona last held 3/22/2019 in Chandler

	Alaska	Arizona	California	Colorado	Idaho	Kansas	Montana	Nebraska	Nevada	New Mexico	North Dakota	Oklahoma	Oregon	South Dakota	Texas	Utah	Washington	Wyoming	Other
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								
205					Lawrence 10/23/24														
206								Lincoln 4/25/25											
207																Snowbird 6/12/25			

Tab XYZ – Sunsetting Positions for Spring
2026 Meetings (#490 - #503)



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
Regarding**

**WATER QUALITY STANDARDS, PROTECTING TRIBAL RESERVED RIGHTS, and FEDERAL
BASELINE WATER QUALITY STANDARDS FOR INDIAN RESERVATIONS**

**Reno, Nevada
May 24, 2023**

WHEREAS, the mission of the Western States Water Council is to ensure that the West has an adequate, sustainable supply of water of suitable quality to meet its diverse economic and environmental needs now and in the future; and

WHEREAS, states are co-regulators under the Clean Water Act, which does expressly “recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution, to plan the development and use (including restoration, preservation, and enhancement) of land and water resources....” CWA § 101(b); and

WHEREAS, water quality standards are central to achieving the goals of the Clean Water Act on both state lands and tribal reservation lands; and

WHEREAS, the state water quality agencies have long-established water quality standards to protect and maintain existing designated uses, with water quality criteria designed to protect aquatic life and human health regardless of geographic location, and under the Clean Water Act these water quality standards are subject to triennial review with the opportunity for public comment; and

WHEREAS, the arid Western States include numerous federally-recognized tribes with diverse historical and cultural uses of water; and

WHEREAS, the Environmental Protection Agency (EPA) is proposing to establish Federal water quality standards for Indian reservation waters that currently do not have water quality standards in effect under the Clean Water Act; and

WHEREAS, many states and tribes put considerable time, effort, and resources into developing constructive relationships and coordinating cross-jurisdictional efforts while seeking to respect one another’s sovereignty; and

WHEREAS, the cultural needs of tribes, their health, and their economic prosperity are an important priority for tribal, federal, and state governments; and

WHEREAS, the identification and interpretation of federal instruments (treaties, statutes, executive orders, and other sources of federal law), with the potential to create express or implied federal reserved rights, is a complex exercise – often involving consultation, research, analysis, and extensive court proceedings – that requires expertise unrelated to water quality assessment; and

WHEREAS, in November 2021, the Department of the Interior, the EPA, and 15 other federal agencies signed a *Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the*

Protection of Tribal Treaty Rights and Reserved Rights, committing to protect such rights and implement federal treaty obligations: (1) through early consultation and consideration of those rights in decision-making and rulemaking; (2) by creating a searchable and indexed database of all treaties; (3) by developing tools and resources to identify, understand, and analyze tribal treaty and reserved rights; and (4) by providing a means of dispute resolution regarding tribal complaints of the sufficiency and timing of federal consultation; and

WHEREAS, western water laws provide a complex system of allocating and administering water, including the determination of the quantity and priority of water rights, with their sources of water, points of diversion, and places of beneficial use, and this system includes the necessary quantification and priority dates of tribal reserved water rights as implied under the *Winters* doctrine, as well as any additional state-based water rights for tribes or tribal members; and

WHEREAS, states have the exclusive authority to allocate and administer quantities of water within their respective jurisdictions; and

WHEREAS, water quality agencies generally lack the means and authority to determine the full nature and geographic extent of tribal reserved rights to natural resources that may require specific quantities or quality of water to satisfy the purposes of the reservations; and

WHEREAS, historical waterbodies have been extensively modified in the arid West with federal, state, tribal, and local infrastructure to capture, store, divert, and convey water for diverse and often competing uses of water; and

WHEREAS, any efforts to fulfill the federal trust responsibility to protect tribal reserved rights related to water resources, using a regulatory framework to be implemented by states, have clear federalism implications as contemplated by Executive Order 13132; and

WHEREAS, promulgation of nationwide baseline water quality standards for tribes has the potential to create a more complicated regulatory environment for state water quality and water resources managers and users, and at this time may raise more questions and conflicts than they will resolve, particularly in western states where a complex mix of state and tribal lands may be present.

NOW, THEREFORE, BE IT RESOLVED that the Western States Water Council supports the establishment of a searchable database of all tribal treaties and tools for analysis as described in the 17-agency MOU.

BE IT FURTHER RESOLVED that the Western States Water Council opposes shifting federal trustee responsibilities to the states by imposing the burden of determining the nature and extent of tribal reserved rights over to states.

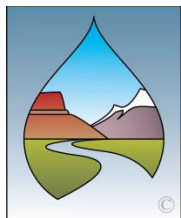
BE IT FURTHER RESOLVED that the Western States Water Council supports timing any tribal-federal consultation process to determine water quality needs for tribal reserved rights to take place prior to the subsequent triennial review of state water quality standards, in order to better inform the state process in a timely and efficient manner.

BE IT FURTHER RESOLVED that federal regulations intended to protect tribal reserved rights should 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.

BE IT FURTHER RESOLVED that steps must be taken to ensure that any tribal reserved rights that require specific quantities of water in Western States have a corresponding water right.

BE IT FURTHER RESOLVED that the Western States Water Council urges EPA to fully consider legal and administrative issues associated with promulgating nationwide tribal baseline water quality standards, including addressing (1) how EPA would implement such a rule and under what authorities, particularly with regard to non-jurisdictional waters and unquantified reserved water rights; (2) how the baseline WQS would impact existing state jurisdictions and water quality programs, particularly where the outer reservation boundaries do not reflect current regulatory jurisdictions and/or non-tribal lands within reservation boundaries; and (3) how EPA would resolve any differences between states and tribal standards, as well as states' standards and EPA's baseline standards for tribes without treatment as states (TAS) authority.

BE IT FURTHER RESOLVED that the Western States Water Council supports meaningful and substantive consultation with States as co-regulators, seeking input from states beyond mere information-sharing, prior to publication of any proposed or final rules with federalism implications.



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
Urging Congress and the Administration to Support**

**SUBSEASONAL to SEASONAL
WEATHER RESEARCH, FORECASTING, and INNOVATION**

**Reno, Nevada
May 24, 2023**

WHEREAS, Western States experience great subseasonal, seasonal, and annual variability in precipitation, with serious impacts and consequences for water supply planning and management, drought and flood preparedness and response, water rights administration, operation of water projects, and aging water infrastructure; and

WHEREAS, sound decision-making to protect life and property by reducing flood risks and to inform decisions involving billions of dollars of economic activity for urban centers, agriculture, hydropower generation, and fisheries depends on our ability to observe, understand, model, predict, and adapt to precipitation variability on operational time scales ranging from a few weeks to a season or more; and

WHEREAS, investments in observations, modeling, high-performance computing capabilities, research, and operational forecasting of precipitation provide an opportunity to significantly improve planning and water project operations to reduce flood damages, mitigate economic and environmental damages, and maximize water storage and water use efficiency; and

WHEREAS, operating aging water infrastructure in the face of growing and often competing water supply and water management demands requires that state, federal, tribal, and local agencies optimize operations for maximum efficiency and seek innovations, such as improved subseasonal to seasonal forecasting (S2S), to support their decision-making; and

WHEREAS, the responsibility for operational weather forecasting rests with the National Weather Service (NWS), and currently NWS has minimal skill in making S2S outlooks; and

WHEREAS, there is a need to prioritize National Oceanic and Atmospheric Administration (NOAA) research and weather modeling to improve operational sub-seasonal and seasonal precipitation forecasts, with attention to Western needs; and

WHEREAS, NOAA submitted a report¹ to Congress pursuant to Section 201 of the Weather Research and Forecasting Innovation Act of 2017 (P.L. 115-25) recommending pilot projects to improve S2S forecasts for water management in the western U.S.; and

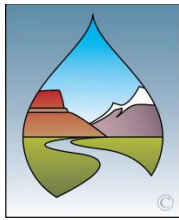
WHEREAS, the Flood Level Observation, Operations, and Decision Support (FLOODS) Act of 2022 (P.L. 117-316) directs NOAA to improve S2S forecasting to support flood management.

