

# AGENDA

## JOINT COMMITTEES

DoubleTree San Pedro Port of Los Angeles  
San Pedro, California

September 25, 2025

Call to Order at: 2:30 p.m. (Pacific Daylight Time) Madeo Room  
Conducting: Anna Pakenham Stevenson, Jennifer Zygmunt, Sara Gibson

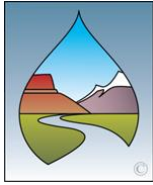
### TAB

1. **Welcome and Introductions**
  2. **Updates on Forecast Informed Reservoir Operations** – Cary Talbot, National Lead, Forecast-Informed Reservoir Operations Program Coastal & Hydraulics Laboratory, U.S. Army Engineer Research & Development Center
  3. **NASA-ISRO NISAR Mission** – Cathleen Jones, Senior Research Scientist Jet Propulsion Laboratory, California Institute of Technology
  4. **Committee Breakout Sessions**
    - a. Sunsetting Positions
    - b. Sunsetting Positions for Spring 2026 Meetings
    - c. Committee Workplans for FY2025-2026
  5. **Committee Reports and Recommendations**
  6. **Approval of Minutes**
  7. **Staff Updates**
    - a. WSWC-NARF Indian Water Rights Symposium
    - b. Federalism letter on potential CWA §401 guidance/rulemaking
    - c. Legislation and Litigation Updates
    - d. Western Water Cooperative Committee
  8. **Other Matters**
- 5:30 pm Adjourn

C  
XYZ  
G

M  
N  
O  
P

## Tab C – WSWC Policy Positions



**POSITION  
of the  
WESTERN STATES WATER COUNCIL  
regarding  
Support for Critical Federal Water Data Programs  
San Pedro, California  
September 26, 2025**

**WHEREAS**, the Western States Water Council (WSWC) is a government entity representing eighteen states, with members appointed by their respective governors; and

**WHEREAS**, the WSWC's mission is to ensure that the West has an adequate, secure, and sustainable supply of water of suitable quality to meet its diverse economic and environmental needs now and in the future; and

**WHEREAS**, in the West, water is a critical and vital resource that federal agencies provide essential water data and services to water managers and decision makers across the west; and

**WHEREAS**, the WSWC recognizes the data and services federal agencies provide are invaluable to state agencies, municipal water providers, agricultural producers, hydropower generation and revenues, water managers, tribal groups and ecological efforts.; and

**WHEREAS**, the WSWC has long supported federal programs that provide reliable and objective water data that informs administration, improves long term planning and policy and helps prepare western states for flood and drought conditions; and

**WHEREAS**, the **Natural Resources Conservation Service** Snow Survey and Water Supply Forecasting Program manages a comprehensive network of snow monitoring sites that provides weather and snow conditions in mountainous regions throughout the west; and the data collected through these snow monitoring sites provides an understanding of current conditions in historical context, offers ground truthing for more advanced methods to measure snowpack, feeds into forecast models and generates seasonal streamflow and watershed conditions forecasts — all essential to water management and the health and human safety of western citizens; and

**WHEREAS**, the **U.S. Geological Survey** works in partnership with state and local agencies to fund and manage a multipurpose network of streamgages and groundwater monitoring wells; and

**WHEREAS**, these U.S. Geological Survey real-time and historical streamflow measurements are foundational to understanding of current and past hydrology which delivers critical flood warnings to safeguard people and property, signals emerging drought conditions and informs water distribution systems managed by the State Engineer and its importance cannot be overstated; and

**WHEREAS**, the **U.S. Bureau of Reclamation** Dam and Powerplant Operations and Management programs have constructed many federal water projects for supplying water, recreation, flood control and hydroelectricity generation, the Bureau of Reclamation's presence in the state is of critical importance; and

**WHEREAS**, the U.S Bureau of Reclamation operates many vital components and numerous programs, initiatives and activities that the Bureau sponsors allow irrigation companies, municipal providers, wetland managers and state agencies to better plan and implement changes that help us prepare for drought and future water scarcity; and

**WHEREAS, National Oceanic Atmospheric Administration** agencies including the National Weather Service, Oceanic and Atmospheric Research, and National Environmental Satellite Data and Information Service, collect, process, and serve weather and climate data to make operational forecasts and outlooks that are indispensable for operating water supply and flood risk management infrastructure and for making water management decisions by federal, state, local, and private agencies and utilities.

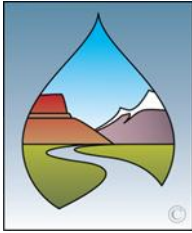
**WHEREAS, the National Aeronautics and Space Administration (NASA)** operates earth-observing missions such as Landsat and NISAR that collect information enabling measurement of evapotranspiration and land surface deformation, allowing water agencies to estimate agricultural and landscape water use and land subsidence caused by groundwater extraction. This monitoring assists water agencies in administering water rights and managing water supplies.

**NOW, THEREFORE, BE IT RESOLVED,** that the WSWC expresses our continuing strong support of the stated critical federal programs; and

**BE IT FURTHER RESOLVED,** the quality of water resource management, operations and planning would not be what it is today without the valuable contribution of these federal programs and the experts who keep them running; and

**BE IT FURTHER RESOLVED,** that Western States recognize that too often program authorization and appropriations have not kept up with the need, limiting program benefits; and

**BE IT FURTHER RESOLVED,** that the WSWC encourages the Administration and Congress to immediately ensure that the listed federal programs receive support and appropriations that are adequate to fulfill their stated purposes, as well as focus existing resources on these important programs.



**RESOLUTION  
of the  
WESTERN STATES WATER COUNCIL  
regarding  
CLEAN WATER ACT § 404(c)**

~~Sulphur, Oklahoma~~ San Pedro, California  
~~October 21, 2022~~ September 26, 2025

WHEREAS, the Western States Water Council (WSWC) is a government entity representing eighteen states, with members appointed by their respective governors; and

WHEREAS, the WSWC's mission is to ensure that the West has an adequate, secure, and sustainable supply of water of suitable quality to meet its diverse economic and environmental needs now and in the future; and

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

WHEREAS, the Clean Water Act (CWA) 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, there is a continuing need for greater collaboration between and among federal agencies, state agencies, local governments, and public/private organizations and businesses; and

WHEREAS, CWA § 401 grants States the right to issue certifications articulating project conditions necessary to ensure compliance with State water quality standards;

WHEREAS, CWA § 404 establishes a permitting program for the disposal of dredge or fill material administered by the U.S. Army Corps of Engineers (USACE), unless delegated to a State or Tribe; and

WHEREAS, CWA § 404(c) grants the Environmental Protection Agency (EPA) Administrator the power "to prohibit the specification (including the withdrawal of specification) of any defined area as a disposal site, and...deny or restrict the use of any defined area...as a disposal site, whenever he determines...that the discharge of such materials into such area will have an unacceptable adverse effect on municipal water supplies, shellfish beds and fishery areas (including spawning and breeding areas), wildlife, or recreational areas;" and

WHEREAS, in 1992, as directed by CWA Section 404(q), EPA and USACE executed a Memorandum of Agreement ("1992 MOA") that bound the two agencies to specific procedures for resolving potential disagreements, including "elevation of specific individual permit cases...that involve aquatic resources of national importance;" and

WHEREAS, EPA's actions in the § 404 permitting process have recently been inconsistent with established protocols, creating challenges for States' engagement and public and private investment in projects requiring § 404 permits.

**NOW, THEREFORE, BE IT RESOLVED**, that the WSWC supports the promulgation of regulation and guidance: (a) improving predictability in § 404 permitting, specifically the (c) and (q) processes; (b) improving communication between federal agencies and states; and (c) requiring EPA to adhere to established §

404 permitting processes and protocols.

**BE IT FURTHER RESOLVED**, that the WSWC urges regulation and guidance expressly limiting exercise of EPA's § 404(c) power to the time period between USACE's indication of its intent to issue a permit, and USACE's final issuance of that permit.

**BE IT FURTHER RESOLVED**, that the WSWC urges EPA to:

(1) communicate with the state's environmental agency in which the § 404 permit is to be issued prior to exercise of its § 404(c) power and provide the State with a meaningful opportunity to address EPA's concerns;

(2) see the CWA § 404(q) process through to completion, prior to any proposed § 404(c) veto;

(3) abstain from issuing a § 404(c) veto unless and until the affected State's time period for issuing a § 401 certification has expired;

(4) update the existing 1992 MOA to reflect a procedure that the EPA and the Corps are committed to following;

(5) document the rationale for any § 404(c) veto, including:

(a) verification that impacted waters are Waters of the United States;

(b) findings from any Final Environmental Impact Statement pertaining to the proposed project;

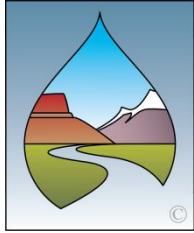
(c) impacts to municipal water supplies, shellfish beds, fishery areas, wildlife, and recreational areas; and

(d) resolved issues emanating from discussions between the USACE and EPA; and

(6) abstain from issuing a § 404(c) veto until after discussion with the state's environmental agency on the rationale behind the 404(c) veto.

**BE IT FURTHER RESOLVED**, that the WSWC pledges to work with the Administration to reduce the uncertainties and inconsistencies in EPA's § 404(c) power, as it has been exercised to date.

*See also Position No. 486, October 21, 2022*



**POSITION  
of the  
WESTERN STATES WATER COUNCIL  
regarding  
NASA'S APPLIED SCIENCE RESEARCH PROGRAM  
~~Sulphur, Oklahoma~~San Pedro, California  
~~October 21, 2022~~September 26, 2025**

**WHEREAS**, the Western States Water Council (WSWC) is a government entity representing eighteen states, with members appointed by their respective governors; and

**WHEREAS**, the WSWC's mission is to ensure that the West has an adequate, secure, and sustainable supply of water of suitable quality to meet its diverse economic and environmental needs now and in the future; and

**WHEREAS**, the ~~Western States Water Council~~WSWC ~~is a policy advisory body representing eighteen states, and~~ has long been involved in western water conservation, development, protection, and management issues, and the member states and political subdivisions have long been partners in cooperative federal water and climate data collection and analysis programs; and

**WHEREAS**, in the West, water is a critical, vital resource (much of which originates from mountain snows) and sound decision making demands accurate and timely mapping of, and data on, altimetry, topography, precipitation, temperature, snow water content, groundwater, land use and land cover, water use, water quality parameters, and similar information; and

**WHEREAS**, the demands for water and related climate data continue to increase along with the West's population, and this information is used by federal, state, tribal, and local government agencies, as well as private entities and individuals to: (1) forecast flood and drought occurrence; (2) project future water supplies for agricultural, municipal, and industrial uses; (3) estimate streamflows for hydropower production, recreation, and environmental purposes; (4) facilitate water management and administration of water rights, decrees, interstate compacts, and international water treaties; (5) assist in disaster response; (6) assess impacts of climate variability and change; and

**WHEREAS**, thermal infrared imaging data available from Landsat 8 and Landsat 9 is used to measure and monitor agricultural and other outdoor water uses and needs, and is increasingly important for present and future management of our scarce water resources, and is an example of the application of basic science pioneered by the National Aeronautics and Space Administration (NASA); and

**WHEREAS**, the ability to use interferometric synthetic aperture radar (InSAR) to measure land subsidence due to groundwater extraction has already been demonstrated, and there are promising research approaches for developing a method to directly measure snow depth using Lidar measurements from the Ice, Cloud, and Land Elevation Satellite-2 (ICESat-2);<sup>1</sup> and

**WHEREAS**, NASA research has enabled operational use of airborne snow observations; and

**WHEREAS**, additional airborne and spaceborne remote sensing research and observations have a potential to provide other information on varied temporal and spatial scales that could with sustained engagement focus on transition of research to operations and ultimately be useful for water resources planning, management and decision-making; and

<sup>1</sup> [NASA Scientist Discovers New Means to Measure Snow Depth from Space | NASA](#)

**WHEREAS**, NASA has identified the “water and energy cycle” and “water resources” as topics to support in the agency’s research and applications programs respectively; and

**WHEREAS**, NASA’s demonstration project on California applications for use of remote sensing information has illustrated that the potential exists for repurposing data collected from certain present NASA missions for water management applications, and that additional potential exists for research applications with sensors planned in future Decadal Survey missions ~~such as the NASA-ISRO Synthetic Aperture Radar (NISAR), which is designed to observe and take measurements of the planet’s crust and disturbances, including subsidence due to groundwater pumping;~~ and

WHEREAS, the recent launch of the NASA-ISRO Synthetic Aperture Radar (NISAR) satellite mission is designed to observe and take measurements of the planet’s crust and disturbances, including subsidence due to groundwater pumping; and

**WHEREAS**, the successful transfer of technology from the research domain to the applications domain or research to operations (R2O) is dependent, in part, on on-going communication between researchers and those responsible for resource management and policy decisions and a long-term commitment to maintain such communication.

**NOW, THEREFORE, BE IT RESOLVED**, that the ~~Western States Water Council~~ **WSWC** urges the Administration and NASA to enhance the agency’s focus areas on research for water resources applications, and to promote long-term engagement with the Council and the state and regional agencies in the western United States responsible for water management and water policy to maximize benefits to the public from NASA’s existing and future investments in Earth observations, Earth system models and systems engineering.

**BE IT FURTHER RESOLVED**, that the ~~Council~~ **WSWC** supports efforts to advance linkages between NASA’s capabilities and water managers’ needs, such as NASA/JPL’s Western Water Applications Office (WWAO).

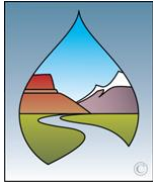
**BE IT FURTHER RESOLVED**, that the ~~Council~~ **WSWC** urges the Administration and NASA to plan and provide for long-term continuity of observations from key sensors such as the thermal infrared sensor and InSAR used in water management.

**BE IT FURTHER RESOLVED**, that the ~~Council~~ **WSWC** strongly supports a continuing National Land Imaging Program, including existing thermal imaging capabilities, and expresses its strong support for the expedited approval and construction of the Landsat Next mission – while exploring the potential for medium and longer-term advances in technology, design and future capabilities to meet existing and future uses.

**BE IT FURTHER RESOLVED**, that the ~~Council~~ **WSWC** supports and strongly encourages interagency cooperation, including collaborative efforts between NASA, NOAA, and USGS to move research towards operational applications that inform and improve State water resources management and decisionmaking.

*See also Position No. 487, October 21, 22; No. 438, October 18, 2019, No. 396, September 30, 2016; No. 356, October 3, 2013; and No. 325, October 29, 2010.*





**POSITION  
of the  
WESTERN STATES WATER COUNCIL  
regarding**

**THE DEPARTMENT OF THE INTERIOR's WATER SMART PROGRAMS**

~~Sulphur, Oklahoma~~ San Pedro, California

~~October 21, 2022~~ September 26, 2025

WHEREAS, the Western States Water Council (WSWC) is a government entity representing eighteen states, with members appointed by their respective governors; and

WHEREAS, the WSWC's mission is to ensure that the West has an adequate, secure, and sustainable supply of water of suitable quality to meet its diverse economic and environmental needs now and in the future; and

WHEREAS, the ~~WSWC Western States Water Council is a policy advisory body representing eighteen states, and~~ has long been involved in western water conservation, development, protection, and management issues, and the member states and political subdivisions have long been partners in cooperative federal water programs; and

WHEREAS, in the West, water is a critical, vital resource and "...States bear the primary responsibility and authority for managing the water resources of the United States," as recognized in the SECURE Water Act<sup>1</sup>; and

WHEREAS, Western water law and policy are based on the reality of scarcity and the need to use water wisely, and Western states have made great strides in increasing efficiency and reducing water use, but continued investments and sacrifices are needed to maintain our quality of life in the West and to protect our environment; and

WHEREAS, the Act also recognizes that "the Federal Government should support the States, as well as regional, local and tribal governments..." and authorizes a number of important programs to provide this much needed support; and

WHEREAS, the ~~Council~~ WSWC supports technical and financial assistance to states and local watershed groups and water districts as an appropriate federal role, consistent with authorized federal programs; and

WHEREAS, the ~~Council~~ WSWC has long supported watershed and basin-wide coordination that involves all governmental entities and stakeholders interested in finding solutions to present and future water management challenges; and

WHEREAS, Section 9504 of the Act authorizes the Secretary of the Interior to provide grants or enter into cooperative agreements to assist states and other non-federal entities in carrying out a range of water use efficiency improvements to address crucial water supply issues, stretch limited water supplies, and improve water management; and

WHEREAS, the Act authorizes a variety of activities to enhance the Department of the Interior's water data efforts with significant progress made on these activities, including the development of a national

---

<sup>1</sup> See Section 9501, SECURE Water Act, which Congress passed as Subtitle F of the Omnibus Public Lands Management Act of 2009 (Public Law 111-11).

groundwater monitoring program, a brackish water assessment, and the establishment of a national water availability and use assessment; and

**WHEREAS,** real-time water resources data are critical for timely actions in response to droughts, flooding, and other extreme weather events, and the lack of federal capital investments in water data programs has led to the discontinuance, disrepair, or obsolescence of vital equipment needed to maintain existing water data gathering activities; and

**WHEREAS,** the lack of timely and accurate streamflow information threatens to put human life, health, welfare, property, and environmental and natural resources at a considerably greater risk of loss; and

**WHEREAS,** the U.S. Geological Survey's (USGS) ~~National Streamflow Information Program (NSIP)~~ Federal Priority Streamgauge (FPS) network facilitates an improved national backbone focused on national needs and interests; and

**WHEREAS,** the Groundwater and Streamflow Information Program (GWSIP), as well as USGS' cooperative matching funds within the Water Availability and Use Science Program (WAUSP), together provide vital water data that States and other public and private entities and individuals rely on in making day-to-day planning and management decisions; and

**WHEREAS,** substantial advances in water science, together with emerging breakthroughs in technical and computational capabilities, have led the USGS to develop a Next Generation Water Observing System (NGWOS); and

**WHEREAS,** USGS provides "grants to State water resource agencies to assist in developing water use and availability datasets" under the Water-Use Data and Research (WUDR) program, in support of the Water Use Data for the Nation publication and the National Water Census; and

**WHEREAS,** USGS' ~~FPSNSIP~~, GWSIP, NGWOS, WAUSP, and WUDR programs together provide vital water data that States and other public and private entities and individuals rely on to make day-to-day planning and management decisions; and

**WHEREAS,** authorization and funding for some of these WaterSMART programs have expired or appropriations have largely been depleted and some have gone unfunded or underfunded or remain dependent on year-to-year appropriations, as opposed to a dedicated line item.

**NOW, THEREFORE, BE IT RESOLVED,** that the ~~Western States Water Council~~ WSWC expresses our continuing strong support for authorization and implementation of the SECURE Water Act and related programs; and

**BE IT FURTHER RESOLVED,** that Western States recognize that too often program authorization and appropriations have not kept up with the need, limiting program participation and benefits; and

**BE IT FURTHER RESOLVED,** that the ~~Council~~ WSWC encourages the Administration to request and the Congress to ensure that the Act's authorized activities receive support and appropriations that are adequate to fulfill their stated purposes as a dedicated line item, as well as focus existing resources on these important programs.

*See also Position No. 488, October 21, 2022; No. 439, October 18, 2019; No. 397, September 30, 2016; and No. 357, October 3, 2013.*



**RESOLUTION  
of the  
WESTERN STATES WATER COUNCIL  
URGING CONGRESS TO REAFFIRM ITS DEFERENCE TO STATE WATER LAW,  
PROVIDE FOR THE WAIVER OF THE UNITED STATES' IMMUNITY TO  
PARTICIPATION IN STATE ADMINISTRATIVE AND JUDICIAL PROCEEDINGS,  
AND PROVIDE FOR PAYMENT OF FEES REQUIRED BY STATE LAW**

~~Sulphur, Oklahoma~~San Pedro, California  
~~October 21, 2022~~September 26, 2025

**WHEREAS**, water is the lifeblood of each of the arid Western States, the allocation of which determines the future of each Western State's economic, environmental, social and cultural fortunes; and

**WHEREAS**, each Western State has developed comprehensive systems for the appropriation, use and distribution of water tailored to its unique physiographic, hydrologic and climatic conditions found within that state; and

**WHEREAS**, the United States does not have a water management system that is equivalent to those of the Western States for the appropriation, use or distribution of water; and

**WHEREAS**, Congress has consistently recognized the primacy of state water law because of the need for comprehensive water management systems tailored to the unique needs and characteristics of the individual states; and

**WHEREAS**, the adjudication of water rights claims is absolutely essential for the orderly allocation of water in all the Western States where state law is based on the prior appropriation doctrine; and

**WHEREAS**, Congress enacted the McCarran Amendment, 43 U.S.C. § 666, to allow the joinder of the United States in state general stream adjudications, and Congress intended the United States to be subject to the same procedures as all other water right claimants joined in state general stream adjudications; and

**WHEREAS**, many of the Western States are conducting general stream adjudications for the purpose of quantifying all water right claims in accordance with the McCarran Amendment; and

**WHEREAS**, the United States is often the largest claimant of water rights in these general stream adjudications, and the adjudication of federal water right claims requires a large commitment of time, effort and resources by the state courts and by state agencies; and

**WHEREAS**, many of the Western States' general stream adjudication procedures require claimants to pay a fee to offset the states' expenses arising from state general stream adjudications; and

**WHEREAS**, citing the U.S. Supreme Court's decision in *United States v. Idaho*, 508 U.S. 1 (1993), the United States claims immunity from the payment of adjudication filing fees required of all other claimants to offset the judicial and administrative expenses Western States incur in conducting general stream adjudications; and

**WHEREAS**, for the United States to be immune from sharing in the expenses of these proceedings constitutes an unfunded federal mandate to the states; and

**WHEREAS**, many Western States are facing budget shortfalls and limited resources, and the federal non-payment of state filing-fees is a significant impediment to their ability to begin or carry out general stream adjudications in a timely manner; and

**WHEREAS**, drawn out adjudications are having a detrimental impact on the willingness of stakeholders in watersheds to collaborate on joint management and planning for water supply and water quality; and

**WHEREAS**, the United States contends that it cannot be joined in state administrative or judicial proceedings with respect to water rights it has acquired under state law other than pursuant to the McCarran Amendment, 43 U.S.C. § 666; and

**WHEREAS**, it is inefficient and wasteful to require that a separate lawsuit be commenced for the sole purpose of regulating water rights acquired by the United States under state law; and

**WHEREAS**, the United States often claims it is also immune from paying fees to states that are required of all other water users for the appropriation, use or distribution of water; and

**WHEREAS**, equity and fairness dictate that federal agencies who voluntarily seek to appropriate water pursuant to state law, or who acquire water rights based on state law, should be required to comply with state law, including the payment of fees, to the same extent as all other persons.

**NOW, THEREFORE, BE IT RESOLVED** that the ~~Western States Water Council~~WSWC supports passage of legislation that at a minimum provides for the following:

1. Requires the federal government to participate in all state administrative and judicial proceedings with respect to water rights it acquires to the same extent as all other persons.
2. Requires the federal government (not Native American tribes) to pay filing fees as well as comply with all other state substantive and procedural water right adjudication laws to the same extent as all other persons.
3. Requires the federal government to pay applicable fees as well as comply with all other state substantive and procedural laws for the appropriation, use and distribution of water rights to the same extent as all other persons.
4. Provides for state administration of all water rights.

**BE IT FURTHER RESOLVED**, that the ~~Western States Water Council~~WSWC also urges Congress to appropriate moneys for retroactive payment of unpaid fees to states that have incurred expenses as a result of processing federal claims or federal objections to private claims in state general stream adjudications.

**BE IT FURTHER RESOLVED**, that absent legislation the ~~Council~~WSWC encourages federal agencies to work with states and enter into memoranda of agreement or other administrative mechanisms to minimize and otherwise mitigate the expense of federal claims incurred by states in general adjudications to the maximum extent allowed by law.

*See also Position No. 489, October 21, 2022; No. 440, Oct.18, 2019; No. 358, Oct.3, 2013; No. 327 Oct. 29, 2010; No. 294, Nov.16, 2007; Oct. 29, 2004; Nov. 16, 2001; Nov. 20, 1998; and Nov. 17, 1995.*

WSWC POLICY STATEMENTS

Position Number	Committee Oversight	Date Adopted	POSITIONS (Policy positions will be deactivated three (3) years after their adoption, unless extended by formal action of the Council.)
535	WR	6/12/2025	urging the Administration and Congress to Support Water Research and Development Programs at the Department of Energy National Laboratories
534	WQ	6/12/2025	regarding Hydraulic Fracturing
533	WR	6/12/2025	supporting Strengthening the Resiliency of Our Nation to the Impacts of Extreme Weather Events
532	WR	6/12/2025	on the Preservation of Radio Frequencies necessary for Weather forecasting and Water Management
531	WQ	4/25/2025	regarding Clean Water Act Jurisdiction
530	L	4/25/2025	regarding Migratory Birds and the Management of State Water Rights and Resources
529	WR	4/25/2025	supporting Renewable Hydropower Development
528	WR	4/25/2025	supporting Rural Water Infrastructure Needs & Projects
527	WQ	4/25/2025	regarding the Extension of NPDES Permit Terms
526	WQ	10/23/2024	regarding Abandoned Hardrock Mine Cleanup
525	L	10/23/2024	regarding States’ Water Rights and Natural Flows
524	WR	10/23/2024	regarding Bureau of Reclamation Drought Response Program
523	WR	10/23/2024	regarding Drought Preparedness, Prediction and Early Warning Programs
522	WR	10/23/2024	regarding Federal Water and Climate Data Collection and Analysis Programs
521	WQ	10/23/2024	supporting State Clean Water Act Section 401 Certification Authority
520	L	7/26/2024	regarding Endangered Species and State Water Rights
519	WQ	7/26/2024	regarding Water Transfers and National Pollutant Discharge Elimination System (NPDES) Discharge Permits
518	WR	7/26/2024	regarding the Rural Water Supply Project/Infrastructure Needs
517	WQ	7/26/2024	regarding State Nutrient Reduction Strategies
516	L	3/14/2024	regarding the Dividing the Waters program
515	L	3/14/2024	on State primacy over groundwater
514	L	3/14/2024	supporting universal access to reliable, clen drinking water for federally recognized Indian tribes and Alaska native communities
513	WR	3/14/2024	supporting federal research on climate adaptation
512	WR	3/14/2024	regarding water and energy planning and policy
511	WR	3/14/2024	supporting water infrastructure funding
510	WR	3/14/2024	supporting weather station networks
509	WR	3/14/2024	supporting the use of Forecast Informed Reservoir Operations and Innovations
508	WR	3/14/2024	regarding probable maximum precipitation standards
507	L	9/14/2023	outlining actions Federal agencies should take to expedite State General Stream Adjudications
506	WQ	9/14/2023	asserting state primacy on Protecting Ground Water Quality
505	WR	9/14/2023	supporting U.S. Department of Agriculture (USDA) Conservation Programs and Water Resources
504	L	9/14/2023	supporting Indian Water Rights Settlements
503	WR/E	5/24/2023	regarding water-related federal rules, regulations, directives, orders and policies
502	WR	5/24/2023	support federal authorization and financial support through the U.S. Geological Survey (USGS) for State Water Resources Research Institutes
501	WR	5/24/2023	requests Congress fully appropriate receipts accruing to the Reclamation Fund for their intended purpose
500	WR	5/24/2023	supporting NOAA data, forecasting, and research programs
499	L	5/24/2023	opposes any federal legislation intended to preempt state water law
498	WR	5/24/2023	supporting national dam safety programs
497	WR	5/24/2023	regarding the rural water and wastewater project/infrastructure needs and U.S. Department of Agriculture programs
496	WQ	5/24/2023	regarding the clean and drinking water state revolving funds and state and tribal assistance grants
495	WR	5/24/2023	regarding the National Levee Safety Act of 2007, levees and canal structures
494	WR	5/24/2023	regarding the transfer of federal water and power projects and related facilities
493	WR	5/24/2023	regarding the Reclamation Safety of Dams Act of 1978
492	WR	5/24/2023	regarding the Bureau of Reclamation's maintenance, repair and rehabilitation needs
491	WR	5/24/2023	urging Congress to support subseasonal to seasonal weather research, forecasting, and innovation
490	WQ	5/24/2023	water quality standards and federal reserved treaty rights for tribes
489	L	10/21/2022	supporting legislation requiring the federal government to pay state filing fees in state general stream adjudications
488	WR	10/21/2022	expressing support for implementation of the SECURE Water Act
487	WR	10/21/2022	urges the Administration and NASA to enhance focus on research for water resources applications and promote long term engagement with the WSWC
486	WQ	10/21/2022	related to EPA exercise of authority under Section 404(c) of the Clean Water Act,

## **Sunsetted Positions**

### **2022**

#472 Regarding Clean Water Act Jurisdiction (*superseded by more recent position*)

### **2020**

#410 Acknowledges state authority over “waters of the State” and called for recognizable limits to federal Clean Water Act jurisdiction. (*superseded by more recent position*)

### **2019**

#394 Urging Congress to authorize and the Administration to complete a comprehensive study of the Missouri River Mainstem Reservoir System’s authorized purposes and related benefits before addressing an appropriate balance and mix of uses. (*outdated*)

#389 Urging Congress and the Administration to prioritize federal programs that provide the translation function between basic scientific research on climate and weather extremes to water resources management actions. (*positions more recently adopted*)

### **2017**

#373 Letter commenting on the proposed rule developed by the EPA and the USACE to clarify the scope of Clean Water Act jurisdiction. (*proposed rule became the 2015 Clean Water Rule*)

#372 Letter sending comments on the USFS Proposed Directive on Groundwater Resource Management, Forest Service Manual 2560. (*Forest Service has withdrawn their activity*)

#370 The Interpretive Rule Regarding Applicability of the Exemption from Permitting under Section 404(f)(1)(A) of the Clean Water Act to Certain Agricultural Conservation Practices. (*proposed rule was withdrawn*)

### **2016**

#359 Opposing requiring pesticide applications for National Pollutant Discharge Elimination System (NPDES) discharge permits. (*outdated*)

### **2015**

#338 Energy and Water Integration Act of 2011. (*outdated*)

#341 Letter regarding concerns with the Bureau of Reclamation’s proposed changes to the Reclamation Manual. (*outdated*)

### **2013**

#323 A Shared Vision on Water Planning and Policy. (*superceded by a permanent mission statement, A Vision of Water*)