¹ <https://repository.library.noaa.gov/view/noaa/27408>

NOW, THEREFORE, BE IT RESOLVED that the Western States Water Council supports the reauthorization of the Weather Act and its implementation, together with the FLOODS Act, authorizing federal action to improve precipitation forecasting at S2S scales in the West, and urges NOAA to move forward with pilot projects for improving S2S winter precipitation forecasting in the mountain west and summer precipitation forecasting in the Great Plains.

BE IT FURTHER RESOLVED that the Western States Water Council supports adequate Congressional appropriations directed toward the improvement of S2S forecasting.

(See also Position #441, 3/6/20; and #399, 4/14/17)



**RESOLUTION
of the
WESTER N STATES WATER COUNCIL
regarding the
BUREAU OF RECLAMATION'S
MAINTENANCE, REPAIR, AND REHABILITATION NEEDS**

**Reno, Nevada
May 24, 2023**

WHEREAS, the Bureau of Reclamation's mission is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public; and

WHEREAS, Reclamation operates hundreds of dams, reservoirs, and related infrastructure in the West, supplying water and power to millions of people, irrigating millions of acres for food and fiber, providing flood control and recreation, and supporting wildlife and habitat; and

WHEREAS, the importance of maintaining these projects cannot be overstated; and

WHEREAS, many of Reclamation's facilities are nearing, or have already exceeded, their original design lives and are in need of maintenance, repair, and/or rehabilitation (MR&R), in order to minimize risk; and

WHEREAS, MR&R needs refer to both maintenance that has been deferred and future projections or anticipated maintenance, repair and rehabilitation work; and

WHEREAS, Reclamation's funding and the funding from non-federal partners which operate two-thirds of Reclamation's infrastructure under contract is not sufficient to address all MR&R needs; and

WHEREAS, in 2021, Reclamation submitted an Asset Management Report¹ to Congress pursuant to §§ 8601-8603 of the John D. Dingell, Jr. Conservation, Management and Recreation Act of 2019 (P.L. 116-9) providing a detailed assessment of major MR&R needs over the next 30 years, which identified over 2,800 activities at an estimated cost of \$11.9B; and

WHEREAS, Congress and the Administration must have access to consistent and accurate information on Reclamation's MR&R needs to address these needs through investments that are based on long-term capital planning and budgeting strategies; and

WHEREAS, state water managers require this information to carry out their water planning and other water administration activities; and

¹ <https://www.usbr.gov/infrastructure/mrr/docs/asset-management-report-to-congress.pdf>

WHEREAS, in recent years, Reclamation has made progress in developing and improving estimates of MR&R needs for infrastructure under its jurisdiction as well as standard asset management criteria that evaluate risks to: (1) human health and safety; (2) economic growth; and (3) the environment; and

WHEREAS, Reclamation also continues to work with non-federal operating entities to clarify the processes for providing non-federal input into compiling and reporting MR&R needs; and

WHEREAS, notwithstanding these improvements, much of the currently available information regarding Reclamation's MR&R needs for Reclamation's infrastructure under contract is inconsistent and difficult to obtain; and

WHEREAS, a process is needed to evaluate Reclamation's MR&R needs for facilities under contract pursuant to standard asset management criteria that evaluate risks.

NOW, THEREFORE, BE IT RESOLVED that the Western States Water Council urges Congress and the Administration to work together to develop a standardized process to evaluate Reclamation's MR&R needs for facilities under contract and a process to ensure Reclamation can receive from partners/operating entities, and provide, the most up-to-date, consistent, and accurate information, including the estimated costs of those needs and the relative priority or importance of addressing those needs; and

BE IT FURTHER RESOLVED that Reclamation should ensure that appropriate information on its MR&R needs is readily accessible and easy to understand by Congress, state policy makers, and the public.

(See also Position #442, 03/06/20; #400, 4/14/17; and #360, 4/03/14)



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding the
RECLAMATION SAFETY OF DAMS ACT OF 1978**

**Reno, Nevada
May 24, 2023**

WHEREAS, the Bureau of Reclamation’s dams and reservoirs are the primary source of water for numerous regions and communities throughout the West; and

WHEREAS, Reclamation’s dams and reservoirs provide essential benefits such as drinking water, irrigation, hydropower, flood control, and recreation, while also supporting wildlife and habitat; and

WHEREAS, the safe operation and maintenance of Reclamation’s dams is critical to sustaining these benefits and preventing dam failure, which threatens lives as well as private and public property; and

WHEREAS, many state¹ and federal agencies, including Reclamation, follow the 2004 FEMA hazard potential classification system for failures or mis-operation of dams (FEMA Pub. No. 333), defining “high hazard” as probably causing a loss of human life, and “significant hazard” as no probable loss of human life but resulting in substantial economic loss, environmental damage, disruption of lifeline facilities, or other considerable impacts; and

WHEREAS, in the FY2024 budget request,² Reclamation noted that half of their 489 dams were built between 1900 and 1950, with 90% of their dams built before the adoption of modern design and construction practices, and the agency has identified 361 high and significant hazard dams and recommended modifications to prevent safety or performance issues; and

WHEREAS, maintaining and rehabilitating dams and related infrastructure is one of the most serious problems that Reclamation currently faces; and

WHEREAS, the Reclamation Safety of Dams Act of 1978 provides Reclamation with authority to preserve and maintain the structural safety of dams under its stewardship; and

WHEREAS, in FY2016, the Congress provided an additional \$1.1 billion in budget authority for dam safety (P.L. 114-113, Section 204; 43 U.S.C. 509), giving Reclamation several more years before reaching its spending ceiling; and

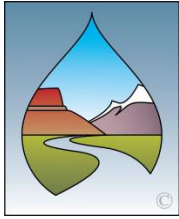
¹ Summary of State Laws and Regulations on Dam Safety (May 2020), Association of State Dam Safety Officials

² <https://www.usbr.gov/budget/2024/FY-2024-Bureau-of-Reclamation-Budget-Justifications.pdf>

WHEREAS, failure to appropriate such sums as are necessary for Reclamation's dam safety activities will increase the chances of dam failures by hindering the agency's ability to carry out critical dam safety rehabilitation and modernization efforts, risking loss of life and public and private property.

NOW, THEREFORE, BE IT RESOLVED that the Western States Water Council urges the Administration and Congress to work together and determine such sums as may be necessary for Reclamation to effectively carry out its dam safety program in a timely manner.

(See also Position #443, 3/03/20, #401, 4/14/17; and #361, 4/03/14)



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding
THE TRANSFER OF FEDERAL WATER AND POWER PROJECTS
and
RELATED FACILITIES**

**Reno, Nevada
May 24, 2023**

WHEREAS, the John D. Dingell, Jr. Conservation, Management and Recreation Act (P.L. 116-9) was signed into law on March 12, 2019, and Title VIII provides the Bureau of Reclamation with authority to transfer title to certain eligible facilities to qualifying entities without separate and individual acts of Congress; and

WHEREAS, on May 22, 2019, U.S. Secretary of the Interior David Bernhardt announced actions to expedite the transfer of eligible Reclamation facilities into local ownership and management with a new Categorical Exclusion and an update of Reclamation's operating manual procedures to streamline the title transfer process; and

WHEREAS, such transfers may offer important benefits, but many are necessarily very complex and involve many different interests, including important public and third-party interests protected under various state and federal laws; and

WHEREAS, many of these projects serve multiple purposes and were built (and their capital costs are being repaid) under longstanding agreements with water, power, and other users; and

WHEREAS, some single-purpose projects might be appropriately transferred under an expedited review process to their non-federal sponsors/operators by mutual agreement; and

WHEREAS, the many potential public benefits and costs related to transfers involve state and local governments and other interests, in addition to the federal government; and

WHEREAS, present and potential benefits may be lost unless there is a careful analysis of the transfer of individual projects; and

WHEREAS, federal project transfers require a careful project-by-project analysis of expected costs and benefits; and

WHEREAS, states have the primary responsibility for the comprehensive development, administration, and protection of their water resources for all purposes.

NOW THEREFORE, BE IT RESOLVED that the Western States Water Council supports the careful evaluation of the transfer of federal water and power assets and urges the Administration and Congress to work together, with strong state involvement and protections for state water laws and water rights.

(See also Position #444, 3/06/20; #402, 4/14/17, and #362, 4/03/14)

For reference, see also Position #209 readopted November 20, 1998, which was allowed to sunset at the meetings held in Oklahoma City, OK on November 16, 2001. *(Originally adopted Nov. 17, 1995)*



**POSITION
of the
WESTERN STATES WATER COUNCIL
regarding
THE NATIONAL LEVEE SAFETY PROGRAM**

**Reno, Nevada
May 24, 2023**

WHEREAS, floods are among the Nation’s most frequent and costliest hazards – every year the costs to taxpayers are in the billions and continue to increase; and

WHEREAS, all 50 states confront levee safety issues; and

WHEREAS, Congress enacted the National Levee Safety Act of 2007 (the Act) in the aftermath of Hurricane Katrina and the failure of the levees and flood water conveyance canals in New Orleans, Louisiana;¹ and

WHEREAS, the Act created the “National Committee on Levee Safety” (NCLS) to develop recommendations for a national levee safety program, including a strategic plan for implementation of the program; and

WHEREAS, in January 2009, the NCLS released, “Recommendations for a National Levee Safety Program – A Report to Congress;” and

WHEREAS, the report’s core recommendation calls for the creation of an independent National Levee Safety Commission to: (1) develop national safety standards for levees for common, uniform use by all federal, state, and local agencies; (2) inventory and inspect all levees on a periodic basis; and (3) develop national tolerable risk guidelines for levees; and

WHEREAS, the Water Resources Reform and Development Act (WRRDA) of 2014 subsequently redefined the term “levee” as an embankment or flood wall (i) “the primary purpose of which is to provide hurricane, storm, and flood protection...;” and (ii) “that normally is subject to water loading for only a few days or weeks during a year;” and further defined “canal structures” to mean an embankment, wall or structure along a canal or manmade watercourse that (i) constrains water flows; (ii) is subject to frequent water loading; and (iii) “is an integral part of a flood risk reduction system that protects the leveed area from flood waters” associated with weather-related events; and

WHEREAS, water supply canals that are part of an irrigation or municipal or industrial water supply system are appropriately excluded from the National Levee Safety Program; and

WHEREAS, one objective of the National Levee Safety Act of 2007 was to promote sound technical practices in levee design, construction, operation, maintenance, inspection, assessment, and security; and

¹ 121 Stat. 1288, P.L. 110-114.

WHEREAS, the U.S. Government Accountability Office (GAO) released a June 2016 report that found that WRRDA 2014 directed the U.S. Army Corps of Engineers (USACE) and Federal Emergency Management Agency (FEMA) to: (1) reconvene the National Committee on Levee Safety; (2) develop a national levee inventory; (3) implement a multifaceted levee safety initiative; (4) report to Congress by June 10, 2015; (4) report on the feasibility of a joint dam and levee-safety program by June 10, 2017; and (5) submit a report with recommendations identifying and addressing legal liabilities of engineering levee projects; and

WHEREAS, GAO found that with the exception of continuing to develop a national levee inventory that the FEMA and USACE had made little progress in implementing key WRRDA requirements, given resource constraints; and recommended that they develop a plan with milestones for implementing the required activities using existing resources or request additional resources as needed.

WHEREAS, the National Levee Database (NLD), developed by USACE, is the focal point for comprehensive information about our nation's levees and the NLD continues to be a dynamic database with ongoing efforts to add levee data from federal agencies, states, and tribes; and

WHEREAS, USACE and the U.S. Bureau of Reclamation published "Best Practices in Dam and Levee Safety Risk Analysis," in July 2019; and

WHEREAS, USACE published Engineer Circular No. 116-2-218,² establishing policies for implementing the Levee Safety Program and guidance consolidating and formalizing the principles, policies, and key processes used by USACE in the program; and

WHEREAS, the Circular expired in March 2023, with USACE expected to issue more permanent agency guidance based on input and lessons learned.

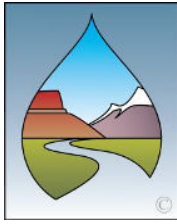
NOW, THEREFORE, BE IT RESOLVED, that the Western States Water Council supports the implementation and improvement of our national program of safety standards for levees, flood walls and flood water conveyance canals; and

BE IT FURTHER RESOLVED, that such a program should not apply to federal or non-federal water supply canals that are part of an irrigation or municipal or industrial water supply system; and

BE IT FURTHER RESOLVED, that the Western States Water Council encourages the Administration and Congress to work together and with States to strengthen the National Levee Safety Program and provide adequate resources for implementing the requirements of the National Levee Safety Act of 2007, WRRDA 2014, and the Aging Water Infrastructure and Maintenance Act (Subtitle G of the Omnibus Public Lands Management Act of 2009).