## **2012**

- #313 Letter Regarding National Water Research and Development Initiative Act. *(There is no current legislation)*
- #315 Letter to House Transportation and Infrastructure Committee leaders raising concerns regarding a draft bill entitled the Sustainable Watershed Planning Act. *(outdated, not reintroduced)*
- #317 Supporting the Bureau of Reclamation's Field Services Program. *(outdated)*
- #318 Offering general comments to CEQ on the Principles and Guidelines. *(outdated)*
- #319 Describing principles that are important to the Western states in considering a "national vision" for water policy. *(superceded by more recent position)*

## **2011**

- #297 Strong support for legislation to establish a National Drought Council to improve national drought preparedness, mitigation, and response efforts. *(There is no current legislation)*
- #298 In cooperation with the Interstate Council on Water Policy expressing strong support for increased funding for the Cooperative Water Program and the National Streamflow Information Program. *(superceded by more recent position statements and letters)*
- #299 Supporting S. 2842, the Aging Water Infrastructure and Maintenance Act. *(enacted)*
- #300 Regarding introduction of the Cooperative Watershed Management Act of 2008 (S. 3085). *(enacted)*
- #301 Commenting on H.R. 135, the "21st Century Water Commission," specifically declaring that the WSWC be involved in the selection of members and that it include State and Native American involvement. *(Bill has not been reintroduced)*
- #302 Supporting the enactment of S. 895 to provide the Bureau of Reclamation with authority to assess rural water supply needs and for sufficient funding. *(enacted)*
- #303 Revised resolution in support of the Weather Modification Research and Technology Transfer Act. *(No federal research program or legislation has been reintroduced)*
- #306 Urging support for full funding of the USGS National Streamflow Information Program (NSIP) and sufficient funding for the Cooperative Water Program to match non-USGS contributions. *(outdated)*
- #307 Letter to Senator Bingaman, Senate Energy and Natural Resources Committee, expressing interest in S. 3231, the Omnibus Public Lands Management Act. *(outdated)*
- #311 Letter to Steve Stockton offering assistance to the Corps in their water planning initiative. *(outdated)*

## **2010**

- #287 Setting forth the Council's past perspectives on a proposed "Twenty-First Century Water Commission." *(outdated - see #301 above)*

- #289 Support of the proposed Water Conservation, Efficiency and Management Act, to specifically authorize the Bureau of Reclamation's water conservation programs. (*separately authorized*)
- #290 Concern over the Administration's decision to zero out funding for the U.S. Bureau of Reclamation's Technical Assistance to States (TATS) Program. (*outdated*)
- #291/#292 Regarding the proposed Agricultural Water Enhancement Program. (*enacted*)
- #295 Concern over budget request for federal funding for water and wastewater treatment, specifically EPA's State Revolving Fund (SRF) Capitalization Grants. (*combined with #296 and replaced with #330 – Apr 15, 2011*)
- #296 Concern with OMB directive to EPA disallowing the use of SRF revenues to repay bonds. (*combined with #295 and replaced with #330 – Apr 15, 2011*)

## **2009**

- #276 Urging the Congress and Administration to Continue to Recognize State Primacy Regarding Water Rights and Water Quality Certification in the Federal Licensing of Hydroelectric Projects. (*supplanted by WGA resolution*)
- #277 Letter commending the American Indian Environmental Office of EPA for its efforts in establishing the Tribal Water Program Council and expressing a hope that it would "offer an ongoing opportunity for state-tribal cooperation on issues of mutual interest." (*outdated*)
- #279 Support for legislation (S. 2751 and H.R. 5136) to create a National Integrated Drought Information System within the National Oceanic and Atmospheric Administration. (*authority enacted*)
- #280 Strong support for federal legislation, the National Drought Preparedness Act, to establish a national policy for drought and coordinate "proactive measures at all levels of government to plan, prepare and mitigate the serious impacts of drought." (*deferred to WGA resolution*)
- #281 Support for Reclamation's Water Conservation Field Services Program and "Bridging-the-Headgate" Partnerships. (*outdated*)
- #282 Regarding Federal Non-Tribal Fees in General Adjudications asking the Congress to pass legislation requiring the Federal government, when a party to a general water rights adjudication, to pay fees for costs imposed by the state to conduct the proceedings to the same extent as all other users. (*deferred to WGA resolution*)
- #283 Reiterating strong support for maintaining a thermal band as part of the Landsat Data Continuity Mission, and the necessary funding. (*separately updated*)

## **2008**

- #262 Support for the U.S. Geological Survey's Cooperative Water Program (CWP) and opposes any effort to force the privatization of related USGS services. (*separately updated*)
- #268 The WSWC endorses policy resolutions adopted by the Western Governors' Association, and will allow these policies to guide the Council in matters relevant to implementation and potential reauthorization of the Clean Water Act. (*deferred to WGA resolution*)
- #269 Water Efficiency Standards for Plumbing Products. (*subsequently enacted*)



- #270      Reauthorization of the Farm Bill. (*reauthorized*)
- #271      Support for the National Aeronautics and Space Administration's Landsat Data Continuity Mission and calling for continued funding to include a thermal infrared sensor. (*superceded by 2009 WSWC Position No. 283*)
- #273      Support for the Nonpoint Source Grant program administered by the U. S. Environmental Protection Agency under Section 319 of the Clean Water Act. (*outdated*)

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.

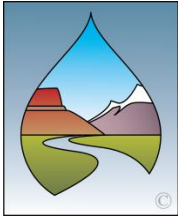
**BE IT FURTHER RESOLVED** that the Western States Water Council supports timing any tribal-federal consultation process to determine water quality needs for tribal reserved rights to take place prior to the subsequent triennial review of state water quality standards, in order to better inform the state 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 report<sup>1</sup> 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.

---

<sup>1</sup> <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 Report<sup>1</sup> 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

---

<sup>1</sup> <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 state<sup>1</sup> 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,<sup>2</sup> 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

---

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

<sup>2</sup> <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;<sup>1</sup> 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

---

<sup>1</sup> 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,<sup>2</sup> 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)*

---

<sup>2</sup> <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 state<sup>1</sup> 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),<sup>2</sup> 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;<sup>3</sup> 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 Report<sup>4</sup> 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

---

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

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

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

<sup>4</sup> <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;<sup>5</sup> 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

---

<sup>5</sup> <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.

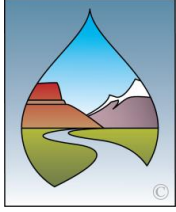
**NOW, THEREFORE, BE IT RESOLVED**, the Western States Water Council supports continued and increased funding for the FEMA National Dam Safety Program, the FEMA High Hazard Dam Rehabilitation Grant, the FEMA Hazard Mitigation Assistance Grants and the USACE CWIFP; and

**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...;”<sup>1</sup> 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

---

<sup>1</sup>State 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 WRI 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.

Tab G – Draft FY25-26 Committee Work Plan  
Executive / Water Resources /  
Water Quality / Legal

**WATER RESOURCES COMMITTEE**  
**WORK PLAN**  
**July 1, 2025 to June 30, 2026**

**1. WATER AVAILABILITY & USE - WATER DATA EXCHANGE (WaDE)**

**Background/Work-to-date:** The Council continues to work with member states and federal agencies through the Western States Federal Agency Support Team (WestFAST) to build a robust and performant architecture for accessing and sharing water data – Phase 2. WaDE 2.0 is a cloud-based schema centered around supporting use cases for data queries to support decision making within and across state boundaries. Along with the development of the WaDE 2.0 system, WSWC have been working on connecting publicly available water rights and water use datasets as published by our member state agencies into the WaDE SQL database. WSWC is working towards a user-friendly portal to access, filter, and analyze water rights and water use data.

With WSWC assistance, Member States are developing WaDE-compliant data services that will feed directly into the new WaDE platform. Some eastern states have expressed interest in deploying to the WaDE platform also, with a proto-type completed for New Jersey. WSWC will work with ICWP and through the USGS Water Use Data and Research (WUDR) program to engage states and other entities that wish to serve data in the WaDE platform.

WaDE is collaborating with and seeking to help integrate other national efforts, including the Water Availability and Use Program (WAUSP), which is led by the U.S. Geological Survey (USGS), as well as federal and non-federal open water data initiatives. WaDE supports these efforts by laying the groundwork for exchanging the core state data. The WSWC serves as a foundational hub for the Internet of Water, and promotes related FAIR data standards (Findable, Accessible, Interoperable and Reproducible). Greater interoperability and consistent data standards to facilitate decisionmaking are goals of the program.

The WSWC co-hosted a Water Information Management System (WIMS) workshop with NASA's Western Water Applications Office (WWAO) in 2018 and in September 2019 cohosted a WIMS workshop with USGS. Other events were planned, before meeting and travel restrictions were imposed due to the Covid-19 pandemic. In August 2023, the WSWC hosted a National Water Use Data Workshop in Salt Lake City, Utah.

On April 25, 2023, the WSWC publicly released its Western States Water Data Access and Analysis Tool (WestDAAT) with data for over 1.7 million water rights, including where available, in a machine-readable format, ownership, point of diversion, place of use, purpose of use, and priority date. For the first time, such information was presented in a user-friendly format across state lines. Work continues to add data to the tool, including state time series data related to state streamgages, wells and reservoirs. A significant amount of outreach with various state and federal agencies, and public and private stakeholders was involved in the development and production phases of WestDAAT's release. Such outreach continues.

[In June 2025, the Council launched a new service called the Westwide Western Water Conservation Application Tool \(WestCAT\), which is an extension of the existing WestDAAT tool.](#)

[and is a water conservation paper application tracking service to be used to streamline implementation of voluntary compensated, in-state, and temporary water conservation measures. WestCAT integrates two foundational data sets for water conservation: WestDAAT water rights data and evapotranspiration \(ET\) data as a proxy for consumptive use estimates. WestCAT can be used to help facilitate voluntary, temporary, in-state, and compensated conservation programs which might include full-season fallow, alternative irrigation strategies, and crop switching.](#)

**2025-2026:** WSWC is working to support specific use cases of the data, including a streamlined, spatially and temporally consistent water budget implementation for selected states. WSWC will also continue assisting participating member states to refine their data, find optimal ways to publish those data that are compatible with WaDE.

The Council will also continue working with member states, USGS, NASA and various federal agencies to gather and disseminate water resources data using WaDE and other resources. The Council continues to discuss with USGS ways of facilitating funding to states for water data through the WUDR program.

The Committee, through the Water Information and Data Subcommittee (WIDS) and various other work groups, will continue to gather information on state water availability and use data and summarize existing state capabilities. Work to help states develop, disseminate, visualize and review data on water availability will continue. The WSWC is seeking resources to maintain current efforts. A number of philanthropic foundations have provided support, as has the U.S. Bureau of Reclamation through its WaterSMART program

The WSWC working with an IT contractor has also completed scoping the effort and resources needed to incorporate OpenET (evapotranspiration data) into WestDAAT in order to tie measurable consumptive use with water rights and field boundaries. Such capabilities would help facilitate efforts to conserve water for various private and public purposes. The WSWC is working with the Upper Colorado River Commission and other interests to help expedite and simplify initiatives such as the UCRC's System Conservation Pilot Program.

**Subcommittee:** Sam Hermitte (TX), Lisa Williams, Natalie Mast (AZ), Mat Weaver, Linda Davis (ID), Ken Stahr (OR), Julie Cunningham, Kent Wilkins (OK), Gary Darling (CA), Todd Adams, Candice Hasenyager (UT), Lane Letourneau, Ginger Pugh (KS), Nancy Barber (USGS), Allison Danner (USBOR), Dwane Young (USEPA), Forrest Melton (NASA)

**Timeframe:** Ongoing

## **2. WESTERN WATER OBSERVING SYSTEMS**

**Background/Work-to-date:** The Council has a long history of working to support federal programs to maintain and improve the observation, measurement, monitoring and management of western water resources and related data, including related Interior, NASA, NOAA and USDA programs (see Positions #522 Oct. 2024; #487 Oct. 2022; and #500 May 2023). Such programs include but are not limited to USGS cooperative streamgaging and groundwater monitoring, NRCS snow survey and water supply forecasting, NASA/USGS Landsat, and EPA water quality

monitoring. These data are important for a number of applications. Some examples include, but are certainly not limited to: (a) state and regional water planning and water rights administration; (b) local watershed and urban planning and development; (c) analyzing water balances and water budgets; (c) siting of electric power generation and other energy production facilities; and (d) enabling a better understanding of the links between energy, water quantity, and water quality.

**2025-2026:** The WSWC will communicate the critical need for federal water data related programs and will revise and renew its message to better bring attention to water data needs and develop strategies to meet those needs. Consistent reliable future funding will be one major focus. There are a number of items under this functional area. Part of this effort will be to highlight critical measuring and monitoring “tools” for any water management “toolbox,” and communicating their value for enhancing our ability to wisely manage water resources. This includes working with Congress on authorizations and appropriations, as well as with the Administration on budget requests and program implementation.

**Subcommittee:**

**Timeframe:** Ongoing

### **3. SUB-SEASONAL to SEASONAL PRECIPITATION FORECASTING**

**Work to date:** The Council and California Department of Water Resources (CDWR) have entered into a number of agreements to assist with efforts to improve sub-seasonal to seasonal (S2S) forecasting skill (2 weeks to one year). Workshops have been held almost annually since 2015. The Council prepared a report on these meetings and an outreach publication with recommendations to NOAA on improvements regarding sub-seasonal to seasonal precipitation forecasting. Additional information about the S2S workshops may be found here: <https://westernstateswater.org/topical-resources/s2s/>.

In 2020, NOAA released a report to Congress on efforts to improve S2S forecasting, as required by the Weather Research Act of 2017. The report recommended NOAA develop four pilot projects. Since 2022, the WSWC has worked with its members and congressional staff to encourage support for appropriations to initiate work on a western pilot project.

**2025-2026:** Additional S2S workshops have and will be held, and the Council will otherwise work to support federal efforts to improve our predictive capabilities and skill. The Council will support efforts to acquire sufficient federal appropriations for appropriate programs. The WSWC will also work to promote federal funding to implement the 2017 Act, and the recommended S2S pilot projects in the West.

**Subcommittee:**

**Timeframe:** Ongoing

### **4. RESEARCH to OPERATIONS (R2O)/TECHNOLOGY TRANSFER**

**Background:** Too often promising water resources related discoveries and scientific advances fail to lead to widespread improvements, for a variety of reasons, some technical, but often institutional, financial, economic or political. Research to Operations (R2O) and technology transfer success requires advance planning and effective partnerships that are often lacking. Academic and government research agencies may focus on important basic research, but even applied research organizations are generally not designed and staffed to bridge the so-called “valley of death” between researchers and those entities and individuals that can successfully envision and leverage resources to add value to that research through management, policy and operational changes.

**Work to date:** In August 2019, in cooperation with NASA’s Western Water Applications Office (WWAO), the Council sponsored a workshop intended to identify and begin to address the challenges inherent in effectively moving research advances towards improvements in water resources management and project operations. The workshop brought together partners from federal and state agencies that have experience with technology transfer, or that have programs that could be adopters of new technology and remotely sensed information products. Next steps were outlined in the workshop summary report.

A second planned WSWC/NASA workshop was postponed due to the pandemic. Future workshops would build upon the insights identified and connections established to: (1) strengthen agency partnerships and continue building an inter-agency community to facilitate R2O in water resource management; (2) develop WSWC’s WestFAST network to help transition new technologies and information products for water resources management to operational federal programs, including, but not limited to, remote sensing-based measurement technologies and sub-seasonal to seasonal (S2S) weather forecasting; and (3) develop a strategy for raising awareness and support within state and federal government agencies for R2O.

**2025-2026:** The Committee will consider holding another workshop to identify best practices to transfer applied research to operational programs working with western federal, state, and local water agencies and tribes.

## **5. DROUGHT, NIDIS and EXTREME WEATHER EVENTS**

**Work to Date:** Drought is a recurring natural phenomenon, the effects of which can be minimized through appropriate planning and preparedness activities. The Council has expressed its support for federal applied research and hydroclimate data collection programs to assist water agencies at all levels of government in adapting to weather extremes and climate variability and change (Positions #500 May 2023 and #522 October 2024). The Council also supports development of an improved western observing system for extreme precipitation events and research to better understand hydroclimate processes (Position #483 Aug. 2022). The Council’s Executive Director serves as Co-Chair of the National Integrated Drought Information System (NIDIS) Executive Council with NOAA and USDA.

**2025-2026:** The Committee will continue working to improve preparedness and response to drought, floods and other extreme events in cooperation with member states, the WGA and

WestFAST. The Council will also continue to support and advise WGA and NOAA with respect to NIDIS, and other weather/climate monitoring and adaptation efforts (including RISAs work). The Council will work to evaluate proposed climate, drought and weather legislation and drought related authorities and programs of federal agencies, and support appropriate authorizing legislation and appropriations.

**Subcommittee:**

**Time Frame:** Ongoing

## **6. GROUNDWATER RECHARGE PROJECT PROGRAMS & POLICIES**

**Work to Date:** The Council has in the past addressed groundwater management programs and policies, including recharge and aquifer storage and recovery projects. The Council prepared a number of reports covering financial feasibility, legal and institutional issues, and water reuse for recharge (1990-2012). Much of the work is now dated, and many changes have taken place.

**2025-2026:** Working with the Legal Committee and the Council, the Committee will update past reports on state groundwater management programs and especially efforts to promote conjunctive use of surface and groundwater resources through artificial aquifer storage and recovery projects. This may include the use or reuse of waters of impaired quality.

**Subcommittee:**

**Timeframe:**

## **7. WESTERN WATER INFRASTRUCTURE PROJECTS AND PROGRAM FUNDING**

**Work to date:** Many western states face overwhelming infrastructure financing needs, as well as declining budgets for ongoing services. The Council's origins are associated with challenges to augment and better manage the West's water supply, which continues to be a priority. The Council has in the past prepared reports on state water resources programs and project cost sharing and financing and analyzed state water use fees. The Council has also convened symposia and workshops and summarized the proceedings. The Council has compiled summaries of western state infrastructure financing authorities, funding sources, policies and programs. Further, the Council has supported expenditures from the Reclamation Fund for authorized project purposes, including specifically authorized rural water supply projects and authorized projects as part of negotiated Indian water rights settlements.

**2025-2026:** The Council will continue to call on Congress to ensure that revenues raised from the development of western resources, specifically revenues accruing to the Reclamation Fund, are appropriated and expended as intended for the development and management of western water resources (consistent with Position #501, May 2023). The Council will otherwise support efforts to secure adequate federal funding to meet growing western water demands, and work to develop a strategy to communicate important infrastructure needs. The Council will promote development of public-private partnerships to support this effort. As conditions permit, the Council will sponsor



a symposium on infrastructure needs, strategies, and federal and state programs, under the direction of the Executive Committee, with WestFAST's assistance and in cooperation with other non-federal and federal interests. Regulatory streamlining is also important for water resource projects. The Council will work with the Administration and Congress towards successful water project development. Finally, the Council will provide a summary of western state water financing authorities and programs, as time and resources permit.

**Subcommittee:**

**Time Frame:**

**8. ENERGY & WATER RESOURCES – INTEGRATED MANAGEMENT**

**Work to date:** The increase in demand for water to meet energy needs is raising interest in the interrelationship between water and power resources, including opportunities to better understand the energy-water nexus and maximize efficiencies. The Council has addressed various aspects of energy issues as they relate to water resources as part of its regular meetings, including the demand for water resources created by new energy development. Hydraulic fracturing has been an issue and long-standing practice with which the states have considerable experience. The use of water produced by energy development has also been discussed. The Council has also urged the Administration and Congress to support Department of Energy hosted energy-water programs conducted at national laboratories (**Position #485, Aug. 2022**). The Council has in the past participated with the Western Electric Coordinating Council (WECC) and related State Provincial Steering Group and Environmental Data Work Group. In 2023, the Council and WestFAST coordinated together to host a pumped storage hydropower webinar series: <https://westernstateswater.org/topical-resources/pumped-storage-hydropower/>

**2025-2026:** As resources permit, the Council will continue to compile existing information through WaDE addressing water availability and anticipated demands for energy resources development (and the implications for water use in the West). Further, the Council will consider and evaluate any federal legislation and other potential collaborative efforts in addressing energy and water needs, as well as related water quality concerns. The Council will evaluate as appropriate specific energy and water-related issues as they arise, such as hydraulic fracturing, hydropower licensing, pumped hydropower projects, Clean Water Act Section 401 certification, [the growing number of data centers for artificial intelligence](#), and other practices.

**Subcommittee:**

**Timeframe:** Ongoing

**WATER QUALITY COMMITTEE  
WORK PLAN  
July 1, 2024 to June 30, 2025**

**1. WATER QUALITY/QUANTITY NEXUS**

**Background:** Western Governors’ Association (WGA) Policy Resolution 2024-07, Water Resource Management in the West, states: “Western Governors believe effective solutions to water resource challenges require an integrated approach among states and with federal, tribal and local partners. Federal investments should assist states in implementing state water plans designed to provide water for municipal, rural, agricultural, industrial and habitat needs, and should offer financial and technical support for development of watershed and river basin water management plans when requested by states. Integrated water management planning should also account for flood control, water quality protection, and regional water supply systems. Water resource planning must preserve state authority to manage water through policies which recognize state law and the financial, environmental, and social values of water to citizens of western states today and in the future.” (Paragraph (B)(3), emphasis added)

**Work-to-Date:** On October 6-7, 2015, the Water Quality Committee held a workshop in conjunction with the WSWC’s 2015 fall meetings in Manhattan, Kansas. The workshop provided insights on: (1) how state water quantity and quality (WQ2) regulations interact with each other; (2) how states can protect water quality within the existing framework of the prior appropriation doctrine; and (3) the proper relationship between federal environmental protections and the states’ primary and exclusive authority over the allocation of water resources. WSWC staff prepared a preliminary report of the meeting, which included recommendations for WSWC next steps.

During the WSWC October 2019 meeting in Breckenridge, Colorado the Committee heard a presentation from Alex Davis, Deputy Director of Water Resources for the City of Aurora about the city’s challenges related to the water quantity-quality nexus and the complex efforts to ensure adequate source water protection across several water basins.

Beginning January 2022, WestFAST held a monthly Wildfire Webinar Series. The series continued for a full year and covered topics regarding science, policy, and outreach. Technical topics explored include wildfire prediction, restoration and resilience-building, and the relationship of wildfire to water quality and water availability. Other policy topics explored the intersection of wildfire with property insurability and public health. WestFAST also covered engagement topics such as community planning, investment in watershed health, NASA’s FireSense strategy, and available risk reduction tools. See <https://westernstateswater.org/topical-resources/wildfires/>

From February to May 2023, WestFAST held a three part webinar series on Pumped Storage Hydropower. The first in this series gave an overview of types of pumped storage systems, and their benefits and challenges. The following two installments covered various permitting processes for new pumped storage hydropower projects, including the Federal Energy Regulatory Commission licensing process, compliance requirements, and Reclamation’s lease of power privilege process. A summary of the Pumped Storage Hydropower webinars, and other resources regarding the topic, are available at <https://westernstateswater.org/topical-resources/pumped-storage-hydropower/>.

From July to December 2023, WestFAST held a four part Stream Restoration webinar series. They covered introductory concepts, the science of stream restoration, as well as stream restoration and water rights in Utah, Colorado, Nebraska and California. See <https://westernstateswater.org/topical-resources/stream-restoration-and-water-rights/>

**2025-2026:** The Committee supports WGA Resolution 2024-07, and directs staff to follow up on the next steps recommended in the 2015 WQ2 workshop, including: (1) create a nexus Toolbox of useful and accessible information, including interagency MOUs, instream flow legislation, case studies, and reports of additional workshops, to provide a resource for the states seeking to learn from each other's experiences; (2) identify and coordinate with federal agencies and other technical or national organizations with common interests to co-host educational workshops or symposia on relevant nexus topics, both to develop better relationships and to find additional potential solutions to nexus problems; and (3) provide updated information from states on current water quality-water quantity issues at Council meetings. Initial conversations with the subcommittee have occurred.

**Time Frame:** Ongoing

WQ2 Nexus Workgroup – goal to re-establish in 2024

## **2. CLEAN WATER ACT ISSUES**

There are several ongoing Clean Water Act (CWA) issues that pertain to WSWC policies or are otherwise of interest that the Committee will monitor and address on an as-needed basis. These issues are listed below in order of priority.

### **a. CWA Jurisdiction\***

**Background: :** In 2011, the EPA and the U.S. Army Corps of Engineers released draft guidance intended to provide clearer, more predictable guidelines for determining which water bodies are subject to Clean Water Act (CWA) jurisdiction, consistent with the U.S. Supreme Court's decisions in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001), and *Rapanos v. United States*, 547 U.S. 715 (2006). This was followed by the Clean Water Rule (2015 WOTUS Rule), finalized on June 29, 2015 (80 FR 37054). Many of our member states filed lawsuits challenging the 2015 WOTUS Rule in federal court. The 2015 WOTUS Rule was rescinded, and was replaced by the Navigable Waters Protection Rule (2020 WOTUS Rule), finalized on April 21, 2020 (85 FR 22250). Several of our member states filed lawsuits challenging the 2020 WOTUS Rule in federal court. The 2020 WOTUS Rule was vacated, and was replaced by the Revised Definition of the "Waters of the United States" Rule (2023 WOTUS Rule), finalized on January 18, 2023 (88 FR 3004). On May 25, 2023, the U.S. Supreme Court issued its decision in *Sackett v. EPA* (#21-454). Citing the Justice Scalia plurality opinion in *Rapanos*, the five-Justice majority Court concluded that the definition of WOTUS in Clean Water Act (CWA) §1362(7) "encompasses only those relatively permanent, standing or continuously flowing bodies of water forming geographical features that are described in ordinary parlance as streams, oceans, rivers, and lakes." The Court held that WOTUS does not apply to all wetlands, but extends only to those wetlands with a continuous surface connection to bodies of water that are WOTUS in their own right, so that they are indistinguishable from those waters. The Court acknowledged that "temporary interruptions in surface connection may sometimes occur

because of phenomena like low tides or dry spells.” In footnote 16, the Court said: “Although a barrier separating a wetland from a water of the United States would ordinarily remove a wetland from federal jurisdiction, a landowner cannot carve out wetlands from federal jurisdiction by illegally constructing a barrier on wetlands otherwise covered by the CWA. Whenever the EPA can exercise its statutory authority to order a barrier’s removal because it violates the Act...that unlawful barrier poses no bar to its jurisdiction.” On August 29, 2023, the EPA and Corps issued an Amended 2023 Rule (88 FR 61964) to conform key aspects of the regulatory text to the *Sackett* decision. Two state lawsuits have challenged the Amended 2023 Rule: *Texas v. EPA* (TX, ID), and *West Virginia v. EPA* (AK, AL, AR, FL, GA, IA, IN, KS, LA, MI, MO, MT, ND, NE, NH, OH, OK, SC, SD, TN, UT, VA, WV, and WY). Both cases issued preliminary injunctions on the 2023 WOTUS Rule. A third case, *Kentucky v. EPA*, did not issue an injunction, but the rule is stayed while the decision is on appeal. Currently, the agencies are interpreting “waters of the United States” consistent with the pre-2015 regulatory regime and the Supreme Court’s decision in *Sackett* for these 27 states until further notice. For the remaining 23 states, the District of Columbia, and the Territories, the agencies are implementing the Amended 2023 Rule.

For both regulatory regimes, the agencies entered into joint coordination memoranda to establish a process by which the Corps and EPA would coordinate on jurisdictional determinations “to ensure accurate and consistent implementation” of the regimes. These memoranda included implementation guidelines regarding identification of wetland areas and tributary reaches, whether site specific discrete features can serve as continuous surface connection, and whether natural landforms can provide evidence of a continuous surface connection. Under the newly inaugurated Trump Administration, the EPA set these memoranda to expire on March 27, 2025 ([WSW #2626](#)).

On March 12, 2025, the Trump Administration EPA and Corps announced they would jointly review the definition of “waters of the United States” (WOTUS) and released field guidance on the proper implementation of “continuous surface connection.” The field memo provided updated guidance for implementing WOTUS under both regimes currently operating across the country. Affirming the plurality set forth in *Rapanos v. United States*, 547 U.S. 715 (2006), the agencies interpreted “continuous surface connection” as adjacent wetlands that “directly abut the [requisite jurisdictional water] (e.g., they are not separated by uplands, a berm, dike, or similar feature).” The memo noted that wetlands with only an intermittent, physically remote hydrologic connection to WOTUS do not have the “necessary connection” to trigger the CWA. Departing from the prior administration’s coordination memoranda, the agencies wrote: “Therefore, an interpretation of ‘continuous surface connection’ which allows for wetlands far removed from and not directly abutting covered waters to be jurisdictional as adjacent wetlands has the potential to violate the direct abutment requirement for ‘adjacent wetlands’ under the plurality’s standard and now *Sackett*’s endorsement of that standard. Therefore, any components of guidance or training materials that assumed a discrete feature established a continuous surface connection are rescinded.” [See WSW #2652](#).

EPA and Army Corps received over 4200 comments in response to their solicitation for feedback on implementing and defining WOTUS (Docket EPA-HQ-OW-2025-0093), including comments from the States of Alaska, California, Idaho, Nevada, New Mexico, North Dakota, Utah, Washington, and Wyoming. WSWC prepared a summary of state comments which can be accessed at <https://westernstateswater.org/policy-letters/2025/cwa-wotus-definition/>.

**Work-to-Date:** WSWC adopted Position #369 Regarding Clean Water Act Jurisdiction on June 18, 2014. It has seen minor revisions and been continually readopted. The most recent iteration is

Position #531, adopted at the April 2025 meeting in Lincoln Nebraska. (see former Positions No. 481– 4/06/22; No. 472 – 9/16/2021; No. 427 –10/26/2018; No. 410 – 6/29/2017; and No. 369 – 7/18/2014). WSWC also adopted Position #373 to clarify the scope of Clean Water Act Jurisdiction, but it was soon allowed to sunset and acknowledged as a letter with continued historical value.