(See also Position #445, 3/06/20; #403, 4/14/17; and #363, 4/03/14)

² <https://www.mvn.usace.army.mil/Portals/56/EC%201165-2-218.pdf>



**POSITION
of the
WESTERN STATES WATER COUNCIL
regarding the
CLEAN and DRINKING WATER STATE REVOLVING FUNDS
and
WATER INFRASTRUCTURE FINANCE and INNOVATION ACT
LOANS and STATE and TRIBAL ASSISTANCE GRANTS**

**Reno, Nevada
May 24, 2023**

WHEREAS, the economies of every state and the Nation as a whole depend upon sufficient water supplies of suitable quality, which require adequate water and sewer infrastructure; and

WHEREAS, it is Congress's intent that states assume responsibility for permitting programs under the Clean Water Act and Safe Drinking Water Act;

WHEREAS, the Environmental Protection Agency's (EPA) Clean Water State Revolving Fund and Drinking Water State Revolving Fund (SRF programs) provide states with capitalization grants that are leveraged with state contributions to offer financial assistance to cities, towns, communities, and others for the planning, design, construction and rehabilitation of built and green water and wastewater-related infrastructure to improve source and drinking water quality; and

WHEREAS, each state administers the SRF programs in coordination with EPA, and these programs are one of the principal tools that states use to pursue the goals of the Clean Water Act and Safe Drinking Water Act; and

WHEREAS, the nation's wastewater and drinking water infrastructure is aging and in need of repair and replacement; and

WHEREAS, the EPA by law estimates infrastructure needs every four years and the most recent estimates show a total capital investment need of at least \$271 billion for wastewater and stormwater infrastructure and \$625 billion for drinking water infrastructure nationwide over the next 20 years, and a significant funding gap under current spending and operation practices; and

WHEREAS, the 2021 American Society of Civil Engineers' Infrastructure Report Card and updated Failure to Act Report estimates that by 2029 there will be a \$434 billion gap in needed new capital investments for water and wastewater projects, as well as the loss of an estimated 10.6% of the water sector workforce each year due to transfers or retirement, with some utilities expecting as much as half of their staff to retire in the next ten years; and

WHEREAS, ASCE recommends tripling the amount of annual appropriations to the Drinking Water SRF program, fully funding the WIFIA program and the USDA Agriculture Rural Development programs; and

WHEREAS, these estimates do not include anticipated operation and maintenance costs, typically funded by ratepayers, nor an estimated \$30 billion unfunded gap related to calls for replacing some 6.1 million homes with lead water service lines; and

WHEREAS, proposed federal appropriations and budget requests that reduce SRF funding ignore the multitude of needs identified by EPA, particularly given that many states and communities are struggling to meet their water and wastewater challenges in the face of growing populations and aging infrastructure; and

WHEREAS, to the extent federal law has established certain nationwide levels of treatment for drinking water and wastewater, the federal government has an obligation to provide states with the necessary financial and technical assistance needed to comply with such requirements, including the appropriation of adequate funding for SRF capitalization grants; and

WHEREAS, EPA's Clean Water and Drinking Water Infrastructure Sustainability Policy mandates that state SRF programs promote sustainable water infrastructure and overall system sustainability; and

WHEREAS, the SRF Programs have measures in place to help ensure system sustainability and account for individual state needs and priorities; and

WHEREAS, the SRF programs are one of the most successful delivery mechanisms for federal assistance; and

WHEREAS, new competing water and wastewater infrastructure funding programs should not come at the expense of the SRFs, which are a proven model for addressing water and wastewater infrastructure needs; and

WHEREAS, it is the sense of Congress through the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA), the Water Infrastructure Improvements for the Nation Act of 2016 (WIIN), the America's Water Infrastructure Act of 2018 (AWIA), the American Rescue Plan Act of 2021 (ARPA), the Infrastructure Investment and Jobs Act of 2021 (IIJA), and the Inflation Reduction Act of 2022 (IRA) to provide robust funding of capitalization grants for States' drinking water revolving loan fund and the clean water revolving loan fund; and

WHEREAS, Congress has imposed a number of additional requirements on the states' management and use of SRF funds, including but not limited to: (1) mandating the use of between 20% and 30% of appropriated funds for principal forgiveness, negative interest loans, grants, or a combination thereof; (2) setting aside 10% of funds for green infrastructure, water or energy efficiency, or other environmentally innovative activities; (3) "American Iron and Steel," "Build America, Buy America," and other domestic sourcing provisions that limit the use of SRF funds to purchase certain types of materials and services; (4) Davis-Bacon Prevailing Wage that requires payment of locally prevailing wages and fringe benefits to contractors and subcontractors at the site of work, (5) mandating at least 10% (CW SRF) and 12% (DW SRF) for loans to disadvantaged communities in the form of grants or principal forgiveness; and (6) mandating funds that can only be used for specific project purposes, such as replacing lead lines and addressing emerging contaminants; and

WHEREAS, although often well-intended, these requirements are generally aimed at advancing policy objectives that are unrelated or contrary to the SRFs' primary purpose of providing a permanent, recurring source of funding for basic water infrastructure, and reduce the flexibility of the States to manage SRFs in a cost effective manner; and

WHEREAS, paying for Congressional earmarks through SRF capitalization grants cuts funding for state priority projects; and

WHEREAS, cutting federal funding for the SRFs also cuts funding for critical water quality programs, including technical assistance for small, rural and tribal communities, source water protection and capacity development under the Public Water System Supervision program, and other state and local water protection activities, and may put primacy at risk for some states; and

WHEREAS, additional restrictions on state SRF management represent unfunded federal mandates that impose significant regulatory burdens and make state SRF programs less attractive to local entities, and reduce the capacity of a State to leverage their SRF programs and address infrastructure needs; and

WHEREAS, the State and Tribal Assistance Grants (STAG), including Performance Partnership Grants (PPG) and other grants are critical to the support of state programs that assure that the nation's drinking water and water quality remain safe for the public health of the citizens.

NOW, THEREFORE, BE IT RESOLVED, that the Administration and Congress should work together to ensure that stable and continuing federal appropriations are made to the SRF capitalization grants, WIFIA loans, and State and Tribal Assistance Grants at funding levels that adequately reflect the states' priorities identified in their intended use plans (IUP), and further that these states' allocations are not reduced or harmed by directed congressional earmarks. These combined actions are intended to help states address their water infrastructure needs and protect public health and the environment for the benefit of the people.

BE IT FURTHER RESOLVED, that the SRF programs should allow for greater flexibility and require fewer restrictions on state SRF management.

BE IT FURTHER RESOLVED, that the Western States Water Council urges the Administration to allow and encourage drinking water and wastewater system improvements to satisfy compensatory mitigation requirements triggered in various permitting programs.

(See also Position #446, 3/06/20; #364, 4/03/14; and #404, 4/14/17)



RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding the
RURAL WATER and WASTEWATER PROJECT/INFRASTRUCTURE NEEDS
and
U.S. DEPARTMENT of AGRICULTURE PROGRAMS

Reno, Nevada
May 24, 2023

WHEREAS, in the West, water is indeed our “life blood,” a vital and scarce resource the availability of which has and continues to circumscribe growth, development, our economic and environmental well-being and quality of life; and

WHEREAS, across the West, many small, rural and tribal communities are experiencing water supply shortages due to drought, declining streamflows and groundwater supplies, and inadequate infrastructure, with some communities hauling water over substantial distances to satisfy their potable water needs; and

WHEREAS, often water supplies that are available to these communities are of poor quality and may be impaired by naturally occurring and man-made contaminants, including arsenic, copper, lead, and carcinogens, which impact communities’ health and their ability to comply with increasingly stringent federal water quality and drinking water mandates; and

WHEREAS, many small, rural and tribal communities (including colonias) also face challenges related to meeting federal mandates for wastewater treatment; and

WHEREAS, at the same time, many small, rural and tribal communities in the West suffer from significant levels of unemployment and simply lack the financial capacity and expertise to plan, finance and construct needed drinking water and wastewater system improvements; and

WHEREAS, there is a Federal responsibility to assist these communities in meeting related federal mandates to achieve water and wastewater public health goals; and

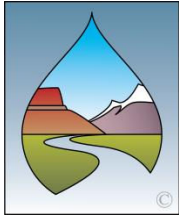
WHEREAS, USDA’s water and wastewater grant and loan programs help provide financing for clean and reliable drinking water systems, sanitary sewage disposal, solid waste disposal and stormwater drainage for individual households, businesses, cooperatives, private non-profits, and state and local governmental entities and tribal communities – many without access to private, commercial credit on reasonable terms or other federal financial assistance (including the SRFs); and

WHEREAS, these programs help very small, financially distressed communities by providing long-term low interest loans (up to 40 years at fixed rates determined by need), loan guarantees, and grants (if funds are available), and related programs provide technical assistance and training grants; and

WHEREAS, these wise investments of federal dollars can help businesses and manufacturers to locate or expand operations in these communities, providing an economic boost, as well as environmental improvements and other long-term returns.

NOW THEREFORE BE IT RESOLVED, that the Western States Water Council urges the Administration and Congress to carefully consider the needs of small, rural and tribal communities and businesses and provide or otherwise ensure they have access to financial and technical assistance sufficient to ensure they can meet federal water quality and drinking water mandates, as well as achieve public health goals.

(See also Position #447, 3/06/20; and #405, 4/14/17)



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
in support of
NATIONAL DAM SAFETY PROGRAMS**

**Reno, Nevada
May 24, 2023**

WHEREAS, access to, and availability of, water profoundly influences growth and development, economic and environmental well-being, and the quality of life for the population; and

WHEREAS, across the Nation, dams and reservoirs store water for crucial uses, including agriculture, industry, municipalities, recreation, fisheries, and other purposes; and

WHEREAS, to ensure public health and safety and the continued provision of essential benefits, responsible operation, regular maintenance, and repair and rehabilitation of dams and related infrastructure is required; and

WHEREAS, many state¹ and federal agencies, including the Bureau of Reclamation and the Army Corps of Engineers, follow the 2004 FEMA hazard potential classification system for failures or mis-operation of dams (FEMA Pub. No. 333),² defining “high hazard” as probably causing loss of human life, and “significant hazard” as no probable loss of human life but resulting in substantial economic loss, environmental damage, disruption of lifeline facilities, or other considerable impacts; and

WHEREAS, aging infrastructure and lack of investment are contributing to an increase in the number of non-federal high hazard potential (HHP) dams in poor repair across the Nation, with around 16,000 dams identified as HHP in the 2023 National Inventory of Dams (NID) and requiring an estimated \$34.1 billion to repair and rehabilitate, according to the Association of State Dam Safety Officials;³ and

WHEREAS, hundreds of Bureau of Reclamation dams and reservoirs throughout the West provide water and power for millions of people, irrigation for food and fiber, flood control, recreation opportunities, and habitat for wildlife; and

WHEREAS, the average age of Bureau of Reclamation dams is 70 years, and Reclamation's 2023 Asset Management Report⁴ to Congress indicates that over the next 30 years, major maintenance, repair, and rehabilitation (MR&R) needs (including extraordinary maintenance, safety of dams, and deferred maintenance) will be \$20.3 billion; and

¹ Summary of State Laws and Regulations on Dam Safety (May 2020), Association of State Dam Safety Officials

² <https://www.ferc.gov/sites/default/files/2020-04/fema-333.pdf>

³ The Cost of Rehabilitating Dams in the U.S.: A Methodology and Estimate, ASDSO April 2023

⁴ <https://www.usbr.gov/infrastructure/mrr/docs/asset-management-report-to-congress2023.pdf>

WHEREAS, the Reclamation Safety of Dams Act of 1978 provides Reclamation with authority to preserve and maintain the structural safety of dams under its stewardship; and

WHEREAS, in FY2016, the Congress provided an additional \$1.1 billion in budget authority (P.L. 114-113, Section 204), giving Reclamation several more years before reaching its spending ceiling; and

WHEREAS, the Natural Resources Conservation Service (NRCS) has 2,243 high hazard project dams with an average age of 50 years, with most requiring MR&R estimated at \$11.1 billion, and by 2025 nearly 6,800 NRCS watershed dams will have reached the end of their design life; and

WHEREAS, the NRCS offers a Watershed Rehabilitation Program under the Watershed Protection and Flood Prevention Act to help local sponsors to rehabilitate their dams; and

WHEREAS, the U.S. Army Corps of Engineers (USACE) operates and maintains approximately 740 dams nationwide that provide significant, multiple benefits including flood risk management, navigation, water supply, hydropower, environmental stewardship, fish and wildlife conservation and recreation that are essential to the nation, integral to many communities, and critical in many watersheds; and

WHEREAS, USACE's dam safety program is designed to make sure these projects deliver their intended benefits, while reducing risks to people, property and the environment through continuous assessment, communication and management; and

WHEREAS, approximately 97 percent of USACE dams are more than 30 years old, 70 percent have exceeded their designed 50-year service lives, and the estimated cost of repair is nearly \$20 billion;⁵ and

WHEREAS, USACE dam safety projects are cost shared with local sponsors and requirements vary based on the original Congressional project authorization, and dams with highest life safety risk receive 100% of what can be efficiently expended in the program year, taking into account both budgeted funds and carryover balances.

WHEREAS, according to the Congressional Research Service, in 2019 the 90,000 dams listed in the NID included 3% owned by federal agencies and the remainder owned by private entities, nonfederal governments, and public utilities; and

WHEREAS, states have regulatory authority for over 69% of NID-listed dams, but the federal government plays a key role in dam safety policies for both federal and nonfederal dams; and

WHEREAS, changing climate conditions are contributing to the frequency and severity of weather events and natural disasters which increase the likelihood of dam failures, including failures of deficient HHP dams; and

⁵ <https://www.usace.army.mil/Media/Fact-Sheets/Fact-Sheets-View/Article/2523036/dam-safety-facts-and-figures/>

WHEREAS, dam failures can result in loss of life, mass evacuations, extensive property damage, destruction of public infrastructure, and widespread dispersal of contaminants; and

WHEREAS, failing rural water infrastructure increase pressures on rural and tribal communities throughout the West, and dam failures can exacerbate water scarcity and supply issues; and

WHEREAS, the significant legal and economic costs of dam failures place additional strain on scant state, tribal, and local revenues that must respond to other crises, including the COVID-19 pandemic; and

WHEREAS, the primary purpose of the Federal Emergency Management Agency (FEMA) National Dam Safety Program is to provide financial assistance to the States for strengthening dam safety programs through such actions as: (1) dam safety training for state personnel; (2) increased inspections of non-federal dams; (3) increased submittal and testing of emergency action plans; (4) more timely review and issuance of permits; (5) improved coordination with state emergency preparedness officials; (6) identification of non-federal dams for repair or removal; and (7) dam safety awareness workshops and creation of dam safety outreach materials; and