In the Summer of 2022, WSWC hosted a series of workshops to consider the technical and policy implications of a regional approach to WOTUS implementation, and prepared a white paper to document this effort for future use. See [https://westernstateswater.org/wp-content/uploads/2022/10/WSWC-WOTUS\\_RegionalConcepts\\_Technical\\_Whitepaper\\_Final.pdf](https://westernstateswater.org/wp-content/uploads/2022/10/WSWC-WOTUS_RegionalConcepts_Technical_Whitepaper_Final.pdf)

On June 2, 2025, WSWC sent a letter in response to the federalism consultation initiated by the agencies' March 12 approach to WOTUS. WSWC highlighted state authority, and the impact of the rulemaking on states. The letter stated the WSWC position that any federal effort to clarify or define WOTUS must “create an enduring and broadly supported definition; acknowledge states as co-regulators; provide a clear process for resolving jurisdictional determination differences; provide for joint federal/state/tribal mapping of jurisdictional waters; and consider a regional approach to implementation based on hydrology, geology, and climate.” The full letter can be accessed at <https://westernstateswater.org/policy-letters/2025/wswc-letter-wotus-federalism/>.

**2025-2026:** The Committee will continue to work with the Water Resources and Legal Committees through the Workgroup to understand and share how states are affected by and dealing with the changes to the “waters of the United States” definition. Staff will track any developments in agency actions regarding the WOTUS definition, and report on potential impacts to states.

**Time Frame:** Ongoing

CWA Rulemaking Workgroup: Tom Stiles (KS), Jennifer Carr (NV), Jojo La (CO), Julie Pack (AK)

\*See Item 2 of the Legal Committee Workplan

## **b. Water Reuse**

**Background:** In 2011, the WSWC prepared a report summarizing state responses to survey questions on water reuse standards, regulations, issues, projects and funding titled “Water Reuse in the West: State Programs and Institutional Issues.” Given that it has been nearly a decade since those responses were compiled, the Committee decided to update the report. At the October 2019 meeting in Breckenridge, the Committee expressed interest in coordinating survey responses with the Association of Clean Water Administrators (ACWA) and other organizations. Additionally, the Environmental Protection Agency recently unveiled their Water Reuse Action Plan (WRAP), a collaborative effort across federal agencies, water organizations and the private water sector. This is the first of its magnitude, intended to innovate, scale and implement water reuse technologies and policies. The WRAP identifies 37 actions and 200 implementation milestones. WSWC’s and ACWA’s survey update will help implement action 2.2.1: Compile Existing State Policies and Approaches to Water Reuse.

**Work-to-Date:** From November 2019 – January 2020, WSWC staff and council members worked with ACWA and other organizations to update survey questions. These questions were somewhat



different from the 2011 questions and provided a comprehensive picture of what is happening in water reuse across the states. States submitted responses to the survey in mid-2020, and staff compiled these into a final report. This report is available at: <https://westernstateswater.org/publications/other-reports/2021/2021-water-reuse-report/>

**2025-2026:** With the report finalized, staff will work with ACWA to determine next steps, including potential publication in a national water policy or law journal.

### c. State Revolving Funds (SRFs) and Infrastructure Financing

**Background:** The Clean Water and Drinking Water SRFs provide states with capitalization grants that are leveraged with state contributions to offer financial assistance to cities, towns, communities and others to improve and construct water quality infrastructure. These programs are widely used and have been critically important for improving and maintaining water infrastructure at the local level. Over the years, some budget requests from the Administration have proposed cuts to the SRF programs. Various acts of Congress have also authorized or retained a number of limitations on the use of SRF funds, including: (1) “Buy American” provisions for iron and steel; (2) requirements that between 20% and 30% of SRF funds be used for principal forgiveness, negative interest loans, or grants subject to additional provisions; and (3) requirements that states use at least 10% of their SRF funds for green infrastructure, water or energy efficiency improvements, or other “environmentally innovative” activities.

When Congress enacted the Water Infrastructure Finance and Innovation Act (WIFIA) in 2014, there was some concern that the subsequent WIFIA loan and guarantee program would redirect critical funds from the SRF programs. Thus far, this has not been the case (see table below). Since 2018, the WIFIA program has closed 140 loans totaling \$22B in credit assistance to help finance \$48B for water infrastructure projects. SRFs have access to this funding and are also able to jointly fund projects in conjunction with WIFIA loans. In 2019, both types of funding mechanisms were used by projects.

*Congressional Appropriations for Water Infrastructure (FY2017-19), in millions*

	Clean Water SRF & Title II	Drinking Water SRF	WIFIA
FY2017	\$1,393.9	\$863.2	\$30.0
FY2018	\$1,696.9	\$1,163.2	\$63.0
FY2019	\$1,694.0	\$1,164.0	\$68.0
FY2020	\$1,638.8	\$1,126.1	\$60.0
FY2021	\$1,638.8	\$1,126.1	\$64.5
FY2022	\$3,087.2	\$2,630.3	\$69.5
FY2023	\$2,977.8	\$2,718.9	\$75.6

Source: Congressional Research Service Report R43871; IF11485; IF11724; IF12130; IF12309; IF12617

When Congress enacted the 2022 Infrastructure Investment and Jobs Act (IIJA) (P.L. 117-58) it authorized significant but short-term federal funding for SRFs. However, a substantial portion of those increases were earmarked for Congressionally-directed spending on earmarked projects.

On May 2, the Office of Management and Budget (OMB) released President Trump’s recommendations on discretionary funding levels for FY2026. The “skinny budget” called for a reduction to Clean and Drinking Water SRFS to \$305M total, a reduction of \$2.4B. The proposal

said the original intent of SRFs has been bypassed through Congressional earmarks, and that SRFs are duplicative of the WIFIA program. WIFIA funding was not specifically mentioned in the request (WSW #2659). In a hearing, EPA Administrator Lee Zeldin pointed again to the earmarks and encouraged lawmakers to have a conversation about the use of earmarks, and its effect on SRF funding. See [WSW #2662](#).

**Work-to-Date:** During the July 2018 meeting in Newport, Oregon, the Committee heard reports from Kansas and Washington on the process they went through to apply for WIFIA loans during the first round, and on the water projects that were built with these low-interest loans. Since then, projects in member states Arizona, California, Nebraska, North Dakota, Oklahoma, Oregon and Utah have been funded. Overall, WIFIA funded projects are larger than typical SRF-funded projects, while both programs prioritize those that are shovel-ready and credit-worthy.

WSWC Position #496 urges the Administration and Congress to provide greater flexibility and fewer restrictions on state SRF management, to provide stable and continuing appropriations to the SRF capitalization grants at adequate funding levels, and to ensure that states' allocations are not reduced or harmed by directed congressional earmarks. Appropriations should be adequate to help states address their water infrastructure needs and meet federal mandates. WGA Policy Resolution 2021-10, Water Quality in the West, also supports the SRFs as "important tools" and requests greater flexibility and fewer restrictions on state SRF management.

Between August 2023 and April 2025, the Western States Water Council (WSWC) repeatedly joined coalitions led by the Council of Infrastructure Financing Authorities (CIFA) and other organizations to advocate for full funding of the Clean Water (CW) and Drinking Water (DW) State Revolving Funds (SRFs) at their congressionally authorized levels. These efforts included multiple letters to House and Senate Appropriations Committees and EPA leadership, urging that the SRFs be funded at \$3 billion each for FY2024 and later at \$3.25 billion each. The coalitions also expressed concern about the impact of Congressional earmarks and continuing resolutions on timely appropriations.

**2025-2026:** The Committee will continue to support the WGA and WSWC positions. WSWC staff will update the Committee on developments within Congress and the Administration that have potential to impact SRFs. As needed, Committee members and WSWC staff will meet with the Administration and Congress officials to further the objectives of the WGA and WSWC positions. Some topics for discussion include state experiences with Buy American and Davis-Bacon, whether there are otherwise eligible entities, but for the limitations, and how many are walking away from SRFs because of these restrictions, as well as options for a right of first refusal by the SRFs prior to funding projects through WIFIA.

**Time Frame:** Ongoing

#### **d. EPA's Water Transfers Rule**

**Background:** On January 18, 2017, the 2<sup>nd</sup> Circuit upheld the EPA's Water Transfers Rule, 40 CFR §122.3(i), in *Catskills Mountains Chapter of Trout Unlimited v. EPA*, No. 14-01991. The Court of Appeals reversed the decision of the U.S. District Court for the Southern District of New York, which previously vacated the EPA's rule. On February 26, 2018, the Supreme Court denied the petition for certiorari, allowing the Water Transfers Rule to stand.

WGA Policy Resolution 2021-10 (paragraph B(2)(c)) and WSWC Position #469 support EPA's Water Transfers Rule, which clarifies that water transfers from one "navigable" water to another are exempt from National Pollutant Discharge Elimination System (NPDES) permitting under Section 402 of the CWA. The rule states that transfers do not require NPDES permits if they do not add pollutants and if there is no intervening municipal, industrial, or commercial use between the diversion and the discharge of the transferred water.

On February 18, 2020, WGA sent a letter to the Committee on Energy and Natural Resources in support of the Drought Resiliency and Water Supply Infrastructure Act (S. 1932), in which it suggested including language to affirm the rule in federal statute in order to "add a needed measure of stability and certainty to western water planning and drought mitigation efforts." WSWC and other state organizations also signed onto this letter.

**2025-2026:** The Committee and WSWC staff will: (1) continue to support the WGA and WSWC positions; (2) monitor any and all activities impacting EPA's rule, including but not limited to future litigation and possible efforts by EPA to reconsider the rule; (3) inform the WSWC of ongoing developments; and (4) take any other actions needed to support the WGA/WSWC positions regarding the rule.

**Time Frame:** Ongoing

#### **e. Nutrients**

**Background:** EPA's Office of Water released the Joel Beauvais memo *Renewed Call to Action to Reduce Nutrient Pollution and Support for Incremental Actions to Protect Water Quality and Public Health* on September 22, 2016, and the Radhika Fox memo *Accelerating Nutrient Pollution Reductions in the Nation's Waters* on April 5, 2022.

The Beauvais memo highlights the continued need for action by states and other stakeholders to reduce the threat of nutrients to water quality and public health by:

- Reducing nitrates in sources of drinking water and nitrogen and phosphorus pollution contributing to harmful algal blooms;
- Reducing nutrients from point and nonpoint sources;
- Prioritizing watersheds and setting load reductions;
- Strengthening water quality standards;
- Highlighting high priority incremental actions of states;
- Issuing biennial reports that assess progress and provide accountability, and
- Encouraging EPA to continue to provide support and financial assistance.

The Fox memo sets forth five "governing principles" to guide the EPA Office of Water as it works with states, tribes, and local partners to reduce nutrient pollution. The guiding principles are: (1) Advance equity and environmental justice; (2) Build and foster partnerships; (3) Follow the science and invest in data-driven solutions; (4) Support innovation; (5) Scale successful initiatives.

The memo also outlines EPA's primary strategies and secondary strategies to drive reductions in nutrient pollution.



- **Deepen collaborative partnerships with agriculture.** Secondary strategies to this end include collaboration with USDA, engagements with agricultural stakeholders, and improving on-the-ground collaboration between USDA, states, territories, tribes, and stakeholders.
- **Redouble our efforts to support states, tribes, and territories to achieve nutrient pollution reductions from all sources.** Secondary strategies include encouraging states to use One Water approach, championing innovative financing and use of CWA flexibility for implementing market-based approaches, and prioritizing support to disadvantaged communities.
- **Utilize EPA's Clean Water Act authorities to drive progress, innovation, and collaboration.** Secondary strategies include urging adoption of numeric nutrient criteria into Water Quality Standards, more fully using the Clean Water Act assessment and listing process, supporting development of TMDLs for nutrient pollution, and further reducing nutrient loads from point sources.

**Work-to-Date:** The Committee and WSWC staff continue to follow and update the WSWC on EPA efforts involving nutrients. Various Committee meetings have featured presentations from EPA and state officials on federal and state nutrient management efforts. At the October 2019 meeting in Breckenridge, the Committee heard from Jennifer Carr, Deputy Administrator of the Nevada Division on Environmental Protection, on multi-agency coordination on harmful algal blooms in several water bodies in Nevada.

Remote sensing is also becoming an increasingly important method for monitoring water quality and water supplies. Landsat 8 can provide images in near-real time that provide water quality managers with information on where harmful algal blooms may be forming and allows them to rapidly respond. WSWC was instrumental in ensuring Landsat 8 was equipped with the data collection tools needed for these assessments.

On August 14, 2019, EPA and USDA co-hosted a workshop titled Innovative Financing Strategies for Reducing Nutrients. The workshop explored private, state, and federal funds that could be combined and leveraged for nutrient reduction projects, and ways that the agencies could increase funding opportunities and awareness of innovative funding approaches.

On March 14, 2024 Tom Stiles provided an overview of the Association of Clean Water Administrators' (ACWA) 11 standing principles on nutrients policy as a preamble to Council discussions on a possible position. On March 15, the Committee established a Nutrients subcommittee for further discussion. The subcommittee met in Spring 2024 and prepared a position for Full Council review and input. Position #469, Water Transfers and NPDES Discharge Permits was adopted on July 26 at the meeting in Fargo, North Dakota.

**2025-2026:** The Committee and WSWC staff will monitor and update the Council on any changes to EPA's nutrient efforts, including those related to Harmful Algal Blooms (HABs) and cyanotoxin criteria. Each state is encouraged to develop its own strategy to control nutrient pollution. The Committee will ask states with a strategy to share highlights from their nutrient and HABs strategies and efforts that they think could benefit other Council member states. The Association of Clean Water Administrators has a Nutrients Reduction Progress Tracker that has some state strategies that the Committee can use as a starting point.

Michelle Bushman will examine the possibility of inviting Natural Resources Conservation Service (NRCS) staff for a facilitated discussion, with an emphasis on mutual conversation, examining: (1) How state nutrient reduction strategies are considered in NRCS programs, and how NRCS helps states implement those strategies; (2) What farmers are expressing to NRCS regarding nutrients and application of fertilizers and manure; (3) Whether soil health practices have been well-adopted by farmers working with NRCS. Bushman will also examine the possibility of mutual discussion with EPA regarding the new Trump Administration's approach to nutrients and plans for future memos.

**Time Frame:** Ongoing

Nutrients Subcommittee: Jojo La (CO), John Mackey (UT), Tom Stiles (KS), Jennifer Zygmunt (WY)

## **f. Section 401 Certifications**

### **Background:**

In 2019, the Trump administration issued Executive Order 13868, leading to EPA's issuance of the 2020 CWA Section 401 Certification Rule (2020 Rule)(85 FR 42210). The 2020 rule narrowed the authority of states to determine certification timeframes, application materials requirements, and the scope of certifications. WSWC and WGA submitted comments and letters to the administration, congress, and EPA prior to Executive Order 13868 and throughout the rulemaking process, opposing changes which may diminish state authority. In January 2021, the Biden administration issued Executive Order 13990, directing agencies to review and address regulations promulgated under the Trump administration. On April 21, 2022, WSWC sent a letter to the Administration encouraging the accelerated review of the CWA 401 Certification Final Rule and requesting the involvement of states as co-regulators.

In June 2022, the Environmental Protection Agency (EPA) released a pre-publication version of a revised rule for CWA (Clean Water Act) §401 certification. In August, the Council of State Governments-West (CSG-West) and the WSWC submitted a comment letter to EPA, commending the proposed rule's cooperative elements, but criticizing its provision that a pre-filing meeting cannot occur until the federal agency has drafted the license. They argued that it placed states at the end of the federal permitting process and limited collaboration. They expressed support for early substantive consultation with states.

On September 14, 2023 the Environmental Protection Agency (EPA) announced the final *Clean Water Act Section 401 Water Quality Certification Improvement Rule* (2023 Rule) (88 FR 66558), which went into effect in November 2023 ([WSW #2575](#)). The rule provides the following: (1) allows states to specify additional application requirements, beyond EPA baselines; (2) maintains the 30-day pre-filing meeting time period; (3) limits the scope of state certifications to the water quality impacts of the "activity as a whole", rather than point source only; and (4) limits EPA's certification review to only the timeliness of action, rather than the substance of the determination.

On December 4, 2023 a coalition of states (including AK, MT, OK, and WY) and regulated entities challenged the 2023 Rule in the U.S. District Court of the Western District of Louisiana (*State of Louisiana et al. v. U.S. Environmental Protection Agency et al.*, case No. 2:23-cv-01714). The petitioners requested an order declaring that the 2023 Rule violates the CWA and the

Administrative Procedure Act (APA); vacating and setting aside the 2023 Rule; and enjoining EPA from applying or enforcing the 2023 Rule. In January 2024, 18 states including California, New Mexico, Oregon, and Washington jointly filed a motion for leave to intervene for the purpose of defending the 2023 Rule (WSW #2592). The intervenor defendant states argued that they have a “clear and direct interest in upholding the 2023 Rule to preserve their sovereign authority over water quality within their respective states under section 401 of the CWA.” On May 14, the Court granted EPA’s unopposed motion to hold the case in abeyance for 60 days while the new administration reviewed the rule.

On May 21, EPA issued a memo entitled “Clarification regarding the Application of Clean Water Act Section 401 Certification” to clarify that CWA Section 401 authority is “limited to addressing only water quality-related impacts” and they do not authorize conditions based on “generalized concerns about water quality untethered to... a specific applicable water quality requirement.” EPA also announced plans to issue a Federal Register notice to receive feedback identifying additional implementation challenges to be later addressed with additional rulemaking. [See WSW #2662](#).

**Work-to-Date:** In 2020, the Committee formed a workgroup to explore the possibility of developing a template for Memorandums of Understanding between states and federal agencies that will be implementing the new 401 certification rule. The new rule expands the number of federal agencies responsible for obtaining 401 certifications, many of which have not previously engaged in this process. States are concerned about maintaining and opening lines of communication regarding project activities so that they can conduct their process to certify projects without waiving their ability to do so due to the strict time constraints. This workgroup has created a list of needs and wants from such a document, and are now moving towards determining what outputs would be most helpful.

**2025-2026:** Staff will continue to facilitate the 401 MOU workgroup, track the implementation of the rules, and report on challenges or experiences that states have had regarding how the changes are working on-the-ground.

## **Timeframe:**

### **g. Tribal Treatment as States**

**Background:** In 2016, EPA finalized two separate but related rulemaking efforts regarding the tribes’ ability to obtain “treatment as states” (TAS) status under CWA Section 518, necessary for delegation of regulatory programs to the tribes. The first involved an interpretive rule regarding inherent authority of tribes, considering CWA Section 518 an express delegation of authority from Congress. The second rule sets forth a regulatory process for TAS status to operate impaired listing and total maximum daily load (TMDL) programs. WSWC and various states sent letters commenting on concerns with how the programs would be implemented.

EPA also engaged in a pre-rulemaking outreach to states, tribes, and other stakeholders, soliciting input on setting federal baseline water quality standards for tribes without TAS status. WSWC submitted comments in December 2016. EPA heard from 12 tribal governments and associations and 11 state officials, agencies and associations, among others, and reported that most tribes were largely supportive while most states raised concerns. In 2023, EPA published its proposed rule, Federal Baseline Water Quality Standards for Indian Reservations (88 FR 29496). At least 12 of

our member states provided substantive comments. See [WSW Special Report #2571](#). The Federal Baseline Water Quality Standards for Indian Reservations was withdrawn on January 10, 2025.

In December 2022, EPA issued a proposed rule, Water Quality Standards Regulatory Revisions To Protect Tribal Reserved Rights (87 FR 74361). At least 10 of our member states provided substantive comments. See [WSW Special Report #2548](#). The states generally expressed concern about the Constitutional authority of EPA, the states, and the Tribes to undertake the effort to quantify tribal treaty rights. They noted anticipated costs and the complexity of navigating state-tribal relationships when disagreements arise between sovereigns. On June 3, 2024, EPA's final rule went into effect (89 FR 35717). Under the new rule, if a Tribe formally asserts a tribal reserved right to a state and the EPA, the state must consider the value of the waters or protecting the tribal reserved right and the potential future exercise of the right. Where the state has adopted designated uses, the state must establish water quality criteria that encompasses the tribal reserved right. See [WSW #2612](#). A week later, twelve states filed *State of Idaho v. EPA* (1:24-cv-00100) challenging the rule as unconstitutional and seeking preliminary injunction. Twelve tribal nations, including Nez Perce, Quinault Indian Nation, Bay Mills Indian Community, and the Confederated Salish & Kootenai Tribes of the Flathead Reservation intervened. See [WSW #2621](#).

**Work-to-Date:** In December 2016, the WSWC submitted a [letter](#) commenting on the ANPR proposing federal baseline WQS for tribes. In May 2023, the WSWC approved a new policy position #490 regarding Water Quality Standards, Protecting Tribal Reserved Rights, and Federal Baseline Water Quality Standards for Indian Reservations. In August 2023, the WSWC submitted a [comment](#) on EPA's proposed rule for federal baseline WQS for tribes.

**2025-2026:** The Committee will continue to monitor the potential rulemakings and their implementation and engage with EPA as appropriate.

**Time Frame:** Ongoing

## **h. Abandoned Hardrock Mine Remediation**

**Background:** The West has an undetermined number of abandoned hardrock mines that have the potential to or unknowingly already do affect water quality. "Good Samaritan" bills have been introduced in Congress over the years to protect public entities that are willing to voluntarily clean up these sites from legal liability under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the CWA. These bills have been unsuccessful due to concerns about the potential impacts of amending the CWA and perceptions that sufficient protections already exist under CERCLA. However, considerable uncertainty exists as to whether CERCLA and other existing authorities provide Good Samaritans with sufficient protection.

In December 2012, EPA issued a memorandum to clarify administrative protections for Good Samaritans. It clarified that Good Samaritans who complete cleanup efforts pursuant to EPA policies will not be considered "operators" responsible for obtaining NPDES permits if they lack: (1) access and authority to enter the site; (2) an ongoing contractual agreement or relationship with the site owner to control discharges; (3) power or responsibility to make timely discovery of changes to the discharges; (4) power or responsibility to direct persons who control the mechanisms, if any, causing the discharges; and (5) power or responsibility to prevent and abate the environmental damage caused by the discharges. Nevertheless, the memorandum states that it

“...does not address or resolve all potential liability associated with discharges from abandoned mines.”

In September 2020, EPA announced a new office, the Office of Mountains, Deserts, and Plains, to primarily work with Good Samaritan organizations and tribes, and ensure more efficient clean-up of both Superfund and non-Superfund sites in the West, including abandoned mines.

In September 2021, the WSWC passed Position #477 regarding Abandoned Hard Rock Mine Cleanup. On February 3, 2022, Senator Martin Heinrich (D-NM) introduced the Good Samaritan Remediation of Abandoned Hardrock Mines Act (S. 3571). On July 28, 2022, WSWC sent letters to Congress and to the Administration regarding the Good Samaritan bill and joint efforts to address abandoned hardrock mine cleanup.

On September 13, 2023 Senators Martin Heinrich (D-NM) and Jim Risch (R-ID) reintroduced the bipartisan Good Samaritan Remediation of Abandoned Hardrock Mines Act (S. 2781)([WSW #2577](#)). On January 10, 2024 the WSWC sent a letter to the Senate leadership and the Environment and Public Works Committee, supporting and making recommendations on the bill. The letter included WSWC Policy Position No. 447 and recommended financial flexibility for states, the establishment of a formal consultation process under the bill’s pilot program, and the establishment of a permanent program through which states can administer Good Samaritan permits ([WSW #2591](#)). On December 17, 2024 President Biden signed S.2781 into law (P.L. 118-155) ([WSW #2639](#)). Under the pilot program authorized by the act, EPA is allowed to provide up to 15 Good Samaritan permits and 15 investigative sampling permits. EPA is working on the process for applicants to submit permit applications.

**Work-to-Date:** The WGA and WSWC have long supported legislation to amend the CWA to protect Good Samaritans from inheriting perpetual liability for the site under the CWA (WGA Policy Resolution 2024-08). Over the past several years, the Committee has worked to support Good Samaritan legislation and other efforts to clean up abandoned hardrock mines, including multiple visits with Congress and the Administration, Congressional testimony in support of such legislation, and involvement in a former WGA-organized Task Force focused on crafting an exemption for Good Samaritan activities by state governments.

At the Fall 2020 WSWC meeting, Roger Gorke presented an update on the creation of the new Office, including that it will be lead by Shamid Mahmud. Mahmud has decades of experience leading the Good Samaritan Abandoned Mine Internal Working Group.

WSWC was invited by the EPA Good Sam Workgroup to present on the water aspects of abandoned mines. Michelle Bushman presented a high-level overview of what western states are working on regarding abandoned mines, the challenges they face, and how they prioritize various sites. The workgroup expressed interest in having further discussion with states about abandoned mine projects they are working on.

**2025-2026:** The Committee will continue to coordinate with the WGA and encourage efforts to clean up abandoned hardrock mines, including but not limited to enactment of Good Samaritan legislation and efforts to support utilization of EPA’s 2012 memorandum. The Committee will work with key Congressional members/staff, Administration officials, and other stakeholders to develop and support efforts to clean up abandoned hardrock mines in accordance with the WGA’s policies, including the possible reactivation of a workgroup and/or developing a workshop to bring

together interested stakeholders to identify ways to facilitate abandoned hardrock mine remediation. Staff will also track activities of the Office of Mountains, Deserts, and Plains and report back to the Committee any developments of interest.

**Time Frame:** Ongoing

#### **i. Per-and Polyfluoroalkyl Substances (PFAS)**

**Background:** The widespread use and persistent nature of PFAS chemicals presents a complex environmental problem that affects water quality, human health, and ecosystems in varying degrees around the nation. Water sources with high levels of contamination in some instances must be replaced by alternative water sources, which can be costly and difficult in the arid west. Additionally, cleanup efforts may require coordination between state, federal, tribal, and local authorities.

**Work-to-Date:** In 2022-23, the Subcommittee explored the possibility of WSWC position and actions that might be taken to address PFAS water contamination in a collaborative way. The WSWC hosted a states-only PFAS Roundtable and prepared a summary of the meeting. See <https://westernstateswater.org/events/states-only-pfas-roundtable/>. In May 2023, the Committee determined not to pursue a PFAS policy position at this time, but to continue to keep an eye on PFAS developments. On May 14, EPA announced plans to rescind and reconsider the regulations for PFHxS, PFNA, HFPO-DA (commonly known as GenX), and the Hazard Index mixture of these three plus PFBS, to ensure that the determinations and any resulting regulation follow the legal process in the Safe Drinking Water Act. EPA also intends to extend compliance deadlines for PFOA and PFOS, establish a federal exemption framework, and initiate enhanced outreach to water systems, especially in rural and small communities.

**2025-2026:** The Committee will continue to monitor PFAS developments and revisit this issue as needed..

**Subcommittee:** Jennifer Zygmunt (WY)

#### **j. NPDES Permits**

**Background:** On March 14, 2024 Jennifer Zygmunt reiterated South Dakota's interest in proposing a new resolution on NPDES, with particular interest on whether to support legislation that would extend NPDES permit terms from five years to ten. On March 21, 2024 the House passed H.R. 7023, the Creating Confidence in Clean Water Permitting Act which would allow the term extension but it did not pass the Senate. The proposal was introduced, the subcommittee met and drafted a position, and introduced the draft at the fall meeting in Lawrence, Kansas. Following robust discussion, it was decided to allow more time for the committee to review and edit. Expecting the change in permit terms to happen sooner-than-later, and a "bull rush of requests for longer permits," Zygmunt and Stiles raised concerns about implementation and suggested the subcommittee draft a guidance document to outline benefits, opportunities, stipulations, and potential challenges. The guidance or implementation document would outline suggestions such as what conditions suggest a 10-year or 5-year term. It would be intended to help member states navigate decision-making and conversations if future conflict arises among the regulated community. The subcommittee met to make final adjustments to the position. It was adopted as



Position #527 – Regarding the Extension of NPDES Permit Terms on April 25, 2025 at the meetings in Lincoln, Nebraska.

**2025-2026:** A subcommittee will review the possibility of drafting an implementation document regarding extended NPDES permit terms. They will examine the scope, need, and intent of such a document and determine what details, foreseen challenges, and implementation suggestions should be included.

**Subcommittee:** Tom Stiles (KS), Trevor Baggione (AZ), Joaquin Esquivel (CA), Mark Mayer (SD), Jennifer Zygmunt (WY), Jennifer Carr (NV), Leslie Connelly (WA)

#### **k. Maui and Groundwater**

**Background:** The U.S. Supreme Court issued a ruling in *County of Maui v. Hawaii Wildlife Fund*, 140 S. Ct. 1462 (2020), holding that the provisions of the Clean Water Act require a National Pollution Discharge Elimination System (NPDES) permit when there is a “functional equivalent of a direct discharge,” which may include some discharges through groundwater. The Court noted that many factors may be relevant in determining whether a pollutant discharged through groundwater is a functional equivalent of a direct discharge to navigable waters. Time and distance will be the most important factors in most cases. The Court offered the examples of: (1) a 100-year migration of pollutants through 250 miles of groundwater to a river, which would not ordinarily require a permit; (2) where a pipe ends 50 miles from navigable waters and the pollutants mix with groundwater and other materials in the aquifer, ending up in navigable waters many years later, in which case permitting requirements likely would not apply; and (3) where a pipe emits pollutants only a few feet through groundwater before discharging into a navigable water. Other relevant factors might include the nature of the aquifer material, the extent to which the pollutant is diluted or chemically changed as it travels, the amount of pollutant entering the navigable waters relative to the amount discharged at the point source, how or where the pollutant enters the navigable waters, and the degree to which the pollution has maintained its specific identity.

In January 2021, EPA issued a notice of implementation guidance (86 FR 6321) which was rescinded in September 2021 (86 FR 53653). EPA issued a new draft guidance in November 2023 (88 FR 82891). Several WSWC member states submitted comments on the proposed guidance ([Special Report #2591](#)). Two federal cases have analyzed the application of the “functional equivalent” standard: *Cottonwood Environmental Law Center v. Edwards*, 86 F.4th 1255 (9th Cir. 2023) (over-irrigation of golf course leaching nutrients into groundwater) and *Stone v. High Mountain Mining Company*. #22-1340 (10th Cir. 2024) (discharge from unlined settling ponds seeping into groundwater). At the Spring, 2024 meeting in Washington, DC, Jennifer Zygmunt presented the results of a survey on workplan priorities. The majority of respondents were in favor of framing new resolutions on *Maui* groundwater discharge.

**2025-2026:** The Committee will work with the Water Quality Committee through the Workgroup to follow and comment on federal actions regarding Maui guidance in accordance with the WSWC’s and WGA’s positions, as well as consider the impacts of any guidance or rules on state policies, programs and regulations.