WHEREAS, Congress recently appropriated \$10 million for FEMA's new Rehabilitation of High Hazard Potential Dams (HHPD) Grant Program for FY2020, to provide technical, planning, design, and construction assistance in the form of grants for rehabilitation of eligible high hazard potential dams; and

WHEREAS, the FEMA National Dam Safety Program's Grant Assistance to States provides critical funding for state dam safety programs, which continue to be underfunded and lack sufficient staff and other resources; and

WHEREAS, the FEMA HHP Dam Rehabilitation Grant program is essential to the continued improvement of dam infrastructure throughout the Nation; and

WHEREAS, mitigation planning, supported by FEMA grants, such as the Flood Mitigation Assistance Grant Program, the Pre-Disaster Mitigation Grant Program, and the Hazard Mitigation Assistance Grant Program, help to break the cycle of disaster damage, reconstruction, and repeated damage; and

WHEREAS, Congress recently authorized and appropriated \$81M for the USACE Corps Water Infrastructure Financing Program (CWIFP) to provide long-term, low-cost loans for maintaining, upgrading, and repairing non-federal, NID-listed dams; and

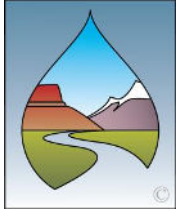
WHEREAS, state dam safety programs are integral to the efficient and sustainable use of federal funds to improve the safety and longevity of non-federal dams and related infrastructure.

NOW, THEREFORE, BE IT RESOLVED, the Western States Water Council supports continued and increased funding for the FEMA National Dam Safety Program, the FEMA High Hazard Dam Rehabilitation Grant, the FEMA Hazard Mitigation Assistance Grants and the USACE CWIFP; and

BE IT FURTHER RESOLVED, the Western States Water Council supports federal legislative and administrative actions that provide stable and continuous funding streams for MR&R of local, state, and federal dams and related infrastructure, including HHP dams, Bureau of Reclamation dams, NRCS dams, and USACE dams; and

BE IT FURTHER RESOLVED, the Western States Water Council supports ongoing coordination of state and federal efforts to strengthen dam safety programs.

(See also Position #448, 7/22/20)



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
REGARDING PREEMPTION OF STATE LAW IN FEDERAL LEGISLATION**

**Reno, Nevada
May 24, 2023**

WHEREAS, the future growth, prosperity and economic and environmental health of the West and the Nation depend upon the availability of adequate quantities of water for myriad uses; and

WHEREAS, Western states have primary authority and responsibility for the appropriation, allocation, development, conservation and protection of water resources, both groundwater and surface water, including protection of water quality, instream flows and aquatic species; and

WHEREAS, the Congress has historically deferred to state water law as embodied in Section 8 of the Reclamation Act, Section 10 of the Federal Power Act, Section 101(g) and 101(b) of the Clean Water Act, and myriad other statutes; and

WHEREAS, any weakening of the deference to state water law would be inconsistent with over a century of cooperative federalism and a threat to water rights and water rights administration in all western states; and

WHEREAS, federal deference to state water law is based on sound principles for the protection of private property rights and the collective public interest in managing our water resources and the environment; and

WHEREAS, states are primarily responsible and accountable for their own water development, management and protection challenges, and are in the best position to identify, evaluate and prioritize their needs and plan and implement strategies to meet those needs; and

WHEREAS, any legislation related to any federal water policy, water plan or planning process must recognize, defer to and support state, tribal and local government water laws, agreements, and management processes; and

WHEREAS, the federal government should explicitly recognize and provide support for ongoing watershed and state water management efforts both in and between the states, tribes and local entities, closely consult with the states, and provide appropriate technical and financial assistance; and

WHEREAS, the federal government should avoid strategies that increase unilateral mandates on state, tribal and local governments; and

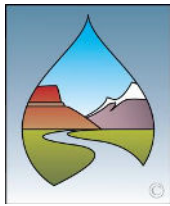
WHEREAS, from time to time federal legislation and regulatory actions have been proposed that are not consistent with sound principles of cooperative federalism and primary state water related laws, authorities and responsibilities; and

WHEREAS, legislation preempting or discharging requirements for compliance with state law is not consistent with a balanced federalism approach.

NOW, THEREFORE, BE IT RESOLVED, that nothing in any act of Congress should be construed as affecting or intending to affect or in any way to interfere with the laws of the respective States relating to: (a) water or watershed management; (b) the control, appropriation, use, or distribution of water used in irrigation, municipal, environmental, or any other purposes, or any vested right acquired therein; or (c) intending to affect or in any way to interfere with any interstate compact, decree or negotiated water rights agreement.

BE IT FURTHER RESOLVED, that the Administration and Congress should strive to ensure federal laws, policies, rules and regulations are consistent with the principles set forth herein.

(See also Position #449, 7/22/20; #406, 6/29/17; #365, 7/18/14; and #331, 7/29/11)



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
supporting
NOAA DATA, FORECASTING, AND RESEARCH PROGRAMS**

**Reno, Nevada
May 24, 2023**

WHEREAS, federal agency data and research programs provide an important foundation for supporting water management decision-making by western federal, state, and local agencies and tribes; and

WHEREAS, the National Oceanic and Atmospheric Administration (NOAA) collects weather and climate data through in-situ and remotely sensed observations, issues forecasts and outlooks of precipitation and temperature and weather hazard warnings, and conducts research to improve forecasting and

WHEREAS, line agencies within NOAA – including the National Weather Service (NWS), Office of Atmospheric Research (OAR), National Environmental Satellite Data and Information Service (NESDIS), and National Centers for Environmental Information (NCEI) – manage the programs that collect data, issue forecasts, and conduct research; and

WHEREAS, the information obtained through these programs supports water management and preparing for and responding to the extremes of drought and flooding; and

WHEREAS, water management in the West is both defined by and challenged by high annual variability in precipitation and by the extremes of drought and flooding; and

WHEREAS, recent billion-dollar weather disasters in the West have included: recent western flooding and mudslides, severe weather and wildfires (2023); extensive West and Midwest drought, heatwave, and wildfires, as well as severe Central weather and North Central and South Central hail (2022); Western drought, heatwave and wildfires, with California flooding, as well as Central and South Central severe storms and cold wave (2021); continued drought, heatwave, wildfires, as well as severe storms and hail (2020); Missouri River and northern Great Plains flooding (2019); Colorado hail storms (multiple years), drought in the southern Great Plains (2018); California and Nevada flooding (2017); severe multi-year drought in California and much of the West (2012-16); Texas and Oklahoma flooding (2015); and flooding in Texas resulting from Hurricane Harvey (2017); drought across the southern Great Plains (2011); Missouri River and northern Great Plains flooding (2011); and

WHEREAS, the Colorado River Basin is experiencing a 20+year drought, one of the more severe in the tree-ring record, and tree ring data shows that there have been numerous multi-decadal or mega-droughts in the basin and some suggest drought may be the new normal for the region; and

WHEREAS, the NWS Cooperative Observer Program has provided the only long-record spatially dense precipitation observing system in rural areas and especially in mountain regions where precipitation is highly variable, but is not being supported and modernized in proportion to the high value it provides for measuring extreme precipitation; and

WHEREAS, NWS River Forecast Centers (RFCs) play an important role in using weather and climate data to produce streamflow forecasts, and in delivering forecast products to end users; and