**Time Frame:** Ongoing

**Maui Workgroup:** Jennifer Zygmunt (WY), John Mackey (UT)

### 3. STATE GROUNDWATER REGULATION

**Background:** In 2023, various news organizations began publishing articles on the use of groundwater in the nation, with a particular focus on groundwater overuse in the West. While the articles highlighted genuine challenges (depletion, pollutants, subsidence, lack of monitoring), they lacked information about the nuances of western water laws, and did not include the efforts and progress states have made over the past several decades to address those challenges. Several of the articles called for federal regulation of groundwater, asserting that the states would not or could not do enough to address the groundwater management challenges.

In 2024, the White House solicited input from the public to address questions regarding groundwater use, recharge, and storage across the United States. The President’s Council of Advisors on Science and Technology (PCAST) issued specific questions regarding methods for timely collection of data, effective modeling and prediction of groundwater changes, efficient scaling of groundwater recharge, ensuring clean and safe groundwater availability, community engagement, and strategies to limit groundwater overuse. The PCAST briefing read: “In the western states especially, groundwater resources are being depleted at an alarming rate, mostly from agricultural withdrawal. The problem of groundwater depletion is exacerbated by climate change and precipitation variability and in many aquifers, groundwater withdrawal has outpaced natural and artificial recharge. There is a need to explore the consequences of artificial recharge and to identify successful recharge approaches that might be scaled across the country.... Groundwater is managed locally, with best practices that vary from state to state, but there is an opportunity to develop and scale approaches to restore clean water in every community.” [See WSW #2610](#).

In Summer of 2024, PCAST held a workshop in Arizona, which convened government agencies, key groundwater users, and community stakeholders. Acknowledging the government’s limited jurisdiction over groundwater, and the need for some kind of government policy, the Working Group talked about the possibility of developing a central repository of groundwater data for use by water managers. They noted the need for enhanced tracking and measurement of groundwater quality and quantity. They shared some of what they were seeing from public comments, including the sentiment that currently available science and technology could reduce uncertainty and increase supply. They also noted the feedback that many locations have already taken effective action. See [Special Report #2622](#).

On September 23, Governor Brad Little (R-ID) and Lt. Governor Scott Bedke (R-ID) sent a letter to the White House expressing concern about the PCAST inquiry, framing it as an effort to increase federal oversight: “...the federal government has no place in groundwater management. has long left those actions up to the states and has limited its involvement to funding of projects and technology advancements” [WSW #2630](#).

On December 14, PCAST released its report recommending the White House establish an interagency working group, expand technology research, establish a network of regional data and research hubs, provide incentives for sustainable groundwater management, develop accounting methodologies for natural capital, and campaign to develop groundwater science and management workforce. [See WSW #2643](#).



On January 31, President Trump rescinded the Executive Order establishing PCAST. See [Special Report #2646](#).

**Work to Date:** On July 1, 2024, the WSWC submitted a comment letter along with two policy positions on groundwater allocation and groundwater quality. On July 22, 2024, Council staff participated in the PCAST workshop. On April 22, 2025, WSWC held a Groundwater Workshop at the meeting in Lincoln, Nebraska ([WSW #2658](#)).

**2025-2026:** The Council will explore the potential of hosting a groundwater workshop in the coming year, with opportunities for states to share with each other challenges and developments in technologies, resources, and regulations. The Council will examine the possibility of another groundwater workshop in California.

**Subcommittee:** Raquel Rancier (OR), Anna Pakenham Stephenson (MT), Mathew Weaver (ID), Melissa Flatly (NV), Chris Brown (WY), Joaquin Esquivel (CA), Theresa Wilhelmson (UT), Jesse Bradley (NE). Ex-Officio members: Dan Yates (GWPC)

**LEGAL COMMITTEE  
WORK PLAN  
July 1, 2024~~5~~ to June 30, 202~~5~~~~6~~**

**1. STATE AND FEDERAL COLLABORATION REGARDING THE ADJUDICATION OF FEDERAL NON-TRIBAL WATER RIGHTS**

**Background:** On July 15-16, 2014, the WSWC and WestFAST held a workshop in Helena, Montana to discuss ways to improve the resolution of federal non-tribal water rights claims and to begin the process of developing a clearinghouse of information that states and tribes can use to resolve these claims. The WSWC and WestFAST subsequently created a joint state-federal workgroup to help develop the clearinghouse and implement the other recommendations that emerged from the workshop.

**Work-to-Date:** The Committee created a Federal Non-Tribal Water Claims Subcommittee to evaluate ways the WSWC and WestFAST can improve the effective resolution of federal non-tribal water rights claims. The Subcommittee consists of WSWC members and WestFAST members, who serve in an *ex officio* capacity. Past webinars and workshops include:

November 10, 2015	McCarran Amendment – state and federal perspectives	
July 13, 2016	Groundwater and Meeting Federal Water Needs (ND)	
October 18, 2017	Continuing State-Federal Relationships through the Implementation Phase of Decreed and Adjudicated Water Rights (NM)	
October 24, 2018	State and Federal Agencies’ Approach to Grazing Water Rights (ID)	
October 15, 2019	Grazing Water Rights (CO)	<a href="https://westernstateswater.org/publications/2021/stock-water-rights-for-grazing-livestock-on-federal-lands/">https://westernstateswater.org/publications/2021/stock-water-rights-for-grazing-livestock-on-federal-lands/</a>
September, 2021	Wild and Scenic Rivers (SD)	<a href="https://westernstateswater.org/publications/seminars-workshops/2021/wild-scenic-rivers-workshop/">https://westernstateswater.org/publications/seminars-workshops/2021/wild-scenic-rivers-workshop/</a>

**2025-2026:** The Committee will work to carry out the recommendations and next steps that emerged from the workshops and webinar. Under the direction of the Committee, the workgroup will hold calls on a quarterly basis to discuss the development of the clearinghouse and to serve as a forum for information sharing and relationship building. The Workgroup will also advise the Committee about potential future actions the WSWC and WestFAST may take to address federal water needs and may hold webinars on specific topics of interest. The workgroup will continue to hold workshops.

Additional topics to pursue include identifying useful principles for state-federal memoranda of understanding (MOUs) to develop a useful framework and recommended approaches.

**Time Frame:** Ongoing

Federal Non-Tribal Water Claims Subcommittee: Jay Weiner (MT), Jennifer Verleger (ND), Buck Smith (WA), and Chris Brown (WY). WestFAST members and agency staff participating in the Subcommittee in an *ex officio* capacity include: Michael Higgins (U.S. Fish and Wildlife Service), Donald Anderson (Bureau of Reclamation), Stephen Bartell (Department of Justice), Lauren Dempsey (Air Force) and Chris Carlson (U.S. Forest Service).

## **2. CLEAN WATER ACT ISSUES**

### **a. CWA Jurisdiction\***

**Background:** In 2011, the EPA and the U.S. Army Corps of Engineers released draft guidance intended to provide clearer, more predictable guidelines for determining which water bodies are subject to Clean Water Act (CWA) jurisdiction, consistent with the U.S. Supreme Court's decisions in *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers*, 531 U.S. 159 (2001), and *Rapanos v. United States*, 547 U.S. 715 (2006). This was followed by the Clean Water Rule (2015 WOTUS Rule), finalized on June 29, 2015 (80 FR 37054). Many of our member states filed lawsuits challenging the 2015 WOTUS Rule in federal court. The 2015 WOTUS Rule was rescinded, and was replaced by the Navigable Waters Protection Rule (2020 WOTUS Rule), finalized on April 21, 2020 (85 FR 22250). Several of our member states filed lawsuits challenging the 2020 WOTUS Rule in federal court. The 2020 WOTUS Rule was vacated, and was replaced by the Revised Definition of the "Waters of the United States" Rule (2023 WOTUS Rule), finalized on January 18, 2023 (88 FR 3004). On May 25, 2023, the U.S. Supreme Court issued its decision in *Sackett v. EPA* (#21-454). Citing the Justice Scalia plurality opinion in *Rapanos*, the five-Justice majority Court concluded that the definition of WOTUS in Clean Water Act (CWA) §1362(7) "encompasses only those relatively permanent, standing or continuously flowing bodies of water forming geographical features that are described in ordinary parlance as streams, oceans, rivers, and lakes." The Court held that WOTUS does not apply to all wetlands, but extends only to those wetlands with a continuous surface connection to bodies of water that are WOTUS in their own right, so that they are indistinguishable from those waters. The Court acknowledged that "temporary interruptions in surface connection may sometimes occur because of phenomena like low tides or dry spells." In footnote 16, the Court said: "Although a barrier separating a wetland from a water of the United States would ordinarily remove a wetland from federal jurisdiction, a landowner cannot carve out wetlands from federal jurisdiction by illegally constructing a barrier on wetlands otherwise covered by the CWA. Whenever the EPA can exercise its statutory authority to order a barrier's removal because it violates the Act...that unlawful barrier poses no bar to its jurisdiction." On August 29, 2023, the EPA and Corps issued an Amended 2023 Rule (88 FR 61964) to conform key aspects of the regulatory text to the *Sackett* decision. Two state lawsuits have challenged the Amended 2023 Rule: *Texas v. EPA* (TX, ID), and *West Virginia v. EPA* (AK, AL, AR, FL, GA, IA, IN, KS, LA, MI, MO, MT, ND, NE, NH, OH, OK, SC, SD, TN, UT, VA, WV, and WY). Both cases issued preliminary injunctions on the 2023 WOTUS Rule. A third case, *Kentucky v. EPA*, did not issue an injunction, but the rule is stayed while the decision is on appeal. The agencies are interpreting "waters of the United States" consistent with the pre-2015 regulatory regime and the Supreme Court's decision in

| *Sackett* for these 27 states until further notice. For the remaining 23 states, the District of Columbia, and the Territories, the agencies are implementing the Amended 2023 Rule.

For both regulatory regimes, the agencies entered into joint coordination memoranda to establish a process by which the Corps and EPA would coordinate on jurisdictional determinations “to ensure accurate and consistent implementation” of the regimes. These memoranda included implementation guidelines regarding identification of wetland areas and tributary reaches, whether site specific discrete features can serve as continuous surface connection, and whether natural landforms can provide evidence of a continuous surface connection. Under the newly inaugurated Trump Administration, the EPA set these memoranda to expire on March 27, 2025 ([WSW #2626](#)).

On March 12, 2025, the Trump Administration EPA and Corps announced they would jointly review the definition of “waters of the United States” (WOTUS) and released field guidance on the proper implementation of “continuous surface connection.” The field memo provided updated guidance for implementing WOTUS under both regimes currently operating across the country. Affirming the plurality set forth in *Rapanos v. United States*, 547 U.S. 715 (2006), the agencies interpreted “continuous surface connection” as adjacent wetlands that “directly abut the [requisite jurisdictional water] (e.g., they are not separated by uplands, a berm, dike, or similar feature).” The memo noted that wetlands with only an intermittent, physically remote hydrologic connection to WOTUS do not have the “necessary connection” to trigger the CWA. Departing from the prior administration’s coordination memoranda, the agencies wrote: “Therefore, an interpretation of ‘continuous surface connection’ which allows for wetlands far removed from and not directly abutting covered waters to be jurisdictional as adjacent wetlands has the potential to violate the direct abutment requirement for ‘adjacent wetlands’ under the plurality’s standard and now *Sackett*’s endorsement of that standard. Therefore, any components of guidance or training materials that assumed a discrete feature established a continuous surface connection are rescinded.” See [WSW #2652](#).

EPA and Army Corps received over 4200 comments in response to their solicitation for feedback on implementing and defining WOTUS (Docket EPA-HQ-OW-2025-0093), including comments from the States of Alaska, California, Idaho, Nevada, New Mexico, North Dakota, Utah, Washington, and Wyoming. WSWC prepared a summary of state comments which can be accessed at <https://westernstateswater.org/policy-letters/2025/cwa-wotus-definition/>.

**Work-to-Date:** WSWC adopted positions #369 and #373 regarding CWA rulemaking efforts and state-federal collaboration. Position #369 was revised and readopted as Position #410, while Position #373 was allowed to sunset and acknowledged as a letter with continued historical value. At the October 2018 meeting in Coeur d’Alene, Idaho, Position #410 was revised and readopted as #427, with the State of Washington abstaining from the vote. At the September 2021 meeting in Deadwood, South Dakota, Position #472 was again revised and adopted, with the understanding that further efforts would be made to improve the position the following Spring. WSWC sent various letters and comments to EPA and the Corps. At the April 2022 meeting in Arlington, Virginia, Position #481 was revised and adopted, replacing #472.

In the Summer of 2022, WSWC hosted a series of workshops to consider the technical and policy implications of a regional approach to WOTUS implementation, and prepared a draft white paper to document this effort for future use. See [https://westernstateswater.org/wp-content/uploads/2022/10/WSWC-WOTUS\\_RegionalConcepts\\_Technical\\_Whitepaper\\_Final.pdf](https://westernstateswater.org/wp-content/uploads/2022/10/WSWC-WOTUS_RegionalConcepts_Technical_Whitepaper_Final.pdf)

On June 2, 2025, WSWC sent a letter in response to the federalism consultation initiated by the agencies' announcement of a forthcoming rulemaking on the Implementation of the Definition of Waters of the United States. WSWC highlighted state authority, and the impact of the rulemaking on states. The letter stated the WSWC position that any federal effort to clarify or define WOTUS must "create an enduring and broadly supported definition; acknowledge states as co-regulators; provide a clear process for resolving jurisdictional determination differences; provide for joint federal/state/tribal mapping of jurisdictional waters; and consider a regional approach to implementation based on hydrology, geology, and climate." The full letter can be accessed at <https://westernstateswater.org/policy-letters/2025/wswc-letter-wotus-federalism/>.

**2025-2026:** The Committee will continue to work with the Water Resources and Water Quality Committees through the Workgroup to follow and comment on federal actions regarding CWA jurisdiction in accordance with the WSWC's and WGA's positions, as well as consider the impacts of the new rule(s) on state policies, programs and regulations.

**Time Frame:** Ongoing

CWA Rulemaking Workgroup: Jennifer Zygmunt (WY), Tom Stiles (KS), and Julie Cunningham (OK).

\*See Item 2(a) of the Water Quality Committee Workplan

## **b. Maui and Groundwater**

Background: The U.S. Supreme Court issued a ruling in *County of Maui v. Hawaii Wildlife Fund*, 140 S. Ct. 1462 (2020), holding that the provisions of the Clean Water Act require a National Pollution Discharge Elimination System (NPDES) permit when there is a "functional equivalent of a direct discharge," which may include some discharges through groundwater. The Court noted that many factors may be relevant in determining whether a pollutant discharged through groundwater is a functional equivalent of a direct discharge to navigable waters. Time and distance will be the most important factors in most cases. The Court offered the examples of: (1) a 100-year migration of pollutants through 250 miles of groundwater to a river, which would not ordinarily require a permit; (2) where a pipe ends 50 miles from navigable waters and the pollutants mix with groundwater and other materials in the aquifer, ending up in navigable waters many years later, in which case permitting requirements likely would not apply; and (3) where a pipe emits pollutants only a few feet through groundwater before discharging into a navigable water. Other relevant factors might include the nature of the aquifer material, the extent to which the pollutant is diluted or chemically changed as it travels, the amount of pollutant entering the navigable waters relative to the amount discharged at the point source, how or where the pollutant enters the navigable waters, and the degree to which the pollution has maintained its specific identity.

In January 2021, EPA issued a notice of implementation guidance (86 FR 6321) which was rescinded in September 2021 (86 FR 53653). EPA issued a new draft guidance in November 2023 (88 FR 82891). Several WSWC member states submitted comments on the proposed guidance ([WSW Special Report #2591](#)).

Two federal cases have analyzed the application of the “functional equivalent” standard: *Cottonwood Environmental Law Center v. Edwards*, 86 F.4th 1255 (9th Cir. 2023) (over-irrigation of golf course leaching nutrients into groundwater) and *Stone v. High Mountain Mining Company*. #22-1340 (10th Cir. 2024) (discharge from unlined settling ponds seeping into groundwater).

**2024-2025:** The Committee will work with the Water Quality Committee through the Workgroup to follow and comment on federal actions regarding *Maui* guidance in accordance with the WSWC’s and WGA’s positions, as well as consider the impacts of any guidance or rules on state policies, programs and regulations.

**Time Frame:** Ongoing

Maui Workgroup: Jennifer Zygmunt (WY), John Mackey (UT), Julie Pack (AK)

\*See Item 2(k) of the Water Quality Committee Workplan

### **3. AD HOC GROUP ON RESERVED INDIAN WATER RIGHTS**

**Work-to-Date:** The Western Governors’ Association (WGA) and WSWC have long supported the negotiated resolution of Indian water rights claims (WSWC Position #504). As a result, the WGA and WSWC have worked with the Native American Rights Fund (NARF) for over forty years as part of an Ad Hoc Group on Reserved Indian Water Rights to promote negotiated settlements.

Over the years, the Ad Hoc Group has carried out a number of activities to support the negotiated settlement of Indian reserved water rights claims, including frequent trips to Washington, D.C. to support policies and legislation that facilitate settlements. A biennial symposium on settlements is held by the WSWC and NARF every odd year. The Group has also worked to highlight the need to secure a permanent funding mechanism for authorized settlements and to identify alternative funding sources to help ensure that settlements authorized by Congress and approved by the President will be implemented.

In recent years, the WSWC and NARF have established regular meetings with the Deputy Secretary of the Interior’s Office, the Secretary of the Interior’s Indian Water Rights Office, and other Interior and Department of Justice officials engaged in Indian water rights settlement efforts. The WSWC and NARF have also held regular meetings with the White House Office of Management and Budget and other White House officials to support the WSWC’s settlement policies.

On August 8-9, 2023, the WSWC and NARF co-hosted the 18<sup>th</sup> Biennial Symposium on the Settlement of Reserved Water Rights, highlighting the Hualapai Tribe’s settlement authorized by the 117<sup>th</sup> Congress. The Symposium also provided a forum to discuss the Biden Administration’s settlement and negotiation policies, Congressional outlooks for pending settlement bills and permanent funding mechanisms, and water leasing of reserved water rights. Recordings and presentation materials for past Symposia are available at: <https://westernstateswater.org/topical-resources/indian-reserved-water-rights/>

**2025-2026:** The Committee will oversee WSWC’s Ad Hoc Group efforts in the following areas: (1) activities to gather support for an appropriate remedy to settlement funding issues, including the

development of a permanent settlement funding mechanism, the identification of other possible funding sources, and funding for federal assessment, negotiation, and implementation teams; (2) continue meeting with the Administration via quarterly conference calls and other face-to-face opportunities to discuss key issues associated with Indian water rights settlements, including possible modifications to the Criteria & Procedures; (3) discuss potential adjustments to the long-time support of the Reclamation Water Settlement Fund in light of new Congressionally-authorized funds and the mix of both project-based and fund-based settlements; and (4) prepare to hold the 2025 Symposium on the Settlement of Indian Reserved Water Rights Claims in partnership with the Native American Rights Fund.

**Time Frame:** Ongoing

Reserved Rights Subcommittee: Jay Weiner (MT), Teresa Wilhelmson (UT). NARF members participating in the Subcommittee in an *ex officio* capacity include: John Echohawk, Dan Lewerenz, and David Gover. Other *ex officio* members include:

#### **4. WRDA/CORPS POLICIES**

**Work to date:** The Council has in the past supported regular passage of a Water Resources Development Act (WRDA), and has addressed a number of specific policy issues, while not taking any position on specific project authorizations. The Council has raised concerns with the U.S. Army Corps of Engineers' approach to identifying and regulating the use of "surplus waters," and Corps drought authorities related to Corps projects. The Council also worked successfully to exclude irrigation water supply canals from federal levee safety program, and to encourage the Corps to withdraw the Surplus Water Supply rulemaking.

On May 10, 2022, the Council sent a letter in support of Senator Cramer's proposed legislation to create a committee with the Corps of Engineers and the States focused on cooperative federalism concerns surrounding the management of water resources, which passed as §8158 of WRDA 2022. The purpose of the Western Water Cooperative Committee (WWCC) is to ensure that U.S. Army Corps of Engineers (Corps) "flood control projects in Western States are operated consistent with congressional directives by identifying opportunities to avoid or minimize conflicts between the operation of the [Corps] projects and water rights and water laws in such States." The membership of the Cooperative Committee includes the Assistant Secretary of the Army for Civil Works, the Chief of Engineers, two representatives from each Western State appointed by the governor and the attorney general, and one employee from each of the impacted regional offices of the Bureau of Indian Affairs. On March 17, 2023, the WSWC co-hosted a briefing for our western states on the WWCC with the Conference of Western Attorneys General (CWAG) and WGA, and encouraged our Governors and Attorneys General to prepare appointment letters to the Committee. The briefing materials are available at: <https://westernstateswater.org/events/wswc-cwag-briefing-wwcc/>

On May 18, 2023, the WSWC and CWAG sent a group of 25 appointment letters to Assistant Secretary Mike Connor, with some Governors and Attorneys General sending letters directly to the Army Corps of Engineers. On August 29, 2023, the Corps reached out to verify contact information for each of the current appointees, and WSWC assisted with outreach and filling in the gaps. The Corps indicated that they were nearing a point where they would be able to stand up the WWCC, but were still waiting for approval on funding to facilitate efficient operation of the committee and to



determine whether FACA rules apply. In December 2023, the Army determined that FACA rules apply.

**2025-2026:** The Council will continue to work with the Congress and Corps on WRDA and Corps-related issues, to ensure that state water rights and prerogatives are protected, specifically as it relates to natural flows, Corps storage and other issues.

#### **Subcommittee:**

## **5. GROUNDWATER**

There are a number of ongoing groundwater issues that pertain to WSWC policies or are otherwise of interest that the Committee will monitor and address on an as-needed basis.

### **a. Reserved Water Rights**

**Background:** On March 7, 2017, the 9<sup>th</sup> Circuit (849 F.3d 1262) upheld the California District Court’s summary judgment from Phase I of the trifurcated case, *Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District* (No. 15-55896). The 9<sup>th</sup> Circuit decision holds that the United States implicitly reserved a right to water when it created the Agua Caliente Reservation, and that the Tribe’s reserved water right extends to the groundwater underlying the Reservation. The court acknowledged that it was unable to find any controlling federal appellate authority explicitly holding that the federal reserved water rights doctrine in *Winters v. United States*, 207 U.S. 564 (1908), extends to groundwater. Instead, it pointed to *United States v. Cappaert*, 426 U.S. 128 (1976) and *In re General Adjudication of All Rights to Use Water in Gila River System and Source*, 989 P.2d 739 (Ariz. 1999) as persuasive and implied authority for its decision, emphasizing that *Winters* does not distinguish between surface and groundwater or prohibit the inclusion of groundwater.

Given that the federal agencies have relied on tribal water rights cases in the past to press for reserved water rights to groundwater, the implications of the 9<sup>th</sup> Circuit decision could be far reaching, not only for states and tribes outside the 9<sup>th</sup> Circuit’s jurisdiction, but also for federal agencies seeking to control groundwater appurtenant to federal lands.

As one example, the Forest Service issued a proposed groundwater directive May 6, 2014. Although the Forest Service asserted that the directive would not infringe on state-issued water rights or change how state groundwater and surface water quality regulations affect federal lands, the proposed directive would have: (1) required application of “...the Reservation or Winters Doctrine to groundwater, as well as surface water, consistent with the purposes of the Organic Administration Act, the Wild and Scenic Rivers Act, and the Wilderness Act;” (2) required the Forest Service to evaluate all applications to states for water rights on lands adjacent to NFS lands; and (3) would have presumed that groundwater and surface water are connected unless proven otherwise. Western Governors strongly objected to the directive, as did the WSWC, which worked with the Forest Service to modify it. The Forest Service later withdrew this proposed directive.

WSWC position #515 notes that no federal statute has addressed any federal property or other rights to groundwater, and opposes “...efforts that would establish a federal ownership interest in groundwater or diminish the primary and exclusive authority of States over groundwater.”



Subsequent court decisions that have cited to *Agua Caliente*'s groundwater holding include: (1) *Silver v. Pueblo Del Sol Water Co.*, 423 P.3d 348, 353 (Ariz. 2018); (2) *State ex rel. State Eng'r v. United States*, 425 P.3d 723, 733-734 (N.M. Ct. App. 2018) (oblique reference, as the settlement at issue included reserved groundwater); (3) *United States v. State (In re CSRBA Case No. 49576 Subcase No. 91-7755)*, 448 P.3d 322, 350-351 (Idaho 2019); (4) *Baley v. United States*, 942 F.3d 1312, 1338, (Fed Cir. 2019) (although for the discussion on groundwater this case cites to *Cappaert v. United States*, 426 U.S. 128, 142-43 (1976)); (5) *United States v. Walker River Irrigation Dist.*, 473 F. Supp. 3d 1150, 1156-1157 (D. Nev. 2020).

Additionally, the Department of Defense is considering reserved water rights claims to the use of groundwater for Naval Air Weapons Station China Lake in the groundwater basin adjudication *Indian Wells Valley Water District v. All Persons Who Claim a Right to Extract Groundwater in the Indian Wells Valley Groundwater Basin, etc., et al.* (Orange County Superior Court, California, 30-2021-01187275-CU-OR-CJC).

On January 31, 2024, the U.S. Fish and Wildlife Service submitted a letter asserting federal reserved water rights to groundwater that could be negatively impacted by a proposed permit from the Georgia Environmental Protection Division (GEPD) for a mining company that seeks to withdraw 1.4 million gallons a day to mine titanium dioxide three miles from the Okefenokee National Wildlife Refuge. The letter noted the risk to the refuge, despite GEPD's conclusion that there would be a minimal impact.

**2025-2026:** The Committee will continue to work to ensure that state water rights and prerogatives are protected, specifically as they relate to tribal and non-tribal federal water rights and state authority over groundwater.

## **b. Groundwater Storage Projects**

**Background:** In 1983, Congress passed the High Plains States Ground Water Demonstration Project Act, authorizing the Bureau of Reclamation to undertake a westwide groundwater recharge program. In 1989, WSWC and Reclamation entered a cooperative agreement to prepare a number of case studies to evaluate project effectiveness, identify economic and institutional problems such as the allocation of project costs and requisite legal authorities, and recommend alternative solutions to improve public policymaking with respect to future groundwater programs and projects. As a result of this agreement, WSWC prepared two reports in 1991 and 1998, titled Ground Water Recharge Projects in the Western United States. Among other recommendations to encourage recharge opportunities, the 1998 report suggested that each state examine its own legal and institutional systems to assure that they adequately address groundwater recharge, amending statutes as necessary to recognize it as a beneficial use, and reasonably protect the right to recover recharged waters.

**2025-2026:** In coordination with the Water Resources Committee, the Legal Committee will work on updating the information in the old reports, and prepare a new summary report. The Committee will query the states to review and update their relevant laws on groundwater storage, particularly as they relate to groundwater banking or Aquifer Storage and Recovery (ASR) projects.

## **c. State Groundwater Regulation**

**Background:** In 2023, various news organizations began publishing articles on the use of groundwater in the nation, with a particular focus on groundwater overuse in the West. While the articles highlighted genuine challenges (depletion, pollutants, subsidence, lack of monitoring), they lacked information about the nuances of western water laws, and did not include the efforts and progress states have made over the past several decades to address those challenges. Several of the articles called for federal regulation of groundwater, asserting that the states would not or could not do enough to address the groundwater management challenges.

In 2024, the White House solicited input from the public to address questions regarding groundwater use, recharge, and storage across the United States. The President’s Council of Advisors on Science and Technology (PCAST) issued specific questions regarding methods for timely collection of data, effective modeling and prediction of groundwater changes, efficient scaling of groundwater recharge, ensuring clean and safe groundwater availability, community engagement, and strategies to limit groundwater overuse. The PCAST briefing read: “In the western states especially, groundwater resources are being depleted at an alarming rate, mostly from agricultural withdrawal. The problem of groundwater depletion is exacerbated by climate change and precipitation variability and in many aquifers, groundwater withdrawal has outpaced natural and artificial recharge. There is a need to explore the consequences of artificial recharge and to identify successful recharge approaches that might be scaled across the country.... Groundwater is managed locally, with best practices that vary from state to state, but there is an opportunity to develop and scale approaches to restore clean water in every community.”

**Work to Date:** On July 1, 2024, the WSWC submitted a comment letter along with two policy positions on groundwater allocation and groundwater quality. On July 22, 2024, Council staff participated in the PCAST workshop.

[Prior to the Spring 2025 meetings in Nebraska, the WSWC hosted a discussion-focused groundwater workshop for states to share their recent challenges and successes in groundwater regulations, aquifer science, conjunctive management, and monitoring.](#)

**2025-2026:** The Council will explore the potential of hosting [further](#) groundwater workshops [and webinars](#) in the coming year, with opportunities for states to share with each other challenges and developments in technologies, resources, and regulations.

**Subcommittee:** Raquel Rancier (OR), Anna Pakenham Stephenson (MT), Mathew Weaver (ID), Melissa Flatly (NV), Chris Brown (WY), Joaquin Esquivel (CA), Sara Schecter (UT), Theresa Wilhelmson (UT), Jesse Bradley (NE). Ex-Officio members: Dan Yates (GWPC).

## **6. WATER RIGHTS**

Some of our states have expressed interest in understanding how other states approach different aspects of the management and administration of water rights, including what qualifies as beneficial uses, extensions of time to prove beneficial use to perfect a water right application, and statutes or rules or court procedures governing curtailments in times of scarce water resources, and regulation of water wells. In December 2020, Council staff began distributing a series of survey questions to member states to facilitate this understanding. In 2021, WSWC members responded to the survey questions, and WSWC staff began compiling the responses into four separate reports.

[In April 2025, the first report on State Engineers was presented to the states for review.](#)

#### **a. State Water Well Construction Rules and Regulations**

**Background:** The State Engineer, or other state official, is required to make rules regarding well construction and related regulated activities and the licensing of water well drillers and pump installers. Various states have varying requirements, which may change from time to time. The purpose of these rules is to: (1) assist in the orderly development of underground water; (2) insure that minimum construction standards are followed in the drilling, construction, deepening, repairing, renovating, cleaning, development, testing, disinfection, pump installation/repair, and abandonment of water wells and other regulated wells; (3) prevent pollution of aquifers within the state; (4) prevent wasting of water from flowing wells; (5) obtain accurate records of well construction operations; and (6) insure compliance with the state's authority for appropriating water. The rules establish administrative procedures for applications, approvals, hearings, notices, revocations, orders and their judicial review, as well as requirements related to well construction standards, such as casing, and procedures for monitoring, reporting and criteria for the waivers of certain requirements.