WHEREAS, weather forecasts are operationally issued out to about two weeks but most of the forecast skill is in the first seven days; and

WHEREAS, research observing systems developed through OAR's Hydrometeorology Testbed program have demonstrated the potential for improving weather forecasts through innovative instrumentation; and

WHEREAS, the skill of precipitation forecasts at the sub-seasonal to seasonal (S2S) time scale (two weeks to two years) is minimal and is insufficient to support water management decision-making at these lead times important for flood and drought preparedness and response; and

WHEREAS, the Weather Research and Forecasting Innovation Act of 2017 (WRFIA) directed NOAA to improve its S2S forecasting ability and to submit a report to Congress on research and resources needed to improve forecasting; and

WHEREAS, a coordinated effort by the NWS Climate Prediction Center (CPC), NWS Office of Weather and Air Quality Research, and OAR and its Laboratories is needed to improve S2S precipitation forecasting; and

WHEREAS, improving S2S precipitation forecasting will require targeted observations, dedication of high-performance computing resources, focused research, and improvements to dynamical and statistical modeling; and

WHEREAS, the production of NWS' existing S2S precipitation outlooks began in the mid-1990s and has shown no significant increase in skill since that time, pointing to the need for new approaches and focused pilot projects to improve forecasting skill; and

WHEREAS, OAR's testbed programs (Climate Testbed, Hydrometeorology Testbed) have an important role in transitioning research to operational forecasting; and

WHEREAS, OAR's information delivery programs (Regional Integrated Services and Assessments, National Integrated Drought Information System) help translate research to end user communities; and

WHEREAS, improving drought prediction entails research supported through OAR on climate dynamics and process studies, developing and applying paleoclimate data sets, and regionally focused pilot research projects; and

WHEREAS, NCEI's Regional Climate Centers (RCCs) provide special-purpose, customized data products such as daily plots of mountain freezing elevations or precipitation anomalies for regional water and agricultural stakeholders; and

WHEREAS, the satellite data collected by NESDIS' Geostationary Operational Environmental Satellites (GOES) program is foundational to modern weather forecasting, with GOES-17 just having transitioned to operations as GOES-West in 2020; and

WHEREAS, OAR supports the collection and acquisition of tropical ocean temperature profiles and other data from sources such as the TAO/Triton array of moored buoys, data that are used for monitoring El Nino-Southern Oscillation status; and

NOW, THEREFORE, BE IT RESOLVED, that NWS should preserve and modernize the NWS Cooperative Observer Program.

BE IT FURTHER RESOLVED, that OAR should sustain and expand its Hydrometeorology Testbed – West program to build upon progress made in that program for developing and installing new technologies for precipitation observations, and should continue and expand ocean observations that are critical for weather and S2S forecasting.

BE IT FURTHER RESOLVED, that NOAA should place a priority on implementing the provisions of WRFIA regarding improving S2S precipitation forecasting skill, and should submit the report to Congress on S2S forecasting required by WRFIA.

BE IT FURTHER RESOLVED, that the Western States Water Council urges the NWS-OAR development of regional pilot projects to improve S2S precipitation forecasting, including a pilot on cool season precipitation forecasting in the mountain West and a pilot on summer precipitation forecasting in the Plains.

BE IT FURTHER RESOLVED, that the Western States Water Council supports the NWS CPC's efforts to improve the utility and skill of its S2S outlooks.

BE IT FURTHER RESOLVED, that the Western States Water Council supports the climate data products provided by the NCEI's RCCs, and urges NCEI to fully fund the RCCs.

BE IT FURTHER RESOLVED, that the Western States Water Council supports OAR programs to transition research to operations, and NWS and OAR programs to deliver information to end users.

BE IT FURTHER RESOLVED, that the Western States Water Council will work with NOAA in supporting efforts on improving weather and S2S forecasting.

(See also Position #450, 7/22/20; #407, 6/29/17; #366, 7/18/14; #332, 7/29/11)



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
regarding the
THE RECLAMATION FUND**

**Reno, Nevada
May 24, 2023**

WHEREAS, in the West, water is indeed our “life blood,” a vital and scarce resource the availability of which has and continues to circumscribe growth, development and our economic well-being and environmental quality of life – the wise conservation and management of which is critical to maintaining human life, health, welfare, property and environmental and natural resources; and

WHEREAS, recognizing the critical importance of water in the development of the West, the Congress passed the Reclamation Act on June 17, 1902 and provided monies “reserved, set aside, and appropriated as a special fund in the Treasury to be known as the ‘reclamation fund,’ to be used in the examination and survey for and the construction and maintenance of irrigation works for the storage, diversion, and development of water for the reclamation of arid and semiarid land...” in seventeen western states, to be continually invested and reinvested; and

WHEREAS, then President Theodore Roosevelt stated, “The work of the Reclamation Service in developing the larger opportunities of the western half of our country for irrigation is more important than almost any other movement. The constant purpose of the Government in connection with the Reclamation Service has been to use the water resources of the public lands for the ultimate greatest good of the greatest number; in other words, to put upon the land permanent homemakers, to use and develop it for themselves and for their children and children’s children...;”¹ and

WHEREAS, the Secretary of the Interior was authorized and directed to “locate and construct” water resource projects to help people settle and prosper in this arid region, leading to the establishment of the Reclamation Service – today’s U.S. Bureau of Reclamation; and

WHEREAS, western states and the Bureau of Reclamation have worked in collaboration to meet the water-related needs of the citizens of the West, and protect the interests of all Americans, recognizing changing public values and the need to put scarce water resources to beneficial use for the “ultimate greatest good of the greatest number;” and

WHEREAS, the Bureau of Reclamation has facilities that include 338 reservoirs with the capacity to store 140 million acre-feet of water, with irrigation water for 10 million acres of farmland that produce 60 percent of the nation’s vegetables and 25 percent of its fruits and nuts, as well as providing water to about 31 million people for municipal and industrial uses, while generating more than 40 billion kilowatt hours of energy each year from 53 hydroelectric power plants, enough to serve 3.8 million households, while providing 245 recreation areas with over 90 million visits annually, and further providing flood control, and fish and wildlife benefits; and

WHEREAS, project sponsors have and continue to repay the cost of these facilities, which also produce power receipts that annually return over one billion in gross power revenues to the federal government, prevent millions in damages due to floods each year, and supports over 63.9 billion in economic returns and supporting over 456,219 jobs; and

WHEREAS, project sponsors have and continue to repay the cost of these facilities, which also produce power receipts that annually return around \$1 billion in gross power revenues to the federal

¹State of the Union Address, 1907

government, prevent millions in damages due to floods each year, and supports over \$45 billion in economic returns and over 344,000 jobs; and

WHEREAS, the water and power resources developed under and flood control provided by the Reclamation Act over the last century supported the development and continue to be critical to the maintenance of numerous and diverse rural communities across the West and the major metropolitan areas of Albuquerque, Amarillo, Boise, Denver, El Paso, Las Vegas, Los Angeles, Lubbock, Phoenix, Portland, Reno, Sacramento, Salt Lake City, Seattle, Tucson and numerous smaller cities; and

WHEREAS, western States are committed to continuing to work cooperatively with the Department of Interior and Bureau of Reclamation to meet our present water needs in the West and those of future generations, within the framework of state water law, as envisioned by President Roosevelt and the Congress in 1902; and