**2025-2026:** Council staff will prepare a report of the 2021 responses to the survey questions. The Committee and Council will also provide a forum for the discussion of best management practices.

**Subcommittee:**

**Timeframe:**

#### **b. Proof of Beneficial Use of Water and Extension Criteria**

**Background:** Beneficial use is the measure of any right to the use of water in the West. The State Engineer, or other state official, on behalf of the State, may grant a permit to put water to beneficial use but evidence or proof of completion of the work necessary to then actually put the water to use is also required. Only after development is done and the water is being fully put to beneficial use, will a water right be granted, which will be limited to the extent and nature of use in the accepted proof. This also applies to requests to change the use of a water rights, whether changing the point of diversion, use or purpose of use, or location water is returned to a natural source. Generally, some specific period of time will be allowed to complete the work, and if needed applicants may request an extension of time. The specific criteria for proof of beneficial use and extending timelines may vary by state.

**2025-2026:** Council staff will compile responses to the 2021 survey questions and report on the results. The Committee and Council will also provide a forum for the discussion of best management practices.

**Subcommittee:**

**Timeframe:**

#### **c. Calls and Curtailments**

**Background.** Droughts in many areas of the West have highlighted state procedures and methods of enforcing curtailment of water uses and administration of water rights in a priority system, particularly where junior groundwater pumping, insufficient carriage water, instream flow for fish and wildlife, junior municipal supply, and federal reserved rights are at issue.

**2025-2026:** Council staff will prepare a report on the 2021 survey responses. The Committee and Council will also provide a forum for a discussion of water rights enforcement.

**Subcommittee:**

**Timeframe:**

## Tab M – WSWC-NARF Indian Water Rights Symposium

**WATER RIGHTS****Symposium on the Settlement of Reserved Indian Water Rights Claims****August 15, 2025  
Special Report #2674**

On August 6, the Native American Rights Fund (NARF) and WSWC virtually hosted the 19th Biennial Symposium on the Settlement of Reserved Indian Water Rights Claims. The Symposium provided an overview of the complex and multifaceted processes leading to Indian water rights settlements. The speakers covered historical context, federal policy, tribal experiences, negotiation strategies, legislative hurdles, and implementation challenges, highlighting the enduring collaborative efforts and difficulties in achieving these agreements that are critical to water security across the West.

**Introductory Remarks**

The symposium commenced with introductory remarks from John Echohawk, Executive Director of NARF, and Tony Willardson, Executive Director of WSWC, setting a tone of collaborative commitment. Both speakers underscored the shared purpose and enduring partnership between tribal organizations, state entities, and federal agencies in addressing critical water resource issues. Echohawk emphasized the long-standing importance of water rights for tribes, particularly in the arid American West. He recounted the establishment of NARF in 1970 to provide legal assistance to tribes, noting that at the time, many tribes lacked legal representation despite possessing significant rights under treaties, federal Indian law, and U.S. Supreme Court decisions. Past federal policies towards tribes were to ignore them, to force assimilation, and to terminate tribes.

Echohawk highlighted a pivotal shift in federal Indian policy under President Nixon, which began to recognize Indian self-determination, treaties, and sovereignty. This change allowed NARF, in conjunction with the federal government, to assert tribal water rights in litigation. He stressed the unique nature of tribal water rights, often senior and “reserved” for present and future uses with priority dates extending to the establishment of the reservations or even time immemorial. Echohawk described the large-scale litigation necessitated by these claims, which required joining all water users in a basin, capturing the attention of western governors and businesses. This led to the Western Governors Association hosting a meeting in 1981, where a consensus emerged among Tribes and States to pursue settlements as an alternative to protracted and costly litigation. Together they went to Washington, D.C., and the Department of the Interior (DOI) was amenable to establishing the Indian Water Rights Office. Since then, 35 Indian water rights settlements have been passed by Congress, with NARF involved in nine of them. Echohawk noted ongoing negotiations for approximately 20 settlements and about a dozen pending bills in Congress, underscoring the continued relevance and activity in this field. He concluded by affirming NARF’s commitment to these issues, noting the Symposium’s role since 1991 in reviewing progress and educating various federal, state, and tribal stakeholders.

Willardson noted the WSWC’s 60th anniversary. The WSWC, now representing 18 States, was created by Western Governors to advise them on water policy. He underscored the WSWC’s mission to ensure adequate and suitable water supplies for the West’s present and future economic and environmental needs. Willardson paid tribute to his predecessor, Craig Bell, who, along with John Echohawk, laid the groundwork for the partnership between NARF and WSWC. This symposium marked Willardson’s last as Executive Director, as he was set to retire at the end of the month. Willardson shared a personal anecdote about his great-great-grandfather, William Lee, who mediated between native peoples and pioneers in Utah, emphasizing the historical significance of communication, trust-building, and shared resource management in the West. He drew parallels to contemporary challenges of drought and water scarcity. “Today we face many challenges as sovereign Nations and States, as stewards of the land and of the waters and leaders of our people. Drought and lack of rain and snow exacerbates these challenges and threatens our ways of life. We’re gathered from all over the West, though remotely, to talk, to communicate our wants and needs, to build trust, and to work together towards a better future for our people.”

**The Federal Settlement Process**

Next, Sarah LeFlore, Acting Director of the Secretary’s Indian Water Rights Office, and Karen Budd-Falen, Advisor in the Office of the U.S. Secretary of the Interior, provided an overview of the federal approach to Indian water rights settlements. LeFlore detailed the “settlement era” that began in the 1970s, driven by the inefficiencies of litigation. She noted that 39 settlements have been completed by DOI, with 35 enacted by Congress and four approved by the Administration. Settlements often evolve from general state stream adjudications and typically involve multiple parties, though the level of state participation varies. California’s state government is generally not a party, while Montana compacts involve only the State, Tribe, and federal government. Other States, like Arizona and New Mexico, see extensive party involvement, including irrigation districts, municipalities, and other governmental entities.

Incentives for settlement include the senior priority of tribal water rights, which can cloud title for non-Indian users, who may participate to gain greater certainty for the future of their existing water uses and avoid priority calls in times of water scarcity. Settlements provide the opportunity for Tribes to secure water and necessary infrastructure. The federal government's participation stems from its trust responsibility and government-to-government relationship with Tribes, as well as a general desire for dispute resolution.

LeFlore stressed that Tribes take the lead role in negotiations, with the federal government following their direction. The Interior Department provides technical and financial assistance through the Bureau of Indian Affairs (BIA) and Bureau of Reclamation (Reclamation). Changes in tribal, state, and federal administrations can cause delays. Tribal communication with their membership is also crucial, especially where ratification by vote is required. Settlements with broad commitment from all stakeholders are more likely to be approved by the Secretary's office. An "agreement in principle" is usually reached before federal legislative approval is sought, which often requires multiple introductions of bills in Congress before enactment.

The federal settlement process is coordinated by the Working Group on Indian Water Rights Settlements, established in 1989, and the Secretary's Indian Water Rights Office (SIWRO). SIWRO was formally established within the Secretary's office in 2009 when the DOI manual was updated, but it has existed since the early 1990s. SIWRO coordinates policy issues across departmental bureaus, works closely with the Solicitor's Office, and signals the importance of settlements to the department as a whole. They receive policy direction from the Chair of the Working Group. LeFlore provided an update on SIWRO staff, noting the recent retirement of the former SIWRO Director Pam Williams and highlighting their small but dedicated team.

Federal settlement teams are established upon tribal request, considering ten factors like existing adjudications, urgency, and party commitment. These teams, comprising representatives from BIA, Reclamation, the Solicitor's Office, and the Department of Justice (DOJ), are the primary mechanism for day-to-day negotiations. Currently, there are 45 teams with 19 implementing enacted settlements, 4 negotiating, and 4 assessing potential settlements. The federal legislative approval process involves the Working Group establishing negotiation positions and SIWRO assisting in drafting legislation. Departmental testimony, cleared by the Office of Management and Budget, marks the first official federal position. Factors influencing legislative success include congressional delegation leadership, stakeholder involvement, water supply availability, and politics.

LeFlore distinguished between project-based settlements, which involve specific infrastructure construction (e.g., Navajo-Gallup Project), and fund-based settlements, which establish trust funds for Tribes to develop water infrastructure (e.g., Navajo Utah). While project-based settlements face challenges like cost overruns and lack flexibility to adapt over time, fund-based settlements are generally preferred by DOI where appropriate due to the greater federal certainty, though the department will not force this model on Tribes. Some Tribes prefer the flexibility of fund-based settlements, allowing them to control their destiny in terms of water development and potentially participate in water markets. Some pending settlements use a hybrid approach. Settlement costs vary widely, with federal funding predominating. Funding mechanisms include discretionary appropriations (BIA for trust funds, Reclamation for infrastructure), mandatory funding (in some settlements and all pending ones), the 2009 Reclamation Water Settlement Fund, and the 2021 Indian Water Rights Completion Fund (which provided \$2.5 billion but is now expended). LeFlore also highlighted emerging trends, including a slowdown in Arizona settlements due to Central Arizona Project water limitations, and increased settlement activity in New Mexico, along with amendments to enacted settlements for increased funding in the face of inflation or modified uses.

Budd-Falen, who chairs the Working Group on Indian Water Rights Settlements, emphasized the Secretary's commitment to supporting settlements and encouraged parties to be creative and inclusive and develop broad stakeholder buy-in. She encouraged realistic feasibility studies for project-based settlements to ensure cost accuracy and reduce future overruns, and encouraged fund-based settlements where appropriate. She noted the unique nature of each Tribe and settlement.

## **The Federal Settlement Process: A Tribal Perspective**

Bidtah Becker, Chief Legal Counsel for the Navajo Nation, and Wes Williams, Jr., General Counsel for the Walker River Paiute Tribe, offered tribal perspectives on water rights settlements, highlighting historical context, generational shifts, and the complexities of negotiation. Becker shared her experiences with the Navajo Nation's protracted water rights claims, emphasizing the generational nature of these efforts. She noted the shift from litigation to settlement, a path encouraged by figures like John Echohawk and supported by the federal government's trust responsibility. Becker highlighted the long history of Navajo's water claims, spanning nearly 50 years for some adjudications. She underscored the importance of tribal leadership in negotiations and the need for continuous communication with tribal members, especially when settlements require ratification. Becker discussed the Navajo Nation's move towards a hybrid settlement model that includes both project-based components, like the Navajo-Gallup Water Supply Project, which delivered clean drinking water during COVID-19, and fund-based components for future water acquisition in the lower basin. She stressed that while

project-based settlements deliver tangible infrastructure, fund-based settlements offer flexibility and allow Tribes to participate in water markets, securing resources from willing sellers. Becker also noted the increasing costs of settlements over time, arguing that upfront investment is more cost-effective than prolonged litigation. She emphasized the importance of the federal commitment to these agreements, drawing a contrast with the historical underfunding of services like the Indian Health Service.

Williams recounted the Walker River Paiute Tribe's nearly 30-year journey to settle parts of the Walker River Decree, a case initiated in 1924. He detailed the Tribe's senior water rights (1859 priority date) and their crucial claim for a recognized right to store water in Weber Reservoir. Williams explained the extensive challenges of serving defendants and the numerous, often unsuccessful, settlement attempts over the years, often derailed by broader, contentious issues like the declining Walker Lake. He highlighted a turning point when the federal court, after initially dismissing the Tribe's claims, reversed course and ruled in the Tribe's favor on numerous affirmative defenses, eliminating obstacles that had long plagued negotiations. This legal clarity ultimately opened the door for successful settlement discussions in 2024. Both Becker and Williams underscored the unique circumstances of each Tribe, the resilience required in negotiations, and the profound impact of water settlements on tribal self-determination and community well-being.

## **Negotiation and Settlement of Indian Water Rights Claims**

This session, moderated by Alice E. Walker, featured perspectives from Grace Rebling, an attorney with Osborn Maledon; Fred Lomayesva, General Counsel for the Hopi Tribe; Jay Weiner, an Administrative Law Judge with the Montana Department of Natural Resources and Conservation; Guss Guarino and Marisa J. Hazell, Trial Attorneys from the DOJ Tribal Resources Section/Environment and Natural Resources Division. Rebling and Lomayesva provided insights into the Hopi Tribe's long-standing efforts toward the settlement of their reserved water rights claims. Lomayesva emphasized the cultural and existential importance of water for the Hopi people, whose traditions are deeply tied to water scarcity in their arid lands. He detailed the Tribe's engagement in the Northeastern Arizona Indian Water Rights Settlement Act (NAWSA), highlighting the arduous, multi-generational negotiation process that involved not only federal and state entities but also other tribal nations like the Navajo and San Juan Southern Paiute. Rebling spoke to the intricate legal and technical challenges, including the quantification of rights and the development of infrastructure plans, emphasizing the need for flexibility and adaptability in negotiations given changing environmental conditions and evolving federal policies.

Weiner offered a state perspective, specifically on Montana's successful compacting process. He explained how Montana's Water Use Act of 1973 set up a framework for negotiating and codifying Indian water rights through compacts, which are then ratified by the State Legislature and Congress. Weiner highlighted the importance of a dedicated state commission (e.g., Montana's Reserved Water Rights Compact Commission) that maintains institutional knowledge and fosters consistent engagement with Tribes, developing trust and streamlining negotiations. He cited the Confederated Salish and Kootenai Tribes (CSKT) settlement as a prime example of a successful, comprehensive compact that addressed not only water rights but also land transfers and funding for infrastructure.

Guarino emphasized the DOJ's responsibility in protecting tribal trust resources through litigation where necessary, but also actively supporting and participating in settlement negotiations as a preferred alternative. Hazell elaborated on the intricate legal review process within the DOJ, ensuring that proposed settlements align with federal law, policy, and the government's trust responsibility. Both underscored the need for comprehensive agreements that address legal certainty, provide for infrastructure development, and secure appropriate federal contributions, acknowledging the significant financial and legal complexities involved in bringing these settlements to fruition. The discussion collectively highlighted the long-term commitment, intergovernmental collaboration, and adaptability required to navigate the challenging landscape of Indian water rights settlements.

## **Settlement Legislation: Getting Bills Through Congress**

Tanya Trujillo, Deputy State Engineer for the New Mexico Office of the State Engineer, moderated a discussion on the intricate process of shepherding Indian water rights settlement bills through Congress, featuring insights from congressional staff Darren Modzelewski, Counsel for the Senate Committee on Indian Affairs (minority), and Qay-Liwh Ammon, Professional Staff for the House Committee on Natural Resources (minority). Ammon started with a House perspective. She explained that the House Committee on Natural Resources is the main committee of jurisdiction, with its Subcommittee on Water, Wildlife, and Fisheries often taking the lead. Ammon reiterated the importance of clear, concise communication about the bill's benefits, both for the tribes and for regional stability. She noted that the House, with its larger membership, presents different challenges and opportunities for building coalitions. Ammon emphasized the need for persistence, as bills often take multiple congressional sessions to pass. She also spoke about the importance of demonstrating local support for the settlement, including endorsements from state and local governments, and non-tribal water users, which signals to members that the bill addresses a broad constituency.

Modzelewski offered a detailed look at the Senate side. He emphasized that the Senate Committee on Indian Affairs serves as the primary committee for these bills, though other committees like Energy and Natural Resources, and even



Appropriations, might have jurisdiction depending on the bill's specifics. Modzelewski highlighted the importance of bipartisan support, especially in a divided Congress, noting that a single Senator's objection can significantly impede progress. He stressed the need for strong advocacy from tribal leadership and state partners to educate and persuade members of Congress and their staff. He also pointed out the critical role of the Congressional Budget Office (CBO) in scoring bills, as their cost estimates heavily influence legislative viability. Modzelewski underscored that "no surprises" is a key principle for congressional staff and members — they prefer to be fully informed about a bill's implications, particularly its financial and legal aspects, to avoid unexpected issues that could derail its passage.

Both Modzelewski and Ammon agreed that successful legislative efforts hinge on proactive engagement with congressional offices, thorough preparation of supporting materials, and a unified front from all stakeholders. They highlighted the competitive nature of the legislative calendar and the need for a compelling narrative that resonates with a wide range of congressional priorities. The discussion underscored that while the path through Congress is fraught with political and procedural hurdles, consistent effort and broad-based support significantly increase the likelihood of success for Indian water rights settlement bills.

## **Settlement Legislation: Tribal Perspectives**

Daniel Cordalis, Staff Attorney at NARF, moderated a session on tribal perspectives regarding the legislative process for water rights settlements, featuring insights from the legal counsel for various Tribes, including Ryan Smith, Shareholder at Brownstein Hyatt Farber Schreck; Ryan Rusche, attorney with Sonosky Chambers Perry & Sachse; and John Bezdek, Shareholder at Water and Power Law Group PC.

Smith, who serves as counsel for the Navajo Nation, discussed the unique challenges faced by large, multi-state Tribes like the Navajo Nation in advancing settlement legislation. He emphasized the sheer scale of the Navajo Nation's claims, which span multiple States and river basins, requiring a comprehensive legislative approach that can accommodate diverse regional interests. Smith highlighted the necessity of consistent and coordinated engagement with a wide array of congressional delegations and committees, often across different House and Senate chambers. He also touched upon the complexities of internal tribal processes, including extensive consultation with chapters and leadership, which are crucial for building consensus and securing tribal ratification — a prerequisite for congressional action.

Rusche, representing the Confederated Salish and Kootenai Tribes (CSKT), offered insights from a Tribe that has successfully navigated the legislative process. He underscored the importance of strong, unified tribal leadership and a clear, well-articulated vision for the settlement. Rusche detailed how CSKT's long-standing relationship with its congressional delegation and effective public outreach helped build broad support. He also emphasized the significance of a comprehensive compact that addressed not only water rights but also other key tribal priorities, like land transfers and funding for resource management, which allowed for a more compelling legislative package. Rusche noted that even after successful passage, continued engagement with Congress is essential for securing implementation funding and addressing any unforeseen issues.

Bezdek, counsel for the Colorado River Indian Tribes (CRIT), provided a perspective rooted in the highly complex and often contentious Colorado River Basin. Bezdek highlighted the challenges of negotiating and legislating in an environment where water scarcity is paramount and competing interests are intense. He stressed the importance of carefully quantifying tribal water rights and demonstrating how a settlement can contribute to overall basin stability rather than exacerbating existing tensions. Bezdek emphasized the need for Tribes to be proactive in shaping the legislative narrative and to build alliances with other basin stakeholders, including States and water users, to present a unified front to Congress. He also discussed the strategic considerations involved in timing legislative pushes, recognizing that the broader political climate and ongoing river negotiations can significantly impact a bill's chances of success.

Collectively, the panelists underscored that tribal success in Congress for water rights settlements relies on sustained advocacy, adaptability to the political landscape, robust internal tribal consensus, and the ability to forge strategic alliances with diverse stakeholders.

## **Implementation of Indian Water Rights Settlements**

The final session of the symposium, moderated by Phillip Perez, Chairman of the Northern Pueblos Tributary Water Rights Association, discussed the critical implementation phase of Indian water rights settlements after congressional authorization. The panel featured Pueblo representatives Ryan Swazo-Hinds, Environmental Biologist, Pueblo of Tesuque; Jeff Montoya, Development Department Specialist, Pueblo of Pojoaque; Mike Lujan, Mayordomo, Pueblo of Nambé; Governor Christopher Moquino, Pueblo de San Ildefonso; and Lt. Governor Raymond Martinez, Director, Department of Environmental and Cultural Preservation, Pueblo de San Ildefonso; alongside federal and state perspectives from Jennifer Faler, Albuquerque Area Manager, Bureau of Reclamation; and Tomás Stockton, Technical Liaison, New Mexico Office of the State Engineer.

The Pueblo representatives collectively highlighted the profound impact of the settlements on their communities, emphasizing that implementation goes far beyond mere water delivery. Swazo-Hinds discussed the Pueblo of Tesuque's focus on environmental and cultural preservation, ensuring that the water secured through the settlement supports traditional practices and ecological health. Montoya shared insights from the Pueblo of Pojoaque on economic development opportunities unlocked by a secure water supply, including agricultural revitalization and sustainable community growth. Lujan spoke to the on-the-ground challenges and successes of managing water for traditional irrigation and domestic use in the Pueblo of Nambé, underscoring the importance of community engagement and capacity building in water management. Governor Moquino and Lt. Governor Martinez of the Pueblo de San Ildefonso elaborated on the comprehensive nature of their settlement, which included not only water infrastructure but also provisions for land management and cultural resource protection. They stressed that effective implementation requires ongoing intergovernmental coordination and a deep understanding of tribal sovereignty and traditional ecological knowledge.

From the federal side, Faler provided an overview of Reclamation's role in constructing and maintaining infrastructure components of settlements. She acknowledged the complexities of project management, including navigating permitting, contracting, and unforeseen construction challenges, particularly in remote areas. Faler emphasized Reclamation's commitment to working collaboratively with Tribes and other stakeholders to ensure that projects are completed efficiently and meet the intended objectives.

Stockton offered a state perspective on implementation. He discussed the mechanisms for integrating settled tribal water rights into state water administration systems, including the challenges of modifying existing decrees and managing diverse water user demands. Stockton highlighted the importance of clear communication and technical assistance from the State to ensure a seamless transition to the new water management regime.

The panel acknowledged that implementation is a continuous process requiring sustained funding, adaptive management, and strong partnerships among all parties. It involves translating legal agreements into tangible benefits, addressing unforeseen challenges, and ensuring that the long-term goals of tribal self-determination and water security are met.

Michelle Bushman, Deputy Director and General Counsel of the Western States Water Council, delivered the wrap-up remarks for the Symposium. She highlighted the complexities of settlement negotiations as an alternative to litigation, noting that while paper rights don't always lead to water access, negotiated settlements facilitate tangible infrastructure and "wet water" for Tribes. Settlements provide certainty for both tribal and non-tribal communities, especially during water shortages. They are always "local" in terms of unique needs and resources, yet they have a regional impact. Bushman emphasized that these settlements are not earmarks for local projects, but are vital for regional water security across the West. They also frequently have the benefit of fostering trust and rebuilding communities. She acknowledged the critical, sometimes intergenerational, long-term commitment of tribal, federal, and state representatives who continue to show up at the table for years and even decades of negotiations. She thanked Pam Williams for her knowledge and resilience and her many years of dedicated service at SIWRO, referring to the many times her efforts on various settlements were mentioned during the Symposium. Finally, Bushman issued an invitation for interested parties to join the NARF-WSWC Ad Hoc Group to help broadly advocate for settlements, emphasizing the need to educate Congress on the cost-effectiveness, trust responsibilities, regional water security, and profound impact of these completed agreements.

Tab N – Federalism letter on potential  
CWA §401 Guidance/Rulemaking



## WESTERN STATES WATER COUNCIL

682 East Vine Street, Suite 7 / Murray, Utah 84107 / (801) 685-2555 / FAX (801) 685-2559

Web Page: [www.westernstateswater.org](http://www.westernstateswater.org)

Date: September 7, 2025

Sent via email: [cwa401@epa.gov](mailto:cwa401@epa.gov)

The Honorable Lee M. Zeldin  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW, MC: 1101A  
Washington, DC 20460  
[zeldin.lee@epa.gov](mailto:zeldin.lee@epa.gov)

The Honorable Peggy Browne  
Acting Assistant Administrator, Office of Water  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue NW, MC: 4101M  
Washington, DC 20460  
[brown.peggy@epa.gov](mailto:brown.peggy@epa.gov)

Re: Federalism Consultation on Establishment of Public Docket on Implementation Challenges  
Associated with Clean Water Act [Docket ID No. EPA-HQ-OW-2025-0272]

Dear Administrator Zeldin and Acting Administrator Browne,

The Western States Water Council (WSWC) is a bi-partisan government entity created by Western Governors in 1965 that represents eighteen states. Our members are appointed by and serve at the pleasure of their respective governors, advising them on water policy issues. Our mission is to ensure that the West has an adequate, secure, and sustainable supply of water of suitable quality to meet its diverse economic and environmental needs now and in the future. The WSWC has been a continuous advocate for the rights of States to conserve and protect their water resources.

We appreciate the opportunity to offer the following comments in response to the agencies' federalism consultation initiated by the U.S. Environmental Protection Agency's (EPA) establishment of public docket and listening sessions on Implementation Challenges Associated with Clean Water Act (CWA) Section 401. We understand the aim of this agency action is to determine whether new guidance or rulemaking are necessary to address areas of regulatory uncertainty or implementation challenges regarding the scope of state certifications. As EPA considers feedback, we urge the agency to engage meaningfully with individual states as co-regulators, to cooperatively assess the implementability of the 2023 CWA Section 401 Water Quality Certification Improvement Rule (2023 Rule) and the needs of state regulators moving forward. Should the Administrator determine to promulgate a policy change to the operating rule, changes should materially reflect these discussions.

### I. State Authority, Process, and Capacity

EPA has characterized CWA §401 as authorizing a "specific and limited" role in the federal licensing or permitting process. However, the CWA clearly recognized the inherent water quality protection authority of States. Section 101(b) declares: "It is the policy of Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate

pollution;” and §101(g) adds that the authority of the States to “allocate quantities of water within its jurisdiction shall not be superseded, abrogated, or otherwise impaired by this Act....”

Section 401 requires: “Any applicant for a Federal license or permit to conduct any activity including, but not limited to, the construction or operation of facilities, which may result in any discharge into the navigable waters, shall provide the licensing or permitting agency a certification from the State in which the discharge originates or will originate...that any such discharge will comply with the applicable provisions...” of various CWA sections. This state water quality certification authority is a vital component of our federalist system for protecting water resources, and any conditions deemed necessary by the States to ensure compliance are a mandatory addition to any federal license or permit.

States have responsibly and timely exercised their delegated authority under §401 and under state water quality statutes. Where questions of law have arisen as to the scope of §401 and timing of state certifications, courts have stepped in as needed to address the appropriate degree of state authority under the CWA. Each State has a unique schema of water quality statutes, designated water uses, water quality standards, and procedural implementation frameworks. States must consider proposed activities in accordance with their own statutes and procedures, which naturally creates some variability in the process and timelines. Despite this variability, the vast majority of §401 certification requests are processed well within the one year allowed by the statute, and incomplete applications are generally denied without prejudice. Most delays are due to submission of an incomplete application, unresponsiveness from applicants, and the special needs of large or complex projects. The §401 certification process is an important tool for States to fulfill their responsibilities to conserve and protect their water resources, ensuring federally permitted projects comply with state water quality standards, and States are responsibly acting to execute their delegated authority in a timely manner.

As EPA considers feedback from co-regulator states and various stakeholders in the coming months, WSWC urges the agency to make every effort to accommodate and support state certification processes and timelines.

## II. Critical Infrastructure and Energy Development

EPA has noted that critical mineral, energy, infrastructure, and development projects that are key to economic growth are often subject to state certifications under CWA §401. The WSWC supports a balanced approach to achieving water and energy policy goals that recognizes legitimate state water and water quality management, protection and planning authorities. The Western States strongly support the development of critical infrastructure and efficient, streamlined permitting processes, but not at the expense of States’ authority to allocate, manage, and protect their water resources. We support these projects while appropriately protecting environmental resources and respecting States’ §401 certification authority. WSWC urges EPA to continue working with States to streamline permitting processes, coordinate regulatory reviews, eliminate duplicative procedures, reduce costs of compliance and construction, and ensure timely completion and maintenance of vital infrastructure projects.

## III. Regulatory Uncertainty

EPA seeks to address regulatory uncertainty. One source of significant regulatory uncertainty for both co-regulators and the regulated community has been the substantial and recurring changes to regulatory definitions, policies, and programs between federal Administrations. These changes can lead to confusion, loss of state resources, and unnecessary delays. As EPA contemplates whether a new rule is

necessary, we encourage the agency to discuss the possibility with individual States to determine what, if any, changes are necessary. We invite EPA to seek feedback on how any necessary changes can be promulgated to minimize regulatory whiplash. WSWC supports any changes that strengthen deference to state water laws and do not diminish the primary state authority and responsibility over water resources.

#### IV. Lands of Exclusive Federal Jurisdiction

Under the 2023 Rule, EPA identified 16 national parks as “lands of exclusive federal jurisdiction” and asserted that EPA is the §401 certifying authority in those parks. States have responsibly exercised their certification authority in some of those parks for decades. WSWC encourages EPA to consult with the affected States regarding such determinations.

#### V. Reopener Clauses

WSWC also points out that the 2020 CWA Section 401 Certification Rule (2020 Rule) led to federal agencies waiving reopener conditions in nationwide permits imposed on federal projects by States under CWA §401, inconsistent with CWA §§ 101(b) and 101(g), §27 of the Federal Power Act, and the Supreme Court ruling under *P.U.D. No.1 of Jefferson County v. Washington Department of Ecology*. The 2023 Rule continues to prohibit reopener clauses allowing unilateral modification. In many cases, reopener clauses allow permitting authorities to dexterously respond to changes in standards, technologies, water quality needs, public concern, and regulatory frameworks. WSWC urges EPA to consult with States regarding reopener clauses.

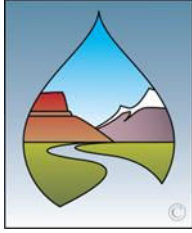
Altogether, EPA should involve the States as co-regulators in any review or future rulemaking from the start, long before any action is published for public comment. The WSWC strongly supports meaningful, substantive and early consultation with States as they work in tandem with EPA to achieve national water quality goals. We also urge EPA to carefully consider comments submitted by our individual states, who are in the best position to know how this effort will impact them.

We thank you for considering these requests, and we look forward to working together to protect water quality across our Western States.

Sincerely,

A handwritten signature in black ink that reads "Michelle Bushman". The signature is written in a cursive, flowing style.