WHEREAS, according to the Administration's FY 2024 budget request actual and estimated receipts and collections accruing to the Reclamation Fund are \$3.619 billion for FY 2022, \$3.216 billion for FY 2023, and \$3.021 billion for FY 2024, compared to actual and estimated appropriations of \$1.602 billion for FY 2022, \$1.811 billion for FY 2023, and \$1.344 billion for FY 2024 and as a result the unobligated balance at the end of each year respectively is calculated to be \$20.131 billion, \$21.536 and \$23.213 billion; and

WHEREAS, this unobligated balance in the Reclamation Fund continues to grow at an increasing rate from an actual balance of \$5.67 billion at the end of FY 2006, to the estimated \$23.213 billion by the end of FY 2024, over a 4-fold increase; and

WHEREAS, under the Reclamation Act of 1902, the Reclamation Fund was envisioned as the principle means to finance federal western water and power projects with revenues from western resources, and its receipts are derived from water and power sales, project repayments, certain receipts from public land sales, leases and rentals in the 17 western states, as well as certain oil and mineral-related royalties – but these receipts are only available for expenditure pursuant to annual appropriation acts; and

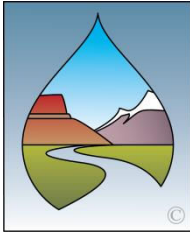
WHEREAS, with higher receipts than expenditures for authorized Reclamation purposes, the unobligated figure gets larger and larger, while the money is actually spent elsewhere for other federal purposes contrary to the Congress' original intent.

NOW THEREFORE BE IT RESOLVED, that the Western States Water Council asks the Administration to request and the Congress to fully appropriate the receipts and collections accruing to the Reclamation Fund subsequent to the Reclamation Act and other acts for their intended purpose in the continuing conservation, development and wise use of western resources to meet western water-related needs – recognizing and continuing to defer to the primacy of western water laws in allocating water among uses – and work with the States to meet the water-related challenges and needs of the future.

BE IT FURTHER RESOLVED, that such “needs” may include Reclamation project dam safety costs, financing extraordinary maintenance and rehabilitation of aging infrastructure (including transferred works), authorized rural water supply projects, and the construction of Reclamation facilities incorporated as part of a Congressionally approved Indian water right settlements.

BE IT FURTHER RESOLVED, that the Western States Water Council asks the Administration and the Congress to investigate the advantages of converting the Reclamation Fund from a special account to a true revolving trust fund with annual receipts to be expended with or without further appropriation for authorized purposes in the year following their deposit (similar to some other federal authorities and trust accounts).

(See also Position #451, 7/22/20; #408, 6/29/17; #367, 7/18/14; #333, 7/29/11; and #304, 7/11/08)



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
in support of the
WATER RESOURCES RESEARCH INSTITUTES
and the
USGS WATER RESOURCES RESEARCH ACT PROGRAM**

**Reno, Nevada
May 24, 2023**

WHEREAS, in the West, water is a vital and scarce resource the availability of which has and continues to circumscribe growth, development, our economic well being and environmental quality of life; and

WHEREAS, the wise use, conservation, development and management of our water resources is critical to maintaining human life, health, safety and property; and

WHEREAS, water resources research, the dissemination and application of research results or research to operations (R2O) and technology transfer are increasingly important to meeting our present and future water needs; and

WHEREAS, the Water Resources Research Act of 1964 authorized a program that included the establishment of state water resources research institutes (WRRIs) or centers in each state to address our water resources challenges; and

WHEREAS, today's institutes and centers provide a research infrastructure that uses the capabilities of universities to greatly assist and provide important support to western state water agencies in long-term planning, policy development and management of the increasingly complex challenges associated with water in the West; and

WHEREAS, these challenges are exacerbated by the uncertainty surrounding population growth, climate, and economic and environmental water demands; and

WHEREAS, the Council and its member states continue to work with the institutes/centers and the academic community to ensure research investments are relevant to our most pressing water problems and allow each state to solve its problems by methods most appropriate to its own situation; and

WHEREAS, the institutes/centers' outreach and information transfer services and activities are very valuable to the water communities in the various western states; and

WHEREAS, this is a very worthwhile federal-state partnership that promotes collaboration, cooperation and the conservation of limited physical, financial and personnel resources; and

WHEREAS, funding for Water Resources Research Act programs and WRRI assistance falls within the Department of the Interior's Water and Science budget, under the U.S. Geological Survey (USGS); and

WHEREAS, the USGS Water Resources Research Act program promotes, facilitates, and conducts research that helps resolve state and regional water problems; promotes technology transfer; facilitates dissemination and application of research; trains scientists through participation in research; and awards competitive grants.

NOW, THEREFORE, BE IT RESOLVED, that the Western States Water Council asks the Administration and the Congress to maintain the federal authorization and financial support for the state water resources research institutes and Water Resources Research Act program – requesting and appropriating funds as appropriate.

(See also Position #452, 7/22/20; #409, 6/29/17; #368, 7/18/14; #334, 7/29/11; and #305, 7/11/08)



**RESOLUTION
of the
WESTERN STATES WATER COUNCIL
Regarding**

**WATER-RELATED FEDERAL RULES, REGULATIONS,
DIRECTIVES, ORDERS and POLICIES**

**Reno, Nevada
May 24, 2023**

WHEREAS, Presidential Executive Order 13132, issued on August 4, 1999, requires federal agencies to “have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications...” and

WHEREAS, an increasing number of federal regulatory initiatives and directives are being proposed that threaten principles of federalism, an appropriate balance of responsibilities, and the authority of the states to govern the appropriation, allocation, protection, conservation, development and management of the waters within their borders; and

WHEREAS, taking such actions goes beyond the intent of the applicable laws; and

WHEREAS, a number of these recent proposals have been made with little substantive consultation with State Governments; and

WHEREAS, a Western Federal Agency Support Team (WestFAST) now comprised of twelve water-related federal agencies was created pursuant to a recommendation of the Western Governors’ Association and Western States Water Council to foster cooperation and collaboration between the federal agencies and States and state agencies in addressing water resource needs; and

WHEREAS, State consultation should take place early in the policy development process, with the States as partners in the development of policies; and

WHEREAS, federal agencies have inappropriately dismissed the need to apply this requirement to their rulemaking processes and procedures; and

WHEREAS, water quantity regulation and management are the prerogatives of States, and water rights are private property, protected and regulated under State law.

NOW, THEREFORE, BE IT RESOLVED, that nothing in any federal rule, regulation, directive, order or policy should affect, erode, or interfere with the lawful government and role of the respective States relating to: (a) the appropriation and allocation of water from any and all sources within their borders; and/or (b) the withdrawal, control, use, or distribution of water; and/or (c) affect or interfere with any interstate compact, decree or negotiated water rights agreement; and/or (d) application, development and/or implementation of rules, laws, and regulations related to water.

BE IT FURTHER RESOLVED, that federal agencies with water related responsibilities fully recognize and follow the requirements of Executive Order 13132 by establishing and implementing appropriate procedures and processes for substantively consulting with States, their Governors, as elected by the people, and their appointed representatives, such as the Western States Water Council, on the implications of their proposals and fully recognize and defer to States' prerogatives.