Michelle Bushman  
Deputy Director and General Counsel



**RESOLUTION  
of the  
WESTERN STATES WATER COUNCIL  
in support of  
STATE CWA SECTION 401 CERTIFICATION AUTHORITY**

**Lawrence, Kansas  
October 23, 2024**

**WHEREAS**, States have responsibly exercised their delegated authority under the Clean Water Act (CWA) Section 401 and under state water quality statutes to protect water quality, and must consider proposed activities and discharges in light of the states' designated water uses and related water quality standards; and

**WHEREAS**, the Council supports a balanced and integrated approach to achieve water and energy policy goals that plans for the future in sustainable ways, and recognizes legitimate state water and water quality management, protection and planning authorities to balance competing water uses; and

**WHEREAS**, the western states strongly support the planning and development of critical infrastructure and streamlined permitting processes, but such efforts should not come at the expense of states' authority to allocate, manage, and protect their water resources; and

**WHEREAS**, the development of hydropower and other federally permitted and licensed projects involving activities that may impact states' water quality standards should be appropriately undertaken in compliance with substantive and procedural state water law and delegated authority under CWA Section 401; and

**WHEREAS**, CWA Section 101(b) supports the states' critical role in protecting water quality by stating: "It is the policy of Congress to recognize, preserve, and protect the primary responsibilities and rights of States to prevent, reduce, and eliminate pollution;" and

**WHEREAS**, CWA Section 101(g) further provides that the primary and exclusive authority of each state to "allocate quantities of water within its jurisdiction shall not be superseded, abrogated, or otherwise impaired by this Act"; and

**WHEREAS**, Section 27 of the Federal Power Act declares: "That nothing herein contained shall be construed as affecting or intending to affect or in any way to interfere with the laws of the respective States relating to the control, appropriation, use, or distribution of water used in irrigation or for municipal or other uses, or any vested right acquired therein;" and

**WHEREAS**, the Supreme Court has narrowly interpreted the Federal Power Act (16 U.S.C. 791a et seq.) reading Section 27 (16 U.S.C. 821) to limit state authority to set streamflow requirements on federally permitted and licensed projects, holding in *First Iowa Hydro-Electric Cooperative v. Federal Power Commission*, 328 U.S. 152 (1946) and in *California v. FERC*, 495 U.S. 490 (1990) that federal requirements preempted any state requirements, including efforts to establish minimum stream flows, noting that "...Congress remains free to alter what we have done;" and

**WHEREAS**, these rulings eroded state authority over state resources, and the Council has supported federal legislation to restore states' primary authority for regulating streamflows and water use and clarifying Congressional intent under the Federal Power Act; and

**WHEREAS**, in *P.U.D. No. 1 of Jefferson County v. Washington Department of Ecology*, 511 U.S. 700 (1994), the Supreme Court upheld a state's delegated authority to impose minimum stream flow conditions under

the CWA Section 401 certification process where necessary to protect a designated use for fish habitat, expressly rejecting any implied limitations on Section 401 certifications based on the *First Iowa* interpretation of the Federal Power Act; and

**WHEREAS**, an overly narrow reading of Section 401 would deprive the states of the ability to maintain the very beneficial uses that the Clean Water Act was designed to protect, and threaten the existing partnership between states and federal agencies based on cooperative federalism; and

**WHEREAS**, the vast majority of Section 401 certification requests are processed within 90 days, well within the one year allowed by current law, with relatively little if any backlog of certification actions; and

**WHEREAS**, most delays are typically due to submission of an incomplete application, applicants' non-responsiveness to requests for additional information, the completion of necessary study requirements, the size and complexity of some projects (and related impacts), substantive changes to the proposed project requiring further review, or constraints on state resources; and

**WHEREAS**, CWA Section 401 certification denials by states are rare and carefully considered, and are not examples of the failure of the system, as the process has been historically well-understood, reliable and supported by case law that provides certainty for both the states, federal agencies, and the regulated community; and

**WHEREAS**, actions taken by the federal government under the 2020 CWA Section 401 Certification Rule (85 FR 42210) caused some western states to issue an increased number of denials, due to inflexible deadlines that did not accommodate state public engagement laws or allow sufficient time to gather adequate information on project impacts; and

**WHEREAS**, the 2020 rule revision led to federal agencies waiving reopener conditions in nationwide permits imposed on federal projects by states under CWA Section 401, inconsistent with CWA Sections 101(b) and 101(g), Section 27 of the Federal Power Act, and the Supreme Court ruling under *P.U.D. No. 1 of Jefferson County v. Washington Department of Ecology*; and

**WHEREAS**, EPA published a new 2023 CWA Section 401 Water Quality Certification Improvement Rule (88 FR 66558); and

**WHEREAS**, the 2023 CWA Section 401 Water Quality Certification Improvement Rule identified 16 national parks that EPA determined to be "lands of exclusive federal jurisdiction" and asserted that EPA is the Section 401 certifying authority in those parks, although states have been the certifying authority in some of those parks for decades; and

**WHEREAS**, substantial and recurring changes to regulatory definitions, policies, and programs between federal Administrations create uncertainty for co-regulators and the regulated community, often leading to unreliable results, indecision, inconsistency, and lawsuits.

**NOW, THEREFORE, BE IT RESOLVED** that the Western States Water Council supports any changes that strengthen the deference to state water laws and do not diminish the primary state authority and responsibility for the appropriation, allocation, development, conservation, and protection of their water resources, including minimum streamflows, and the protection of water quality and designated uses.

**BE IT FURTHER RESOLVED** that the Western States Water Council strongly supports early state engagement in federal permitting and licensing actions and the coordination of state and federal environmental requirements and review processes for critical infrastructure without diminishing state authority.



**BE IT FURTHER RESOLVED** that the Western States Water Council supports a mechanism in any rule development process for a representative number of states, as co-regulators with diverse perspectives and regions, to engage actively with EPA staff to provide direct and effective feedback on the implementability of a proposed rule.

**BE IT FURTHER RESOLVED** that the Western States Water Council encourages EPA to consult with affected states regarding EPA's certifying authority in national parks designated as "lands of exclusive federal jurisdiction" in order to resolve any jurisdictional disputes in a manner that upholds the CWA's direct grant of Section 401 certifying authority to states and its intent to empower states to protect water quality within their boundaries.

Revised and Readopted  
(See Position No. 471, September 16, 2021 and No. 426, October 26, 2018)

## Tab O – Legislation and Litigation Updates

**Priority Legislation Update 119th Congress  
208th WSWC Meeting  
San Pedro, California**

Compiled By:  
Elysse Ostlund Campbell, WSWC Policy Analyst

This summary describes developments regarding a select number of WSWC priority legislation, pertaining to WGA/WSWC policies or other points of interest. It focuses on developments that have taken place since the beginning of the 119th Congress. Entries are sorted in reverse chronological order. A comprehensive legislation update is available at <https://westernstateswater.org/topical-resources/legislation-updates/>. The online report will be updated in full the week before each WSWC meeting. Please email [elysseccampbell@wswc.utah.gov](mailto:elysseccampbell@wswc.utah.gov) if you would like to see a bill elevated to priority status.

**NOTABLE LEGISLATION**

Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 5089/ H.R.3816</a>	9/2/2025	Water Resources, Disaster Preparedness,	This bill is designed to enhance the National Oceanic and Atmospheric Administration's (NOAA) weather research, forecasting, and prediction capabilities, and to foster commercial opportunities for weather data.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	Title I focuses on reauthorizing and updating existing NOAA programs, authorizing weather research and forecasting from fiscal years 2026-2030. It specifically enhances programs for studying tornadoes (VORTEX-USA) and hurricanes, reauthorizes the Tsunami Warning and Education Act, and improves observing system planning by incorporating private sector options and AI/ML. This title also modifies the Earth Prediction Innovation Center (EPIC) to create accessible community modeling systems and a NOAA Data Lake, updates satellite architecture planning. It strengthens the Interagency Council for Advancing Meteorological Services and introduces new ocean observations and precipitation forecast improvement programs.
Weather Act Reauthorization Act of 2025	House - Natural Resources, "House - Science, Space, and Technology"	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	Title II introduces new initiatives to enhance federal weather forecasting, establishing programs for radar research, development, test, and evaluation, including the Radar Next Program to replace the NEXRAD system by 2040. It mandates activities to address data voids in vulnerable areas and creates new forecast improvement programs for Atmospheric Rivers and Coastal Flooding and Storm Surge. This title also focuses on aviation weather and data innovation, directs the National Environmental Satellite, Data, and Information Service (NESDIS) to maintain next-
Rep. Lucas, Frank D. [R-OK-3]	Bipartisan, CA, OR, TX	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 5072</a>	8/29/2025	Water Resources, Disaster Preparedness,	The bill would require the Government Accountability Office (GAO) to study and report on how the federal government addresses disasters caused by water infrastructure failures (such as major water main breaks). It would direct GAO to conduct a review within 6 months of enactment on the types of FEMA funding available to States, localities, individuals, and small businesses after a water infrastructure failure, both when a federal emergency declaration is issued and when one is not. It would require GAO to submit a report to Congress with: (1) recommendations for how federal agencies could partner with states to identify the areas most at risk of water infrastructure failures; (2) recommendations on ways Congress could provide funding to prevent such disasters by addressing high-risk water infrastructure.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Water Crisis Prevention Act of 2025	House - Transportation and Infrastructure	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Pou, Nellie [D-NJ-9]	Democrat	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 4879</a>	8/5/2025	Water Quality, Water Resources, Disaster	The bill would expand eligibility for grants related to emergency water assistance in rural communities. The bill would amend the Consolidated Farm and Rural Development Act to broaden grant eligibility under the emergency and imminent community water assistance program, allowing funding for associated water infrastructure, including potable water, wastewater, storm drainage, and solid waste facilities, and increasing the population threshold for eligible communities from 10,000 to 35,000. It would amend the Clean Water Act to provide a temporary permit exemption for portable water treatment and filtration facilities deployed in areas affected by a state-declared disaster or emergency, allowing these facilities to operate for up to six months without requiring a National Pollutant Discharge Elimination System (NPDES) permit.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Emergency Rural Water Response Act of 2025	House - Agriculture, House - Transportation and Infrastructure	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Costa, Jim [D-CA-21]	Bipartisan	Active, WSWC Priority	

Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">S. 2472</a>	7/28/2025	Water Quality, Army Corps, PFAS	The bill would require the Secretary of Defense to request States modify CWA §402(p) permits to require (1) monitoring of discharges of perfluoroalkyl and polyfluoroalkyl substances not less frequently than quarterly; and (2) implementation of appropriate best management practices or control technologies to reduce such discharges consistent with the requirements of such Act.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Department of Defense PFAS Discharge Prevention Act	Senate - Armed Services	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Gillibrand, Kirsten E. [D-NY]	Democrat	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">S. 2437</a>	7/24/2025	Water Resources, Drought, Groundwater,	The bill would reauthorize and modernize the Snow Water Supply Forecasting Program by updating its operational framework, technological emphasis, and funding authorization. The bill would: (1) shift the program's emphasis towards integration of snowpack measuring and modeling; (2) expand the list of specific technologies to be incorporated for snowpack measurements and models, including imaging spectroscopy, machine learning, and integrated snowpack and hydrologic modeling; (3) remove or modify reporting requirements and dependencies on past reports; (4) refocus program activities toward results that are responsive to changing weather and watershed conditions, and applicable across multiple scales and geographic boundaries; (5) identify technologies that best inform water supply forecasting for multiple water districts, communities, or States. The bill would authorize \$6.5M annually for FY 2027-2031.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Snow Water Supply Forecasting Program Reauthorization Act of 2025	Senate - Energy and Natural Resources	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Hickenlooper, John W. [D-CO]	Bipartisan, UT	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">S. 2388</a>	7/23/2025	Water Quality, Water Resources, Water	The bill would update and expand the pilot program for alternative water source projects under the Federal Water Pollution Control Act. The bill would establish a list of eligible modern technologies such as real-time monitoring systems, AI-driven optimization tools, leak detection, advanced digital modeling, and predictive maintenance for wastewater, stormwater, and water supply systems. It would expand eligible uses of grants to allow federal grants to fund not only engineering, design, construction, and testing of alternative water source projects, but also the adoption, training, and operation of intelligent water infrastructure technology. It would require EPA to report to Congress within 180 days of enactment and annually thereafter on grant awards, resiliency improvements, denied projects, and recommendations to improve the program. It would double the authorization from \$25M to \$50M and extend its authorization through 2028.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Water Infrastructure Modernization Act of 2025	Senate - Environment and Public Works	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Gallego, Ruben [D-AZ]	Bipartisan, UT	Active, WSWC Priority	

Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 4416</a>	7/15/2025	Water Resources, Weather / S2S	The bill would establish a NOAA program to improve precipitation forecasts by advancing Earth System Models, research, data management, and operational forecasting across weather to decadal timescales. It would authorize \$15.2M per year from 2026 through 2030 to support the program's activities, including collaboration with academic, private, and governmental partners, and updates to the program's goals every two years.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
To establish in the National Oceanic and Atmospheric Administration a	"House - Science, Space, and Technology"	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Ross, Deborah K. [D-NC-2]	Bipartisan, TX	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">S. 2272/H.R. 4377</a>	7/14/2025	Water Quality, Water Resources, Legal, Indian	The bill would establish a finding of Congress that access to reliable, clean, and safe water is a critical human need, highlighting Tribal lands and the Native Hawaiian Community, where many households lack adequate water and sanitation. It highlights that federal funding, technical assistance, and modern water technologies are necessary to ensure these communities can access, manage, and maintain safe water infrastructure, consistent with the government's trust responsibilities. The bill would expand the USDA's Rural Development water and waste facility loans and grants so that Native Hawaiian organizations are eligible. It would authorize new funding of \$100M per year from FY 2026-2030 for technical assistance. It would allow Indian Tribes and Native Hawaiian to receive funding without matching contributions or proving inability to finance. It would permit broader uses of funds, including cooperative agreements and technical assistance contracts. It would require USDA to collaborate with the Indian Health Service. The bill would expand the IHS sanitation and construction authority to also cover essential community facilities on Tribal land. It would provide \$500M per year (FY2026-2030) for such projects. It would provide \$30M per year for technical assistance, and allow IHS to fund O&M for Tribal-owned water and sanitation facilities with \$100M per year authorized for this purpose. The bill would provide \$18M per year for the Bureau of Reclamation's Native American Affairs Technical Assistance Program.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Tribal Access to Clean Water Act of 2025	Senate - Indian Affairs, House - Natural Resources, House -	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Bennet, Michael F. [D-CO]; Rep. Neguse, Joe [D-CO-2]	Democrat, CA, CO, NM, OR	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 4315</a>	7/10/2025	Water Resources, Water Infrastructure	The bill would establish a finding of Congress that U.S. infrastructure is underfunded, with significant unmet needs across multiple sectors, and traditional funding sources are insufficient to meet current and future demands and that creating a government corporation to provide pension-backed loans for qualified infrastructure projects could attract additional capital to address these gaps. It would create the government National Infrastructure Investment Corporation to provide financing for infrastructure projects that States and cities cannot fully fund. Its purpose would be to prioritize projects efficiently and fairly while minimizing costs to the federal government. The bill directs the establishment of a Board of Directors to manage the Corporation, composed of seven members: three appointed by the President (with Senate confirmation), one each appointed by the majority and minority leaders of the Senate, and one each appointed by the Speaker and minority leader of the House. It would also establish an Inspector General, appointed by the Board, responsible for conducting audits and overseeing compliance with federal law and the Corporation's operations. The Corporation would be authorized to provide loans, loan guarantees, and bonds to eligible applicants for U.S. infrastructure projects. Applicants must submit a detailed project plan, meet certain financial prerequisites, and consult with relevant congressional members, and the funds can be used only for approved infrastructure costs; the program is modeled on the federal TIFIA loan program for transportation projects. The Board must submit annual reports to Congress on its activities, and the Corporation's Inspector General must conduct annual audits and investigations to ensure compliance with the Act. Additionally, the Government Accountability Office (GAO) must evaluate the Corporation every five years, assessing the impact and effectiveness of financed infrastructure projects. Before awarding any loan or loan guarantee, the Corporation must notify Congress and wait 60 days, allowing Congress to disapprove the application. Rejected applications cannot be resubmitted without addressing the reasons for disapproval. The Corporation may accept loans from pension funds to cover administrative costs and provide project financing, limited to \$5B per fiscal year, with interest rates between 3% and 4%.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
National Infrastructure Investment Corporation Act of 2025	House - Transportation and Infrastructure	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Carbajal, Salud O. [D-CA-24]	Bipartisan	Active, WSWC Priority	

Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 4168</a>	6/26/2025	Water Quality, PFAS	The bill would codify the final rule issued by the Administrator of the Environmental Protection Agency titled "PFAS National Primary Drinking Water Regulation" (89 Fed. Reg. 32532; April 26, 2024)
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
PFAS National Drinking Water Standard Act of 2025	House - Energy and Commerce	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Fitzpatrick, Brian K. [R-PA-1]	Bipartisan, CO, NM	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 4141</a>	6/25/2025	Water Resources, Drought, Water Data,	The bill would amend Section 108 of the Weather Research and Forecasting Innovation Act of 2017 (15 U.S.C. 8518) to direct NOAA to invest in AI, machine learning, and advanced computing to improve U.S. weather and climate models. The bill would authorize NOAA to establish "centers of excellence" or innovation hubs where NOAA, DOE, academia, and private partners collaborate to build and test computing tools for weather and climate forecasting. The bill would authorize NOAA to enter multi-year agreements to support computing systems. The bill sets forth reporting and evaluation requirements, including a 10-year strategic plan that includes discussion on its computing and data management needs.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Advanced Weather Model Computing Development Act	"House - Science, Space, and Technology", House - Natural	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Miller, Max L. [R-OH-7]	Bipartisan	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 4134</a>	6/25/2025	Water Resources, Army Corps, Disaster	The bill would add flood prevention and mitigation to the purposes of the Regional Conservation Partnership Program, allowing it to support projects that improve flood resiliency alongside soil, water, and wildlife conservation.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Flood Resiliency and Land Stewardship Act	House - Agriculture	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Hinson, Ashley [R-IA-2]	Bipartisan	Active, WSWC Priority	

Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 4144</a>	6/25/2025	Water Quality, Water Resources, Disaster	<p>The bill would require the US Geological Survey to create a national program to forecast coastal groundwater rise and its impacts to infrastructure and human health and provide recommendations to Congress for mitigation. It would establish findings of Congress that: (1) sea levels have risen and are projected to rise further, which can affect coastal groundwater; (2) groundwater responses vary by location, making planning difficult; (3) groundwater rise presents multiple risks including flooding, damage to infrastructure, water contamination, and soil instability; and (4) there has been no comprehensive national assessment of these risks.</p> <p>The program would: (1) Develop maps showing projected groundwater rise across all continental U.S. coastal areas through 2100, including expected impacts on flooding and saltwater intrusion; (2) Identify high-risk areas most vulnerable to flooding from groundwater rise; (3) Provide recommendations to Congress on resources and research infrastructure needed for more accurate projections, including both average conditions and extreme events; (4) Establish a public website to share the maps and related information with planners, emergency managers, and the public. The bill would authorize \$5M in funding for FY2025-2026 to support these activities.</p> <p>Once the program is established, USGS would be directed to enter an agreement with the National Academies to conduct a two-phase study on the potential impacts of groundwater rise on infrastructure and public health. Phase I would assess how rising groundwater could affect coastal infrastructure such as roads, buildings, underground utilities, sewers, water pipes, parking structures, and storm drains, including costs and changes in soil liquefaction risk during earthquakes. Phase II would evaluate risks to human health from groundwater rise, including the mobilization of underground contamination and threats to drinking water and agricultural areas due to saltwater intrusion.</p>
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Groundwater Rise and Infrastructure Preparedness Act of 2025	House - Natural Resources	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Mullin, Kevin [D-CA-15]	Bipartisan	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 3899</a>	6/11/2025	Water Quality, Legal, CWA §402 (NPDES),	<p>This bill was integrated with the PERMIT Act (H.R. 3898), which passed out of the House T&amp;I Committee in June, 2025. It would amend the Clean Water Act to clarify the use of federal general permits under the National Pollutant Discharge Elimination System. It affirms that the EPA Administrator may issue general permits on a statewide, regional, nationwide, or area-specific basis for discharges of a similar type and source, codifying EPA's authority to cover categories of activities under a single permit. The bill requires the Administrator to publish notice in the Federal Register at least two years in advance if EPA does not intend to renew a general permit. If a general permit expires without such notice, its terms and conditions would continue to apply both to existing discharges and to new discharges that would have qualified, until either a new general permit is issued or two years after EPA publishes notice of a decision not to renew.</p>
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Clarifying Federal General Permits Act	House - Transportation and Infrastructure	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Collins, Mike [R-GA-10]	Republican	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 3897</a>	6/11/2025	Water Quality, Legal, CWA §402 (NPDES),	<p>This bill was integrated with the PERMIT Act (H.R. 3898), which passed out of the House T&amp;I Committee in June, 2025. The bill would establish that NPDES permits must only include clear, objective, concrete limits on specific pollutants or waterbody conditions, and that adherence to these limitations constitutes compliance under the law, as outlined in <i>San Francisco v. EPA</i> (WSW #2651). Specifically, the bill spells out the scope of protection when considered in compliance with the act, which would shield a discharger not only for pollutants with explicit effluent limits in the permit, but also for pollutants that: (1) are explicitly identified in the permit, fact sheet, or record as controlled or monitored; (2) were disclosed during the permit application as being present in the discharges; or (3) are present in waste streams or operations of the facility that were described in the permit application, even if those pollutants weren't specifically listed in the permit itself. The bill would also require that any water quality-based limit included in a permit must: (1) specify the pollutant it applies to, so it is clear which substance the limit is regulating; (2) clearly describe how to comply with the limit, either by setting a numerical discharge limit, or providing a narrative description of required actions, practices, or measures to achieve compliance.</p>
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Confidence in Clean Water Permits Act	House - Transportation and Infrastructure	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Taylor, David J. [R-OH-2]	Republican	Active, WSWC Priority	

Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 3928</a>	6/11/2025	Water Quality, Legal, CWA §401, EPA	This bill was integrated with the PERMIT Act (H.R. 3898), which passed out of the House T&I Committee in June, 2025. The bill proposes several amendments to Section 401 of the Clean Water Act to limit the scope of certification authority. It would change the trigger for certification from activities that "may result" in a WOTUS discharge to those that "may directly result," replaces "activity" with "discharge," and replaces all instances of "applications" with "requests." In the context of failure to respond, "act on" is replaced with "grant or deny," limiting the responses available to States. It would insert a new requirement that each certifying authority publish its specific certification requirements within 30 days of enactment. Decisions to grant or deny a request must be based only on the applicable provisions of sections 301, 302, 303, 306, and 307, and the grounds for the decision must be provided in writing. Certifying authorities would have 90 days from receipt of a request to identify any additional materials or information needed. The bill would replace "any water requirements" with "any applicable provision of section 301, 302, 303, 306, or 307" The word "applicable" is added when referencing (1) potential violations of CWA sections and (2) effluent limitations.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Improving Water Quality Certifications and American Energy Infrastructure Act	House - Transportation and Infrastructure	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Rouzer, David [R-NC-7]	Republican	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 3905</a>	6/11/2025	Water Quality, Legal, CWA §404, EPA	This bill was integrated with the PERMIT Act (H.R. 3898), which passed out of the House T&I Committee in June, 2025. The bill would amend Section 404 of the Clean Water Act to set a 60-day statute of limitations for filing a challenge to either an individual or general permit, or to a verification under a general permit. Only parties who submitted detailed comments during the public comment period may bring such actions, and the challenge must relate to those comments. The bill would also limit court remedies: a court may remand a permit or verification for further proceedings but generally could not vacate, revoke, or enjoin the permit unless there is an imminent and substantial danger to human health or the environment with no other equitable remedy. Finally, if a matter is remanded, the court must set a reasonable deadline (up to 180 days) for the Secretary or State to comply.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Judicial Review Timeline Clarity Act	House - Transportation and Infrastructure	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Burtison, Eric [R-MO-7]	Republican	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 3901</a>	6/11/2025	Water Quality, Legal, CWA §404, Army Corps	This bill was integrated with the PERMIT Act (H.R. 3898), which passed out of the House T&I Committee in June, 2025. This bill would direct the Secretary of the Army to eliminate any existing backlog of Section 404 permit applications or jurisdictional determination requests. It requires the Secretary, through the Corps of Engineers, to expedite procedures and reallocate or increase personnel and resources as needed to clear all backlogged requests as of June 5, 2025, within 60 days of the bill's enactment.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Jurisdictional Determination Backlog Reduction Act	House - Transportation and Infrastructure	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Hurd, Jeff [R-CO-3]	Republican, TX	Active, WSWC Priority	



Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 3898</a>	6/11/2025	Water Quality, Water Resources, Legal, Clean	<p>Originally the bill would limit the scope of the Clean Water Act by redefining navigable waters to exclude (1) waste treatment systems (lagoons etc.); (2) ephemeral features that flow only in direct response to precipitation, (3) prior converted cropland, (4) groundwater, or (5) any other features determined to be excluded by the U.S. Army Corps of Engineers. It passed out of the House T&amp;I Committee with the following bills incorporated: Confidence in Clean Water Permits Act (H.R. 3897): Focuses on clear permit conditions and protects permit holders who comply with terms. Clarifying Federal General Permits Act (H.R. 3899): Codifies the EPA's practice of issuing general permits. Water Quality Technology Availability Act (H.R. 3900): Aims to ensure that required compliance technology is commercially available. Farmers Undertake Environmental Land Stewardship (FUELS) Act (H.R. 3909): Raises the fuel storage exemption level for farmers and ranchers. Improving Water Quality Certifications and American Energy Infrastructure Act (H.R. 3928): Clarifies that Section 401 CWA approvals are limited to water quality impacts. Reducing Regulatory Burdens Act (H.R. 3824): Prohibits permit requirements for certain pesticide discharges under the NPDES program. Nationwide Permitting Improvement Act (H.R. 3927): Extends the maximum reissuance period for nationwide permits. Forest Protection and Wildland Firefighter Safety Act of 2025 (H.R. 3300): Exempts firefighting agencies from needing NPDES permits for aerial fire retardant. Reducing Permitting Uncertainty Act (H.R. 3935): Prevents the EPA from vetoing Section 404 permits at certain stages. Water Quality Criteria Development and Transparency Act (H.R. 3888): Establishes a more transparent process for EPA water quality criteria development. Judicial Review Timeline Clarity Act (H.R. 3905): Sets timelines for judicial review of Section 404 permits. Jurisdictional Determination Backlog Reduction Act (H.R. 3901): Requires the Army Corps of Engineers to expedite procedures to reduce the backlog of jurisdictional determinations. Water Quality Standards Attainability Act (H.R. 3934): Requires water quality standards to consider commercially available treatment technologies. Restoring Federalism in Clean Water Permitting Act (H.R. 3902): Requires EPA review of the state assumption process for Section 404 permits</p>
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
PERMIT Act	House - Transportation and Infrastructure	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
	House committee actions: 2025-06-25 Ordered to be Reported		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Collins, Mike [R-GA-10]	Republican, CA, CO, UT	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 3902</a>	6/11/2025	Water Quality, Legal, CWA §404, EPA	<p>This bill was integrated with the PERMIT Act (H.R. 3898), which passed out of the House T&amp;I Committee in June, 2025. This bill would direct the EPA Administrator to review and revise regulations governing State-administered Section 404 permit programs to make it easier for States to take on these programs by streamlining approval, reducing administrative burdens, and encouraging participation. It would also clarify judicial review timelines, requiring challenges to EPA approval of State programs to be filed within 60 days, limiting remedies to remand (except in cases of imminent danger), and setting a 180-day deadline for the EPA to act on court orders.</p>
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Restoring Federalism in Clean Water Permitting Act	House - Transportation and Infrastructure	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Patronis, Jimmy [R-FL-1]	Republican	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 3934</a>	6/11/2025	Water Quality, Legal, Clean Water Act (CWA)	<p>This bill was integrated with the PERMIT Act (H.R. 3898), which passed out of the House T&amp;I Committee in June, 2025. The bill would require that States hold public hearings to discuss and review water quality standards that apply to any body of water receiving discharges from municipal combined storm and sanitary sewers. These reviews must consider whether combined sewer overflow controls are cost-effective. Instead of only the Governor of a state conducting reviews, the responsibility will encompass a broader state review process. Results of these reviews must be made accessible to the Environmental Protection Agency (EPA). When developing or revising water quality criteria, the EPA must consider the cost and availability of treatment technologies that may be needed to comply with these standards</p>
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Water Quality Standards Attainability Act	House - Transportation and Infrastructure	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Shreve, Jefferson [R-IN-6]	Republican	Active, WSWC Priority	

Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 3900</a>	6/11/2025	Water Quality, Clean Water Act (CWA)	This bill was integrated with the PERMIT Act (H.R. 3898), which passed out of the House T&I Committee in June, 2025. This bill would modify the criteria used by the EPA's Administrator when publishing regulations and guidelines for effluent limitations. Currently, the CWA requires that assessment of "best practicable control technology currently available" for point sources must "include consideration of the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application." The bill would insert "that is commercially available in the United States." Other factors currently considered in this assessment, such as the age of equipment, process employed, engineering aspects, process changes, non-water quality environmental impact, and energy requirements, would remain.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Water Quality Technology Availability Act	House - Transportation and Infrastructure	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	The bill would expand eligibility for financial assistance under the Clean Water State Revolving Fund (SRF), authorizing qualified nonprofit organizations to receive assistance for the construction, acquisition, or improvement of treatment works and other eligible water pollution control activities. It would allow privately owned treatment works to access SRF funding, provided the benefits flow directly to the customers. It would prohibit States from providing additional subsidization, such as grants and principal forgiveness, for projects carried out by nonprofits and privately owned treatment works.
Rep. Collins, Mike [R-GA-10]	Republican	Active, WSWC Priority	
<b>Bill Number</b>	<b>Date Introduced</b>	<b>WSWC Keywords</b>	<b>Summary of Bill</b>
<a href="#">H.R. 3862</a>	6/10/2025	Water Quality, Water Resources, SRFs, Water	The bill would expand eligibility for financial assistance under the Clean Water State Revolving Fund (SRF), authorizing qualified nonprofit organizations to receive assistance for the construction, acquisition, or improvement of treatment works and other eligible water pollution control activities. It would allow privately owned treatment works to access SRF funding, provided the benefits flow directly to the customers. It would prohibit States from providing additional subsidization, such as grants and principal forgiveness, for projects carried out by nonprofits and privately owned treatment works.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Clean Water SRF Parity Act of 2025	House - Transportation and Infrastructure	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	The bill would reauthorize and modernize the Snow Water Supply Forecasting Program by updating its operational framework, technological emphasis, and funding authorization. The bill would: (1) shift the program's emphasis towards integration of snowpack measuring and modeling; (2) expand the list of specific technologies to be incorporated for snowpack measurements and models, including imaging spectroscopy, machine learning, and integrated snowpack and hydrologic modeling; (3) remove or modify reporting requirements and dependencies on past reports; (4) refocus program activities toward results that are responsive to changing weather and watershed conditions, and applicable across multiple scales and geographic boundaries; (5) identify technologies that best inform water supply forecasting for multiple water districts, communities, or States. The bill would authorize \$6.5M annually for FY 2027-2031.
Rep. Bost, Mike [R-IL-12]	Bipartisan, CA	Active, WSWC Priority	
<b>Bill Number</b>	<b>Date Introduced</b>	<b>WSWC Keywords</b>	<b>Summary of Bill</b>
<a href="#">H.R. 3857</a>	6/10/2025	Water Resources, Drought, Weather / S2S,	The bill would reauthorize and modernize the Snow Water Supply Forecasting Program by updating its operational framework, technological emphasis, and funding authorization. The bill would: (1) shift the program's emphasis towards integration of snowpack measuring and modeling; (2) expand the list of specific technologies to be incorporated for snowpack measurements and models, including imaging spectroscopy, machine learning, and integrated snowpack and hydrologic modeling; (3) remove or modify reporting requirements and dependencies on past reports; (4) refocus program activities toward results that are responsive to changing weather and watershed conditions, and applicable across multiple scales and geographic boundaries; (5) identify technologies that best inform water supply forecasting for multiple water districts, communities, or States. The bill would authorize \$6.5M annually for FY 2027-2031.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Snow Water Supply Forecasting Reauthorization Act of 2025	House - Natural Resources	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
	House committee actions: 2025-07-23 Ordered to be Reported		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	Active, WSWC Priority
Rep. Hurd, Jeff [R-CO-3]	Bipartisan, CO		

Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 3888</a>	6/10/2025	Water Quality, Legal	This bill was integrated with the PERMIT Act (H.R. 3898), which passed out of the House T&I Committee in June, 2025. The bill would require EPA to issue all new or revised water quality criteria through the formal rulemaking process and allow for judicial review of those criteria by explicitly adding them to the list of EPA actions that can be challenged in federal court under Section 509(b)(1) of the Act.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Water Quality Criteria Development and Transparency Act	House - Transportation and Infrastructure	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Owens, Burgess [R-UT-4]	Republican	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 3713</a>	6/4/2025	Water Quality, Legal, Abandoned Mines, EPA	The bill would codify the Office of Mountains, Deserts, and Plains within the EPA to coordinate and oversee cleanup of abandoned or inactive hardrock mine sites, including those in Indian Country. The Office would: (1) coordinate cleanup actions between coregulators and stakeholders; (2) develop and share best practices and innovative technologies for mine cleanup; (3) promote voluntary cleanups and encourage small business participation; (4) coordinate interagency efforts; (5) annually prioritize and report on mine cleanup sites and provide technical assistance; (6) support research, consultation, and planning to protect human health and the environment.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Legacy Mine Cleanup Act of 2025	House - Transportation and Infrastructure, House - Natural	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Crane, Elijah [R-AZ-2]	Bipartisan, AZ	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 3427</a>	5/15/2025	Water Quality, EPA, SRFs	The bill would require the Government Accountability Office (GAO) to conduct a comprehensive review of all clean water-related technical assistance programs administered by the Environmental Protection Agency (EPA). The review must assess how these programs serve states, tribes, local governments, and non-governmental organizations, and how they support communities—particularly those that are economically distressed—through initiatives like the Water Technical Assistance (WaterTA) initiative.  Specifically, the GAO would examine who receives assistance, how technical assistance providers are selected and deployed, what types of support are delivered, and whether there is overlap among EPA programs. It would also evaluate how well these programs help communities access broader water infrastructure resources, and how EPA coordinates with other federal agencies offering similar support.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Water Resources Technical Assistance Review Act	House - Transportation and Infrastructure		
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Taylor, David J. [R-OH-2]	Republican	Active, WSWC Priority	

Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 3346</a>	5/13/2025	Water Quality, Water Resources, Legal, EPA	The bill would abolish the Environmental Protection Agency (EPA) and transfer environmental responsibilities to the states. It mandates EPA's termination 270 days after its enactment, eliminating all its functions, duties, and legal authorities. During that period, the EPA Administrator would be responsible for winding down the agency's operations and reporting to Congress on the progress within 90 days. Upon the termination date, all laws authorizing the EPA's activities would also be repealed. To replace the EPA's role, the bill establishes a system of block grants from the U.S. Treasury to individual states and territories—referred to as "covered states"—based on population. Governors would designate state environmental quality departments to receive and manage the funds. The bill would authorize \$4.4B annually from 2026 to 2029 for the block grants.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Sovereign State Environmental Quality Assurance Act	House - Agriculture, House - Transportation and Infrastructure,	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	The bill proposes to abolish the Federal Emergency Management Agency (FEMA) and replace it with a state-administered block grant program for disaster relief. Under the bill, FEMA would be dissolved two years after enactment. Its functions, staff, and responsibilities would be transferred to the President, and any unobligated FEMA funds at that time would be returned to the Treasury for use in the new grant program. All legal references to FEMA or its Administrator would then be understood as references to the Executive Office of the President. In FEMA's place, the Secretary of the Treasury would establish a block grant program to distribute funds to states for natural disaster and emergency relief. Each state would receive an annual grant based on a formula that accounts for population size, historical disaster frequency, geographic risk factors, and economic need. States could use these funds for disaster preparedness, emergency response and recovery, and risk mitigation projects, with up to 5% reserved for administrative costs.
Rep. Higgins, Clay [R-LA-3]	Republican	WSWC Priority	
<b>Bill Number</b>	<b>Date Introduced</b>	<b>WSWC Keywords</b>	<b>Summary of Bill</b>
<a href="#">H.R. 3347</a>	5/13/2025	Water Quality, Water Resources, Disaster	The bill proposes to abolish the Federal Emergency Management Agency (FEMA) and replace it with a state-administered block grant program for disaster relief. Under the bill, FEMA would be dissolved two years after enactment. Its functions, staff, and responsibilities would be transferred to the President, and any unobligated FEMA funds at that time would be returned to the Treasury for use in the new grant program. All legal references to FEMA or its Administrator would then be understood as references to the Executive Office of the President. In FEMA's place, the Secretary of the Treasury would establish a block grant program to distribute funds to states for natural disaster and emergency relief. Each state would receive an annual grant based on a formula that accounts for population size, historical disaster frequency, geographic risk factors, and economic need. States could use these funds for disaster preparedness, emergency response and recovery, and risk mitigation projects, with up to 5% reserved for administrative costs.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Sovereign States Emergency Management Act	House - Transportation and Infrastructure	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	The bill would allow the Secretary of Agriculture to increase payments for drought-resilient or water-saving practices under the Food Security Act of 1985. These practices include those that have the capacity to produce in water-deficient environments, conserve surface or groundwater, reduce runoff, and transition from irrigated to dryland farming systems. The bill also includes supplemental payments for resource-conserving practices, including crop rotations, advanced grazing management, and perennial production systems.
Rep. Higgins, Clay [R-LA-3]	Republican	WSWC Priority	
<b>Bill Number</b>	<b>Date Introduced</b>	<b>WSWC Keywords</b>	<b>Summary of Bill</b>
<a href="#">H.R. 3293</a>	5/8/2025	Water Resources, Agriculture	The bill would allow the Secretary of Agriculture to increase payments for drought-resilient or water-saving practices under the Food Security Act of 1985. These practices include those that have the capacity to produce in water-deficient environments, conserve surface or groundwater, reduce runoff, and transition from irrigated to dryland farming systems. The bill also includes supplemental payments for resource-conserving practices, including crop rotations, advanced grazing management, and perennial production systems.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Support Water-Efficient Strategies and Technologies Act of 2025	House - Agriculture	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	The bill would allow the Secretary of Agriculture to increase payments for drought-resilient or water-saving practices under the Food Security Act of 1985. These practices include those that have the capacity to produce in water-deficient environments, conserve surface or groundwater, reduce runoff, and transition from irrigated to dryland farming systems. The bill also includes supplemental payments for resource-conserving practices, including crop rotations, advanced grazing management, and perennial production systems.
Rep. Leger Fernandez, Teresa [D-NM-3]	Bipartisan, CA	WSWC Priority	

Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">S. 1523</a>	4/30/2025	Water Resources, Water Data, Weather / S2S	The bill would enhance and restructure the operations of the National Water Center within the Office of Water Prediction at NOAA's National Weather Service. The bill expands the Center's role to lead the transition of federal water research—such as hydrological model development—into operational use by NOAA and the National Weather Service. It designates the Center as the primary federal hub for coordinating water-related research and operations across agencies, including the USDA, Army Corps of Engineers, Bureau of Reclamation, USGS, and FEMA. It also directs integration of water modeling into NOAA's Unified Forecast System using advanced computing capabilities. Furthermore, the bill mandates closer coordination between the National Water Center and NOAA's River Forecast Centers and establishes oversight of the Cooperative Institute for Research to Operations in Hydrology. Finally, it extends authorized funding for the program through fiscal year 2028.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Water Research Optimization Act of 2025	"Senate - Commerce, Science, and Transportation"	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
	2025-05-21 Committee on Commerce, Science, and		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Britt, Katie Boyd [R-AL]	Bipartisan	WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 3035/S. 1760</a>	4/28/2025	Water Resources, Water Infrastructure	The bill would amend the Water Infrastructure Finance and Innovation Act (WIFIA) of 2014 to clarify the budgetary classification of certain financial assistance under the program, specifically for non-federal entities. If a non-federal entity (e.g., a local government, utility, or public authority) receives WIFIA financial assistance and repays it using non-federal revenue sources, then: (1) The assistance would be considered non-federal for budget scoring purposes. (2) It would be treated as a direct loan or loan guarantee under the Federal Credit Reform Act of 1990. This treatment does not apply to federal agencies or entities. Only non-federal borrowers qualify under this provision.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Restoring WIFIA Eligibility Act	House - Energy and Commerce, House - Transportation and	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Costa, Jim [D-CA-21]; Sen. Curtis, John R. [R-UT]	Bipartisan, AZ, WA	WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 2940</a>	4/17/2025	Water Resources, Water Reuse	The bill aims to catalyze the use of recycled water by manufacturers, data centers, and other industrial entities by creating a 30% federal investment tax credit for certain water reuse projects.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Advancing Water Reuse Act	House - Ways and Means	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. LaHood, Darin [R-IL-16]	Bipartisan, CA	WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 2758/S. 1389</a>	4/9/2025	Water Resources, Conservation	This bill proposes to update and expand the Conservation Reserve Enhancement Program (CREP) under the Food Security Act of 1985 to offer greater flexibility in water conservation, agricultural use, and payment structures—particularly in drought-prone regions. Dryland farming and grazing would be explicitly allowed as appropriate conservation practices under CREP, offering more use options for enrolled land. Landowners could choose how their annual payments are allocated across the years of their agreement, allowing them to better manage financial needs (i. e., variable allocation). For permanent water rights retirement agreements, payment rates would match those for irrigated acres. For dryland use agreements, payments would be set at the difference between irrigated and dryland rates, and this would apply retroactively to past agreements. The USDA would be required (not just allowed) to enter into CREP agreements for lands used for continuous cropping or crop rotation, subject to conservation plans. CREP participation would require adherence to a formal conservation plan rather than simply applying best practices. Payments under CREP would be exempt from the standard USDA payment caps, making it easier for larger landowners or more costly projects to participate fully.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Conservation Reserve Enhancement Program Improvement Act of 2025	House - Agriculture, "Senate - Agriculture, Nutrition, and Forestry"	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Boebert, Lauren [R-CO-4]; Sen. Marshall, Roger [R-KS]	Bipartisan, CO, KS	WSWC Priority	

Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R. 2770/S. 1378</a>	4/9/2025	Water Resources, Drought, Disaster	This bill requires several agencies to develop programs that use artificial intelligence (AI) to support weather forecasting, environmental monitoring, and the energy grid.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	<p>For example, the National Oceanic and Atmospheric Administration (NOAA) must develop an Earth system reanalysis dataset that provides a record of past weather events so as to support AI weather forecast applications. NOAA must also develop an AI program that analyzes environmental data to support wildfire forecasts.</p> <p>Additionally, the Department of Agriculture must use AI to analyze data with respect to deforestation, the movement of illegal wood products, and associated changes. The Department of Energy must establish an AI program to optimize energy grids with respect to energy production, stability, and efficiency.</p>
TAME Extreme Weather and Wildfires Act	"House - Science, Space, and Technology", "Senate - Commerce,	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
	Senate: 2025-04-30--Committee on Commerce, Science, and		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Franklin, Scott [R-FL-18]; Sen. Schatz, Brian [D-HI]	Bipartisan, MT, NM	WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">S. 1257</a>	4/2/2025	Water Resources, Water Infrastructure	The bill aims to amend the Infrastructure Investment and Jobs Act. Specifically, it would authorize the use of funds for additional Carey Act projects, focusing on the rehabilitation, reconstruction, or replacement of dams built under section 4 of the Carey Act. The bill would also require the Secretary to determine if dams have received adequate funding and if funds remain available before allocating additional resources
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
A bill to amend the Infrastructure Investment and Jobs Act to authorize	Senate - Energy and Natural Resources	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Risch, James E. [R-ID]	Republican, ID	WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">S. 1242</a>	4/1/2025	Water Infrastructure, Water Resources	The bill would authorize the Secretary of the Interior, through the Bureau of Reclamation, to launch up to five pilot watershed projects in Reclamation States using a performance-based, data-driven approach. The goal is to achieve measurable improvements in watershed health—such as increasing water quantity, improving water quality, or restoring aquatic habitat—through targeted conservation actions. Eligible entities (states, tribes, water districts, or NGOs) would be selected as "watershed partners" to manage these projects. Each partner must use technical analysis to assess the costs and outcomes of potential activities to maximize environmental benefit per dollar spent. The government would pay only for verified, quantifiable outcomes, such as increased groundwater or reduced agricultural runoff, under pay-for-performance contracts. The bill allows up to 75% federal cost-share, with the remainder from state, local, or private sources. Annual funding for planning and execution could cover up to 50% of project costs. Partners must demonstrate community support, conduct stakeholder outreach, and regularly report progress. Data used in analytics is protected as confidential. The bill authorizes \$17 million annually from FY2026 to FY2031 to support these efforts.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Watershed Results Act	Senate - Energy and Natural Resources	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Wyden, Ron [D-OR]	Democrat	WSWC Priority	

Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R.2093</a>	3/14/2025	Water Quality, CWA §402 (NPDES)	The bill would set National Pollutant Discharge Elimination System (NPDES) permit terms to "Not exceeding 10 years for a permit issued to a State or municipality" and "Not exceeding 5 years for a permit issued to any person not described in clause (i) (i.e., entities other than states or municipalities)."
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
To amend the Federal Water Pollution Control Act with respect to permitting	House - Transportation and Infrastructure	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Calvert, Ken [R-CA-41]	Bipartisan, CA	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R.2025</a>	3/11/2025	Water Resources, Legal, Indian Reserved Water	The bill aims to settle water rights claims for the Navajo Nation, the Hopi Tribe, and the San Juan Southern Paiute Tribe: (1) Secures water rights for the three tribes; (2) Authorizes the Navajo Nation and Hopi Tribe to lease their water, creating economic opportunities; (3) Authorizes \$5 billion for essential water infrastructure development in the region; (4) Establishes a homeland for the San Juan Southern Paiute Tribe; (5) Establishes the duration of water leases and conditions for water exchanges between the Navajo Nation and the Hopi Tribe; (6) Regulates the construction and operation of the iiná bá – paa tuwaqat'si pipeline, crucial for water transportation between the tribes; (7) Addresses project management, funding structures, and limitations on revenue use.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
To provide for the settlement of the water rights claims of the Navajo Nation,	House - Natural Resources	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Ciscomani, Juan [R-AZ-6]	Bipartisan, AZ	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">S.953</a>	3/11/2025	Legal, Indian Reserved Water Rights	The bill would approve, ratify, and confirm water rights claims of the Navajo Nation, the Hopi Tribe, and the San Juan Southern Paiute Tribe. It would establish a trust fund for the Hopi and the San Juan Southern Paiute Tribes. It mandates a feasibility study for the iiná bá – paa tuwaqat'si pipeline. The bill establishes the iiná bá – paa tuwaqat'si Pipeline Implementation Fund Account. The bill would establish the iiná bá – paa tuwaqat'si Pipeline Implementation Fund Account. Navajo Nation Cibola Water, Navajo Nation Fourth Priority Water, and Hopi Tribe Cibola Water delivered and used would be credited as water reaching Lee Ferry and charged against the Lower Basin's consumptive use apportionment. The bill also addresses the creation of a reservation for the San Juan Southern Paiute Tribe.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Northeastern Arizona Indian Water Rights Settlement Act of 2025	Senate - Indian Affairs	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Kelly, Mark [D-AZ]	Democrat, AZ	Active, WSWC Priority	

Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">S.783</a>	2/27/2025	Water Resources, Agriculture	The bill would amend the Consolidated Farm and Rural Development Act to provide additional assistance to rural water, wastewater, and waste disposal systems. Specifically, the bill would allow the Secretary of Interior to provide grants, zero interest loans, or one percent loans to eligible entities (rural water, wastewater, or waste disposal facility that can receive assistance under existing programs within the Consolidated Farm and Rural Development Act). It would also allow the Secretary to forgive principal or interest, modify the terms, or refinance existing loans made to eligible entities.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Assistance for Rural Water Systems Act of 2025	"Senate - Agriculture, Nutrition, and Forestry"	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Shaheen, Jeanne [D-NH]	Bipartisan	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">S.689</a>	2/24/2025	Water Resources, Legal, Indian Reserved Water	The bill would approve the settlement of water rights claims of the Tule River Tribe in California. The bill ratifies a 2007 agreement between the Tribe and other parties. The bill establishes trust accounts for the Tribe and authorizes funding for the settlement's implementation and mandates the transfer of approximately 1826 acres of land into trust for the Tribe. Additionally, the Act outlines the waiver and release of various water rights claims by the Tribe and the United States as trustee
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Tule River Tribe Reserved Water Rights Settlement Act of 2025	Senate - Indian Affairs	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
	05/12/2025 Placed on Senate Legislative Calendar under General		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Padilla, Alex [D-CA]	Democrat, CA	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">S.640</a>	2/19/2025	Water Resources, Legal, Indian Reserved Water	The bill would amend the Omnibus Public Land Management Act of 2009 to appropriate \$6.4M and other amounts for adjusted interest payments. It would also amend the Claims Resolution Act of 2010 to appropriate \$7.8M for the Taos Pueblo Water Development Fund for adjusted interest payments, and \$4.3M to the Aemodt Settlement Pueblos' Fund for the Pueblos' share of O&M and replacing the Pueblo Water Facilities and the Regional Water System.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Technical Corrections to the Northwestern New Mexico Rural Water	Senate - Indian Affairs	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
	Senate - 03/05/2025 Committee on Indian Affairs. Ordered to be		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Lujan, Ben Ray [D-NM]	Democrat, NM	Active, WSWC Priority	



Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R.1482/ S.637</a>	2/19/2025	Water Resources, Legal, Indian Reserved Water	The bill would increase the total authorization of appropriations for the Navajo-Gallup Water Supply Project to \$2.2B for fiscal years 2009 through 2029, and it would increase the authorization for the Navajo Nation Operations, Maintenance, and Replacement Trust Fund to \$37.5M for fiscal years 2009 through 2032. Additionally, the bill would allow the Navajo Nation to provide not more than 2,000 acre-feet per year of non-Project water to communities in Utah under specific conditions tied to the Navajo/Utah Settlement Agreement. The bill also includes provisions regarding land to be taken into trust and modifies certain contract terms and deadlines.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Navajo-Gallup Water Supply Project Amendments Act of 2025	House - Natural Resources, Senate - Indian Affairs	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
	Senate - 03/05/2025 Committee on Indian Affairs. Ordered to be		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	The bill would reauthorize and expand the National Mesonet Program through FY2029. The bill prioritizes leveraging available commercial, academic, and other non-Federal Government environmental data to enhance coordination across different sectors involved in weather forecasting. The National Mesonet Program would also be responsible for establishing means to integrate a greater density and more types of environmental observations annually, including encouraging local and regional networks of environmental monitoring stations and in situ sensor networks (like soil moisture and ground-based profilers) to participate. In carrying out the Program, the Under Secretary would be required to:  •Increase data density by improving the quantity and density of environmental observations used by the National Oceanic and Atmospheric Administration (NOAA) and the National Weather Service for various forecasts and warnings. This includes increasing boundary-layer data, identifying terrestrial or marine environmental data gaps, and supporting the National Weather Service in reaching its severe weather warning time target. • Monitor local meteorological conditions by acquiring soil and moisture data for drought monitoring and supporting the National Coordinated Soil Moisture Monitoring Network. It also involves expanding and enhancing environmental observational networks in the roadway environment. •Administer the Program by obtaining data in a cost-effective manner while meeting quality standards, leveraging existing networks, providing technical and administrative infrastructure for integrating new networks, coordinating with other NOAA data sources, and identifying research and development priorities.  The bill also allows the Under Secretary to award financial assistance to State, Tribal, private, and academic entities seeking to build, expand, or upgrade mesonet systems, with not less than 15 percent of the appropriated amount for the Program to be used for this purpose. Entities receiving financial assistance would need to enter into an agreement to provide data to the Program. Finally, the bill authorizes appropriations from amounts authorized to be appropriated to the National Weather Service, specifying the following maximum amounts to carry out the section: \$50 for FY2025, \$55M for FY2026, \$61M for FY2027, \$68M for FY2028, and \$70M for FY2029.
Sen. Lujan, Ben Ray [D-NM]; Rep. Leger Fernandez, Teresa [D-NM-3]	Bipartisan, NM, UT	Active, WSWC Priority	
<b>Bill Number</b>	<b>Date Introduced</b>	<b>WSWC Keywords</b>	
<a href="#">S.590/S.613</a>	2/18/2025	Water Resources, Water Data	
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Improving Flood and Agricultural Forecasts Act of 2025	"Senate - Commerce, Science, and Transportation"	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	The bill would approve the settlement of water rights claims for the Pueblos of Acoma and Laguna in the Rio San José Stream System, and the Pueblos of Jemez and Zia in the Rio Jemez Stream System. The bill would authorize, ratify, and confirm settlement agreements between these Pueblos, the State of New Mexico, and other parties. It establishes settlement trust funds for each Pueblo and authorizes mandatory appropriations for these funds. The bill mandates appropriations as follows: (1) Pueblo of Acoma, \$296M for the Water Rights Settlement Account, \$14M for the Water Infrastructure Operations and Maintenance Account, and \$1.7M for the Feasibility Studies Settlement Account; (2) Pueblo of Laguna, \$464M for the Water Rights Settlement Account, \$26M for the Water Infrastructure Operations and Maintenance Account, and \$3.3M for the Feasibility Studies Settlement Account; (3) Pueblo of Jemez, \$290M; (4) Pueblo of Zia, \$200M. Additionally, \$45M is allocated to the Acomita Reservoir Works Trust Fund for the benefit of both Acoma and Laguna. The bill also outlines state cost-share contributions. The Pueblo Water Rights, as defined in the agreements and the bill, would be held in trust by the United States.
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
	S.613: Senate - 03/12/2025 Committee on Commerce, Science,		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Schatz, Brian [D-HI]	Bipartisan, KS	Active, WSWC Priority	
<b>Bill Number</b>	<b>Date Introduced</b>	<b>WSWC Keywords</b>	<b>Summary of Bill</b>
<a href="#">H.R.1322/S.562</a>	2/13/2025	Legal, Water Resources, Indian Reserved Water	The bill would approve the settlement of water rights claims for the Pueblos of Acoma and Laguna in the Rio San José Stream System, and the Pueblos of Jemez and Zia in the Rio Jemez Stream System. The bill would authorize, ratify, and confirm settlement agreements between these Pueblos, the State of New Mexico, and other parties. It establishes settlement trust funds for each Pueblo and authorizes mandatory appropriations for these funds. The bill mandates appropriations as follows: (1) Pueblo of Acoma, \$296M for the Water Rights Settlement Account, \$14M for the Water Infrastructure Operations and Maintenance Account, and \$1.7M for the Feasibility Studies Settlement Account; (2) Pueblo of Laguna, \$464M for the Water Rights Settlement Account, \$26M for the Water Infrastructure Operations and Maintenance Account, and \$3.3M for the Feasibility Studies Settlement Account; (3) Pueblo of Jemez, \$290M; (4) Pueblo of Zia, \$200M. Additionally, \$45M is allocated to the Acomita Reservoir Works Trust Fund for the benefit of both Acoma and Laguna. The bill also outlines state cost-share contributions. The Pueblo Water Rights, as defined in the agreements and the bill, would be held in trust by the United States.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Rio San José and Rio Jemez Water Settlements Act of 2025	House - Natural Resources, Senate - Indian Affairs		
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
	Senate - 03/05/2025 Committee on Indian Affairs. Ordered to be		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	Rep. Leger Fernandez, Teresa [D-NM-3]; Sen. Heinrich, Martin [D-NM]
	Democrat, NM	Active, WSWC Priority	

Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R.1323/S.563</a>	2/13/2025	Legal, Water Resources, Indian Reserved Water	The bill would approve the settlement of water rights claims for Ohkey Owingeg Pueblo. The bill would authorize, ratify, and confirm a settlement agreement between Ohkay Owingeh, the State of New Mexico, and other relevant parties, provided the agreement aligns with the provisions of the bill. It appropriates \$745M to be deposited into the Ohkay Owingeh Water Rights Settlement Trust Fund. Additionally, the bill specifies that the State of New Mexico will contribute several amounts: \$98.5M for signatory acequias ditch improvements and other projects, \$32M for water system improvements for the City of Española, and \$500,000 to mitigate impacts on non-Pueblo groundwater rights.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Ohkay Owingeh Rio Chama Water Rights Settlement Act of 2025	House - Natural Resources, Senate - Indian Affairs		
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
	Senate - 03/05/2025 Committee on Indian Affairs. Ordered to be		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	The bill would authorize, ratify, and confirm a settlement agreement between the Navajo Nation, the State of New Mexico, and other involved parties. It establishes the Navajo Nation Rio San José Settlement Trust Fund, into which the Secretary of the Treasury is mandated to transfer \$200M for the Water Rights Settlement Account and \$23M for the Operations and Maintenance Account. The State of New Mexico is also expected to make cost-share contributions. The bill also outlines specific waivers and releases of claims by the Navajo Nation and the United States as trustee.
Rep. Leger Fernandez, Teresa [D-NM-3]; Sen. Heinrich, Martin [D-NM]	Democrat, NM	Active, WSWC Priority	
<b>Bill Number</b>	<b>Date Introduced</b>	<b>WSWC Keywords</b>	
<a href="#">H.R.1324/S.565</a>	2/13/2025	Legal, Water Resources, Indian Reserved Water	
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Navajo Nation Rio San José Stream System Water Rights Settlement Act of	House - Natural Resources, Senate - Indian Affairs	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
	Senate - 03/05/2025 Committee on Indian Affairs. Ordered to be		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Leger Fernandez, Teresa [D-NM-3]; Sen. Heinrich, Martin [D-NM]	Democrat, NM	Active, WSWC Priority	
<b>Bill Number</b>	<b>Date Introduced</b>	<b>WSWC Keywords</b>	<b>Summary of Bill</b>
<a href="#">S.564/ H.R.1444</a>	2/13/2025	Legal, Water Resources, Indian Reserved Water	The bill would authorize, ratify and confirm the Zuni Indian Tribe Water Rights Settlement between the Tribe, New Mexico, and other parties. It would appropriate \$655M for the Zuni Tribe Water Rights Settlement Trust Account and \$29.5 M for the Zuni Tribe Operation, Maintenance, & Replacement Trust Account. It also includes provisions for the protection of the Zuni Salt Lake and Sanctuary by withdrawing approximately 92,364 acres of Federal land from various forms of disposal and development. Additionally, certain Federal land described as "Tribal Acquisition Area" on a specified map would be taken into trust for the benefit of the Tribe
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Zuni Indian Tribe Water Rights Settlement Act of 2025	Senate - Indian Affairs, House - Natural Resources	<a href="https://www.congress.gov/bill/119th-">https://www.congress.gov/bill/119th-</a>	
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
	Senate - 03/05/2025 Committee on Indian Affairs. Ordered to be		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Heinrich, Martin [D-NM]; Rep. Vasquez, Gabe [D-NM-2]	Democrat, NM	Active, WSWC Priority	

Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">S.546</a>	2/12/2025	Water Resources, Legal, Indian Reserved Water	The bill would amend section 10807(b)(3) of that the Omnibus Public Land Management Act of 2009 to appropriate \$5.2 M for deposit into the Development Fund. This additional funding is for adjusted interest payments related to the Development Fund of the Shoshone-Paiute Tribes.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Technical Correction to the Shoshone-Paiute Tribes of the Duck Valley	Senate - Indian Affairs		
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
	Senate - 03/05/2025 Committee on Indian Affairs. Ordered to be		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Cortez Masto, Catherine [D-NV]	Bipartisan, ID, NV	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">S.322/H.R. 4302</a>	1/29/2025	Water Resources, Weather / S2S	This legislation would mandate the establishment of a dedicated program to improve forecast lead times, accuracy, and dissemination through research, advanced modeling, and innovative data collection. The program would focus on developing better forecast systems, understanding the role of atmospheric rivers in precipitation, creating effective communication strategies, and transitioning research into operational practices. Key components include enhanced data assimilation, improved modeling for complex terrain, atmospheric river reconnaissance using aircraft, and the development of hazard communication methods. Ultimately, this bill seeks to reduce the risks associated with atmospheric rivers by providing more reliable and understandable forecast information to stakeholders and the public. The bill would establish at least one pilot project within the Weather Research Program at NOAA to support improved subseasonal to seasonal precipitation (S2S) forecasts specifically for water management in the western United States. Objectives include: (1) addressing key science challenges to improve forecasts and develop related products for water management; (2) Improving model resolution (horizontal and vertical) to better resolve issues associated with mountainous terrain, such as precipitation intensity and the rain-versus-snow fraction; (3) Improving the fidelity of modeling for the atmospheric boundary layer in mountainous regions and for atmospheric rivers; (4) Resolving challenges in predicting winter atmospheric circulation and storm tracks, including blocked versus unblocked flow over the eastern North Pacific Ocean and western United State; (5) advancing scientific understanding of atmospheric rivers' roles in subseasonal to seasonal precipitation and developing tools to predict periods of active or inactive atmospheric river landfalls and inland penetration over the western United States.The bill would authorize \$15M annually for FY 2026-2030.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Improving Atmospheric River Forecasts Act	"Senate - Commerce, Science, and Transportation", "House - Science,		
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Padilla, Alex [D-CA]; Rep. Obernolte, Jay [R-CA-23]	Bipartisan, AK, CA	WSWC Priority, Slow	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">S.324</a>	1/29/2025	Water Resources, Agriculture, Weather /	Would direct the Under Secretary of Commerce for Oceans and Atmosphere to establish at least two pilot projects focused on enhancing subseasonal to seasonal weather forecasting. These projects specifically target improvements relevant to water management in the western United States and agriculture nationwide. Water management projects must address key science challenges in improving forecasts and developing related products, including: 1) Improving operational model resolution (horizontal and vertical) to resolve issues associated with mountainous terrain, such as precipitation intensity and the rain-snow fraction; (2) improving the fidelity of operational modeling of the atmospheric boundary layer in mountainous regions; (3) resolving challenges in predicting winter atmospheric circulation and storm tracks, including periods of blocked versus unblocked flow over the eastern North Pacific Ocean and the western United States; (4) improving the forecast of atmospheric rivers; (5) improving the quality and temporal and spatial resolution of air-sea interaction observations, operational modeling of air-sea interactions, and operational modeling of the influence of oceans on subseasonal and seasonal forecasting. The legislation allocates \$45M annually for five years to support these forecasting enhancements.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Smarter Weather Forecasting for Water Management, Farming, and Ranching	"Senate - Commerce, Science, and Transportation"		
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Rosen, Jacky [D-NV]	Democrat, CA, NM	WSWC Priority, Slow	

Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.Res.71</a>	1/28/2025	Water Resources, Treaties, International	This resolution condemns the Mexican government for not fulfilling annual water deliveries to the United States under a 1944 treaty between the United States and Mexico respecting utilization of waters of the Colorado and Tijuana Rivers and of the Rio Grande.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Condemning the Government of Mexico for failing to fulfill its water deliveries on	House - Foreign Affairs		
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. De La Cruz, Monica [R-TX-15]	Republican, TX	WSWC Priority, Slow	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R.726/S.240</a>	1/24/2025	Legal, Water Infrastructure, Indian	The bill would redefine and rename the Municipal, Rural, and Industrial (MR&I) water infrastructure to "MR&I Projects" and repeal the section concerning the "MR&I System". The bill would also restructure the Crow Settlement Fund, establishing a dedicated "MR&I Projects Account" for water infrastructure development and a "Crow CIP Implementation Account." It would extend the timeframe related to Yellowtail Dam, modify funding procedures, and introduce an indexing adjustment for the MR&I Projects Account to account for cost fluctuations.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Crow Tribe Water Rights Settlement Amendments Act of 2025	House - Natural Resources		
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Downing, Troy [R-MT-2]	Republican, MT	WSWC Priority, Slow	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">S.241/H.R.907</a>	1/24/2025	Water Resources, Legal, Indian Reserved Water	The bill would settle the long-standing water rights claims of the Fort Belknap Indian Community in Montana by ratifying the Fort Belknap-Montana water rights compact and confirming Tribal water rights. The bill would authorize the exchange and transfer of specific Federal and State lands and allocate 20,000 acre-feet of water per year from Lake Elwell to the Fort Belknap Indian Community. It would mandate Milk River Project mitigation activities, such as the restoration of the St. Mary Canal and the enlargement of the Dodson South Canal, with a funding limit of \$3M. Subject to appropriations, the Secretary of the Interior would also be directed to rehabilitate, modernize, and expand the Fort Belknap Indian Irrigation Project, with total obligations capped at \$4.2M. To manage the funds associated with these actions, the bill would establish the Aaniiih Nakoda Settlement Trust Fund and the Fort Belknap Indian Community Water Settlement Implementation Fund. Title II would authorize the appropriation of \$2.5M to the Secretary of the Interior for community water distribution and wastewater treatment facilities for the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Northern Montana Water Security Act of 2025	Senate - Indian Affairs, House - Natural Resources		
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
	Senate - 03/05/2025 Committee on Indian Affairs. Ordered to be		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Daines, Steve [R-MT]; Rep. Zinke, Ryan K. [R-MT-1]	Republican, MT	Active, WSWC Priority	

Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R.635</a>	1/22/2025	Water Resources, Indian Reserved Water Rights	The bill would amend the Omnibus Public Land Management Act of 2009 to increase Tribal access to water conservation and efficiency grants. Specifically, it would allow the Secretary to reduce or waive the non-Federal share of the cost for infrastructure improvements or activities that are the subject of a grant or agreement between the Secretary and an Indian Tribe if the Secretary determines that contributing the non-Federal share would result in a financial hardship for the Indian Tribe.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
WaterSMART Access for Tribes Act	House - Natural Resources		
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Stansbury, Melanie A. [D-NM-1]	Democrat, CA, CO, KS, NV, NM	WSWC Priority, Slow	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">S.154</a>	1/21/2025	Colorado River Basin, Conservation, Water	The bill would extend the authorization for the Colorado River System conservation pilot program, allowing for new water conservation agreements to be entered into until 2026, and ensuring that funds remain available for obligation until 2027. This represents a two-year extension beyond the original timelines specified in the Energy and Water Development and Related Agencies Appropriations Act, 2015.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	
Colorado River Basin System Conservation Extension Act	Senate - Energy and Natural Resources		
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Sen. Hickenlooper, John W. [D-CO]	Bipartisan, WY, UT, CO	Active, WSWC Priority	
Bill Number	Date Introduced	WSWC Keywords	Summary of Bill
<a href="#">H.R.231/S.154</a>	1/7/2025	Water Resources, Water Infrastructure,	CRS Summary: This bill extends through FY2026 the Bureau of Reclamation's pilot projects to increase water levels in the Upper Colorado River Basin and Lake Mead due to drought conditions.
<b>Bill Title</b>	<b>Assigned Committee(s)</b>	<b>Congress.gov Link</b>	The bill would extend the authorization for the Colorado River System conservation pilot program, allowing for new water conservation agreements to be entered into until 2026, and ensuring that funds remain available for obligation until 2027. This represents a two-year extension beyond the original timelines specified in the Energy and Water Development and Related Agencies Appropriations Act, 2015.
Colorado River Basin System Conservation Extension Act of 2025	House - Natural Resources, Senate - Energy and Natural Resources		
<b>Passed (S/H)</b>	<b>Hearing(s)</b>		
2025-06-18 Passed Senate without amendment by Voice Vote. (text: CR	02/12/2025 Ordered to be Reported (Amended) by Unanimous Consent.		
<b>Bill Sponsor</b>	<b>Support</b>	<b>Activity Status</b>	
Rep. Hageman, Harriet M. [Rep.-R-WY-At Large]; Sen. Hickenlooper, John W.	Bipartisan, WY, UT, CO	Active, WSWC Priority	

**Litigation Update**  
**208th WSWC Meeting**  
**San Pedro, CA**  
**Compiled By:**  
**Michelle Bushman**  
**WSWC Deputy Director and General Counsel**  
[mbushman@wswc.utah.gov](mailto:mbushman@wswc.utah.gov)

This summary describes developments regarding notable litigation that pertains to WGA/WSWC policies or cases that are otherwise of interest. It focuses primarily on developments that have taken place since the beginning of 2025.

Case Name	Issues
<i>Arizona v. Fondomonte</i>	Excessive groundwater pumping
<b>Case Number</b> CV2024-035721	Arizona's AG brought this nuisance action in an effort to enjoin Fondomante (an alfalfa grower that is a subsidiary of a Saudi Arabian company) from excessively pumping groundwater in violation of A.R.S. §13-2917, and to require the defendant to establish an abatement fund. Arizona alleged adverse effects on public health and safety, land subsidence, water quality degradation, a rapidly dropping water table, with anticipated damage to infrastructure and worsening groundwater shortages in the Ranengras Basin if the pumping isn't stopped. Arizona alleged that Fondomante has been pumping excessive groundwater since 2014, with wells capable of pumping 4,000 gpm. Wells near the Fondomante land have been going dry in recent years.
<b>Court</b> Superior Court of Arizona, Maricopa County	
<b>Relevant Dates</b> 2/11/24: Arizona Complaint filed 1/28/25: Motion for More Definite Statement 4/9/25: Fondomonte's Answer 5/6/25: Motion to Intervene by Arizona Farm and Ranch Group Coalition (State opposed) 8/12/25: Oral Arguments 9/12/25: Fondomante's Motion for Judgement on the Pleadings	
<b>Related Cases</b>	
<b>Notes</b> <a href="https://www.superiorcourt.maricopa.gov/docket/CivilCourtCases/caseInfo.asp?caseNumber=CV2024-035721">https://www.superiorcourt.maricopa.gov/docket/CivilCourtCases/caseInfo.asp?caseNumber=CV2024-035721</a>	
Case Name	Issues
<i>Utah Physicians for a Healthy Environment et al. v. Utah Department of Natural Resources, et al</i>	Public Trust Doctrine
<b>Case Number</b> #230906637	The complaint asserted a claim against the State agencies for a breach of trust for failure to protect the public resources in the Great Salt Lake (GSL). In particular, the plaintiffs sought a declaratory judgment that the "public trust doctrine imposes a duty on [State] Defendants to identify and implement feasible means of maintaining the Great Salt Lake at least at the [4,198 feet] level, including the reduction of unsustainable upstream diversions."  The Utah Division of Water Rights argued in their Motion to Dismiss that "inserting water rights into Utah's public trust doctrine goes against the long-standing water public policy of the state" and "the State Engineer lacks legal authority to curtail water rights to maintain lake levels."  The Central Utah, Jordan Valley, and Weber Basin Water Conservancy Districts, intervenor defendants, argued that the court lacks jurisdiction because "(1) federally owned water rights and related facilities are subject to sovereign immunity; (2) by seeking to 'modify' the legal extent of every water right in the GSL Basin, Plaintiffs are effectively seeking a general adjudication of water rights, but general adjudications are special statutory civil actions which can only be brought pursuant to Title 73, Chapter 4; and (3) District projects include trans-basin diversions to import hundreds of thousands of acre-feet of water from the Colorado River Basin to the Wasatch Front, and issues related to such 'imported water' can only be determined in a general adjudication proceeding." The Water Conservancy Districts also noted that the complaint failed to join either the tens of thousands of water right holders or the United States as parties to the complaint.  Water user organizations that intervened as defendants included water districts, municipalities, and a regional power company. They argued that "modifying water rights is constitutionally prohibited, the Plaintiffs' proposed remedy is an uncompensated taking of private property and creates impossible conflicts among state agencies, that article XX, section 1 of the Utah Constitution is not self-executing, and Plaintiffs have no claim under Utah's Uniform Trust Code."  The Court disagreed with the arguments to the extent that it has subject matter jurisdiction to "issue a limited declaratory judgment regarding (a) the scope of the public trust doctrine, which includes the navigable waters of the [GSL]; (b) the scope of the State's duties as trustee of the public trust, which includes the duty to protect the Great Salt Lake from substantial impairment and preserve the waters of the [GSL] so that can be used for the trust purposes of navigation, commerce, fishing, and recreation; and (c) the State's alleged breach of its trustee duties. However, the court agrees with Defendants that it does not have subject matter jurisdiction to issue declaratory relief in the form of an order directing the State to 'review, and where necessary, modify [upstream] diversions to protect and preserve the public trust. Consequently, the court grants the Motions to Dismiss with respect to this aspect of Plaintiffs' declaratory judgment claim."
<b>Court</b> Utah Third District Court	
<b>Relevant Dates</b> September 2024: Hearing on Motions to Dismiss 3/27/25: Court decision partially granting the Motions to Dismiss, moving forward with the more limited question of the scope of the public trust doctrine in Utah	
<b>Related Cases</b>	
<b>Notes</b>	

<b>Case Name</b>	<b>Issues</b>	State WQS to protect Tribal Reserved Treaty Rights (89 FR 35717)
<i>Idaho v. EPA</i>	<p>Attorneys general for the States of Alaska, Idaho, Iowa, Louisiana, Montana, Nebraska, North Dakota, South Carolina, South Dakota, Texas, Utah, and Wyoming challenged EPA's Water Quality Standards (WQS) Regulatory Revisions To Protect Tribal Reserved Rights. The States asked the court to vacate the rule as a violation of the Constitution and the Administrative Procedures Act, and because it exceeds EPA's authority under the Clean Water Act (CWA). The States argued that Congress did not "give the EPA the power to commandeer states into protecting and adjudicating alleged tribal reserved rights for the government" and that the CWA focuses on water quality, not on protecting specific rights for tribal or non-tribal members of the public. The rule requires case-by-case inquiries into undefined reserved rights that can only be resolved by courts, often over the course of a decade or more. "[T]reaty rights promised by the federal government to the tribes are socially, politically, and legally complex issues." EPA provides no guidance or mechanism for dispute resolution for "inevitable disagreements—between the tribes themselves, between tribes and States and between the tribes and the federal government—over the extent and nature of any alleged reserved rights." Such disagreements "have been the subject of countless lawsuits." The States alleged that the delegation of this effort to evaluate claimed tribal reserved rights to State water management agencies is an "unworkable task." It would also require a reevaluation of the myriad existing permits and certifications, postponing triennial review processes, likely resulting in WQS "that are orders of magnitude more stringent than those required under existing regulations," "standards that cannot be reasonably met using cost effective technologies," and "the vast majority of waters being deemed impaired." It would impact thousands of regulated entities with existing permitted discharges associated with important economic activities. The States argued that the rule also purports to require state water quality agencies to ensure that tribes have the right to quantities of water needed to secure their claimed rights and uses, such as certain flow rates for fishing rights, "even if the states have determined water quantities inconsistent with the tribal claims." "The EPA now grants itself the ability to disapprove State water quality standards it determines are not sufficiently protective.... This puts EPA in the position of choosing whose claim to water should be protected—undermining and interfering with the States' longstanding role, as well as previously negotiated or litigated claims and decreed water rights." This puts vested water rights at risk.</p>	
<b>Case Number</b>		
1:24-cv-00100		
<b>Court</b>		
U.S. District Court for the District of North Dakota		
<b>Relevant Dates</b>	<p>The twelve Tribes that filed a motion to intervene noted that EPA has previously used its oversight authority to disapprove of state WQS that violate CWA requirements because they were insufficiently protective of Tribal reserved rights. They said the States often fail to consider Tribal uses in the WQS process, and the rule "merely clarifies existing requirements and ensures uniform treatment of Tribal reserved rights essential to Tribal rights holders' subsistence, cultural, and spiritual practices." They said: "Tribal reserved rights can include the use of water for various purposes, such as fishing, gathering, ceremonial, domestic, irrigation, and municipal uses. Ensuring sufficient water quality for those uses is essential for the health and wellbeing of Tribal members.... Tribes have a clear interest in the quality of waters where they hold usufructuary or 'use' rights and the aquatic resources that depend on these waters." Some of the Tribes consume higher rights of fish and wild rice than the general population, and they are concerned about contaminants such as mercury, sulfate, and chloride. They argued that this litigation threatens to impair the Tribes' sovereign and conservation interests, and that the federal government cannot adequately protect their interests in this case. "EPA defends the case as the rule maker that must consider the interests of all citizens, which includes weighing competing interests against each other. The Tribes' interests are more particularized, given the unique treaty rights reserved for different Tribes and the specific interests in the waters of the state each Tribe occupies." They noted that while they don't believe the rule goes far enough to protect treaty rights, it is an essential step forward.</p>	
5/28/24: Complaint filed		
6/14/24: Amended Complaint and Motion for Prelim. Injunction		
6/28/24: Tribes' Motion to Intervene		
7/24/24: Tribes' Answer to Amended Complaint		
9/5/24: EPA's Answer to Amended Complaint	<p><b>Related Cases</b></p>	
11/4/24: State Plaintiff's MSJ		
1/3/25: EPA's Cross-MSJ		
2/10/25: Court stayed the case		
8/7/25: Stay extended 40 days		
<b>Notes</b>	<p><b>Notes</b></p>	
<b>Case Name</b>	<b>Issues</b>	PFAS CERCLA rule (89 FR 39124)
<i>Chamber of Commerce et al. v. EPA</i>	<p>The U.S. Chamber of Commerce petitioned for direct review of EPA's new rule "Designation of Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS) as CERCLA Hazardous Substances" (89 FR 39124), under the Administrative Procedures Act and Section 113 of CERCLA.</p>	
<b>Case Number</b>		
#24-1193		
<b>Court</b>		
D.C. Circuit		
<b>Relevant Dates</b>	<p><b>Related Cases</b></p>	
6/10/24: Petition filed		
2/24/25: Court stayed the case		
8/20/25: Stay extended		
<b>Notes</b>	<p><b>Notes</b></p>	
<b>Case Name</b>	<b>Issues</b>	PFAS National Primary Drinking Water Regulation (89 FR 32532)
<i>AWWA et al. v. EPA</i>	<p>The American Water Works Association (AWWA) and Association of Metropolitan Water Agencies (AMWA) filed a petition for direct review of EPA's PFAS drinking water rule. published on April 26. "Petitioners strongly support the protection of public health and the use of a sound scientific process in the development of regulations. EPA did not rely on the best available science and the most recent occurrence data, and used novel approaches as the basis for certain portions of the rule. EPA finalized this rule without following the process mandated by Congress, without allowing the public an adequate opportunity to provide comment, and without addressing the concerns raised by those who work to deliver safe and affordable drinking water to their communities. Petitioners are seriously concerned about the impact of this rule on water affordability, particularly for households that struggle to pay for essential needs. EPA has significantly underestimated the costs of this rule and</p>	
<b>Case Number</b>		
#24-1188		
<b>Court</b>		
D.C. Circuit		

<div> <div>Relevant Dates</div> <div> 6/7/24: Petition filed  10/7/24: Opening brief due  2/7/25: Court stayed the case  7/20/25: Stay lifted  9/11/25: EPA Motion to Vacate </div> </div> <div> <div>Related Cases</div> <div></div> </div> <div> <div>Notes</div> <div></div> </div>	affordability, particularly for households that struggle to pay for essential needs. EPA has significantly underestimated the costs of this rule and the adverse impact that it will have on individual water users."	
<div> <div>Case Name</div> <div>Alaska v. EPA</div> </div> <div> <div>Case Number</div> <div>3:24-cv-84</div> </div> <div> <div></div> <div>3:24-cv-59 (consolidated)</div> </div> <div> <div>Court</div> <div>U.S. District Court of Alaska</div> </div> <div> <div>Relevant Dates</div> <div> 4/11/24: Alaska's Complaint  6/24/24: EPA Answer  8/2/24: Administrative record filed  8/9/24: EPA Motion for Protective Order  8/20/24: AK Motion to Stay  9/17/24: Stay granted until ruling on EPA's Motion for Protective Order  10/2/24: Protective Order granted  11/12/24: Order consolidating cases to Case No. 3:24-cv-59  2/14/25: Case stayed  8/6/25: Court set briefing schedule for MSJ between October 2025 and February 2026 </div> </div> <div> <div>Related Cases</div> <div></div> </div> <div> <div>Notes</div> <div></div> </div>	<div>Issues</div> <div></div>	<div>CWA 404 Veto</div> <div>Alaska sought a declaration that EPA violated the CWA and APA in issuing it's 2023 veto action (Final Determination) that blocked the development of the Pebble Mine by prohibiting the issuance of any CWA 404 permits to discharge into WOTUS. AK asked the court to set aside the Final Determination, allowing the permit application process to proceed forward.</div>
<div> <div>Case Name</div> <div><i>State of Alaska v. United States</i></div> </div> <div> <div>Case Number</div> <div>1:24-cv-00396</div> </div> <div> <div>Court</div> <div>U.S. Court of Federal Claims</div> </div> <div> <div>Relevant Dates</div> <div> 3/14/24: Petition filed  9/4/24: Case stayed (pending district court case outcome, to preserve judicial resources)  9/5/25: Stay extended to 11/4/25 </div> </div> <div> <div>Related Cases</div> <div></div> </div>	<div>Issues</div> <div></div>	<div>CWA 404 Veto</div> <div>Alaska petitioned for \$700B in compensation for EPA's 2023 veto action (Final Determination) that blocked the development of the Pebble Mine. Alaska noted that, in authorizing the Statehood Act and Cook Inlet Land Exchange, Congress explicitly recognized that Alaska would develop its mineral resources. The State alleged that these agreements constitute contracts, under which the State would receive land, associated mining rights (subject to lease by the State), and regulatory authority over its lands. They claimed that EPA's Final Determination decision is a breach of contract by the federal government, as well as a breach of the covenant of good faith and fair dealing. The State further alleged multiple takings counts (permanent categorical taking, permanent non-categorical taking, and temporary taking) stating that EPA's Final Determination denies all economically beneficial or productive use of the land. They asserted that a finding of either type of permanent taking should entitle them to compensation exceeding \$700B, the 100-year value of Pebble Mine estimated by EPA in 2010. The State argued that even if the EPA were to withdraw its Final Determination or it were to be vacated, the Determination has blocked the U.S. Army Corps of Engineers (Corps) from issuing a Clean Water Act (CWA) permit for the Pebble Mine. This would constitute a temporary taking, entitling the State to just compensation in an amount that exceeds \$10,000.</div>



Alaska v. U.S. Env't Prot. Agency, No. 3:24-cv-84 (D. Alaska)		
<b>Notes</b>		
<b>Case Name</b>	<b>Issues</b>	CWA exemptions for agricultural irrigation, 33 U.S.C. §1342(1)(1)
<i>Pacific Coast Federation of Fishermen's Associations, Inc., et al. v. Ernest Conant, et al.</i>	On September 5, 2025, the 9th Circuit upheld the District Court's ruling in favor of the defendants. On remand, while addressing procedural errors, the District Court again ruled in favor of the defendants, concluding that they had successfully established the exemption because each alleged pollutant (groundwater seepage from non-irrigated land, sediment in the drain, water from the Vega Solar Project, and flows from highways, residences, and other non-irrigated lands) was either from a nonpoint source or from a point source related to the Project's overall drainage function. The 9th Circuit said: "The CWA exempts 'discharges composed entirely of return flows from irrigated agriculture' from the NPDES permitting scheme. 33 U.S.C. § 1342(l)(1). We hold that the irrigated agriculture exemption applies when return flows do not contain additional point source discharges from activities unrelated to crop production. In the absence of a genuine dispute of material fact, we affirm the district court's conclusion that Defendants have met their burden of establishing that the irrigation return flow exemption ...applies to the Project."	
<b>Case Number</b>		
2:11-cv-02980		
#23-15599		
<b>Court</b>		
U.S. District Court for the Eastern District of California		
9th Circuit		
<b>Relevant Dates</b>		
2011: Complaint filed		
2017: District Court Decision		
2019: 9th Circuit Decision (remand)		
2/21/23: ED CA ruling that exemption still applied		
4/19/23: Notice of Appeal to 9th Cir.		
3/4/24: Agriculture Coalition Amicus Brief		
10/21/24: Oral Argument		
9/5/25: 9th Circuit decision		
<b>Related Cases</b>		
<b>Notes</b>		
	<p>BACKGROUND: The underlying case, filed in 2011, arises from water discharges from the Grasslands Bypass Project in California's Central Valley. The project was created as a result of a previous lawsuit for the purpose of preventing irrigation water from leaching selenium and salt from the agricultural soil into the groundwater. The project collects water used to irrigate agricultural land through an underground perforated tile drainage system, moving "the collected drainage water through a concrete-lined conveyance for many miles before it dispenses into a wetland." The plaintiffs alleged that the Bureau of Reclamation (USBR) and the Grasslands Water District are discharging pollutants, without a National Pollutant Discharge Elimination System (NPDES) permit, which made their way into the San Joaquin River and San Francisco Bay Delta in violation of the Clean Water Act (CWA). The defendants argued that the agricultural land is exempt from CWA permitting under 33 U.S.C. §1342(1)(1).</p> <p>In 2017, the district court held that, because the majority of the water came from agricultural lands, the exemption applied. In 2019, the 9th Circuit reversed and remanded that decision, noting that the CWA exemption language is "for discharges composed entirely of return flows from irrigated agriculture." On remand, the lower court again held that the exemption applied, because the water was either from the agricultural lands or from other nonpoint sources that are exempt. The plaintiffs appealed. The Association of California Water Agencies (ACWA) led an agricultural coalition amicus curiae brief, noting that the Grasslands Bypass Project drainage infrastructure is not unique, and "this case may have far-reaching impacts on farmlands that utilize and rely on irrigation drainage facilities essential to maintaining crop production." The CWA exemption for agricultural return flows applies to "millions of acres of farmland" and a ruling rendering that exemption essentially nonexistent "would broadly affect western agriculture, forcing thousands of farmers and operators of agricultural drainage systems across the western United States to immediately apply for and operate under onerous NPDES permits or face liability under the CWA." They emphasized the lower court's determination that the exemption "cannot be defeated merely because additional nonpoint sources of pollution may enter into agricultural drains that convey agricultural return flows to waters of the United States."</p>	
<b>Case Name</b>	<b>Issues</b>	Delegation of CWA §404 to Florida and Endangered Species Act
<i>Center for Biological Diversity (CBD) et al. v. Michael S. Regan, et al.</i>	The Court issued a partial MSJ ruling (2/15/24) that the Environmental Protection Agency (EPA) and the Fish and Wildlife Service (FWS) violated the Endangered Species Act (ESA) when they approved Florida's application to assume Clean Water Act (CWA) §404 permitting authority. The court held that the agencies had circumvented ESA requirements by approving programmatic Section 7 consultation, providing broad ESA liability protection for all future state permittees. The court vacated the USFWS' programmatic Biological Opinion (BiOp) and Incidental Take Statement (ITS), as well as EPA's approval of Florida's §404 assumption application.	
<b>Case Number</b>		
1:21-cv-00119		
#24-5101, #24-5156, #24-5159		
<b>Court</b>		
U.S. District Court for the District of Columbia		
D.C. Circuit Court		
<b>Relevant Dates</b>		
	The intervenor defendants, the State of Florida and the Florida Department of Environmental Protection (FDEP), filed a brief (2/26/24) in support of the partial stay. They noted that they had over 1,000 pending §404 individual and general permit applications for roads and bridges, hospital construction projects, school buildings and facilities, affordable housing, military base projects, power grid reliability projects, and various projects to improve water quality in the Everglades. They emphasized the need for the stay to minimize the disruptive consequences of vacatur. They asked for clarification on several questions the court left unanswered regarding procedures for applications that "may affect" listed species and their continued authority over applications that do not. The Florida intervenor defendants alternatively presented the approach used by New Jersey and Michigan, involving memoranda of agreement (MOAs) that facilitate EPA or USFWS review where the State identifies applications that may affect ESA listed species. They noted that while the court found the Florida Section 7 consultation deficient, the formal	

<p>1/1/21: Complaint filed in DC Dist. Ct.  2/15/24: Partial MSJ decision (vacatur of 404 delegation)  2/26/24: Federal agency defendants and Florida intervenor defendants arguments on partial stay of vacatur  4/23/24: Court denied partial stay of vacatur  --  4/26/24: Florida appealed (#24-5101)  9/16/24: Florida brief  9/23/24: State amicus brief  5/5/24: Oral argument  --  6/10/24: CBD cross-appeal (#24-5156)  9/16/24: Federal agencies and Florida briefs filed  9/23/24: State amicus brief  5/5/24: Oral argument  --  6/11/24: Federal agencies appealed (#24-5159)  9/16/24: Federal agencies and Florida briefs filed  9/23/24: State amicus brief  5/5/24: Oral argument</p>	<p>applications that may affect ESA listed species. They noted that while the Court found the Florida Section 7 consultation deficient, the formal process went “above and beyond what was done in the other two states at the assumption stage” where no programmatic BiOp was ever prepared.</p> <p>BACKGROUND: CBD argued that the FWS’ programmatic BiOp, programmatic ITS, and technical assistance processes “create an ESA scheme that is not authorized by law” and “give [Florida] a workaround regarding the mechanisms that Congress provided for establishing take limits, extending liability coverage, and determining jeopardy to species.” They also allege that the EPA relied on the facially deficient Section 7 statements and failed to consult with the National Marine Fisheries Service (NMFS).</p> <p>The federal agencies argued that even if their Section 7 consultations were insufficient, they had created a technical assistance process between Florida and the agencies to address all of the ESA requirements on a permit-by-permit basis by requiring Florida to consult with FWS regarding each application. They requested that the Court only vacate approval to those projects in the category of “may affect, likely to adversely affect” listed species.</p>	
<b>Related Cases</b>		
<b>Notes</b>		
<b>Case Name</b>	<b>Issues</b>	CWA §401 Water Quality Certification Improvement Rule (2023 Rule) (88 FR 66558)
State of Louisiana et al. v. U.S. Environmental Protection Agency et al.	<p>The plaintiff states (including AK, MT, OK, and WY) and regulated entities challenged the 2023 Rule, arguing that it expands the states’ authority beyond the scope of the CWA by: (1) allowing states to establish additional requirements for a complete certification request; (2) directing states to evaluate all potential water quality-related effects of a proposed activity (rather than evaluating the point source discharge only) under all types of state water quality requirements; (3) retroactively applying the rule to pending requests; and (4) failing to adequately carry out APA notice-and-comment procedures. The petitioners requested an order declaring that the 2023 Rule violates the CWA and the APA; vacating and setting aside the 2023 Rule; and enjoining EPA from applying or enforcing the 2023 Rule. Since filing the complaint on December 4, the plaintiffs also petitioned for preliminary injunctive relief to stay the 2023 Rule in states bringing the lawsuit.</p> <p>The intervenor defendant states (including CA, NM, OR, and WA) argued that they have a “clear and direct interest in upholding the 2023 Rule to preserve their sovereign authority over water quality within their respective states under section 401 of the CWA.” They argued that their interests are not adequately represented by either the plaintiff states or EPA. They noted that the plaintiff’s plea to invalidate the 2023 Rule and return to the 2020 Rule may impair intervenor defendant states’ ability to protect their interests. They disagreed with the plaintiffs allegations that the 2023 Rule is overly broad or burdensome, stating: “Placing the ultimate authority to ensure proposed projects comply with state water quality requirements in the hands of states is the core reason Congress included the section 401 certification requirement in the first place.” They pointed out that the nature of cooperative federalism as mandated by the CWA requires independent state representation, and that EPA’s interests in this case diverge from their own.</p>	
<b>Case Number</b>		
2:23-cv-01714		
<b>Court</b>		
U.S. District Court for the Western District of Louisiana		
<b>Relevant Dates</b>		
12/4/23: Complaint filed		
1/12/24: 18 states filed a motion to intervene as defendants		
2/6/24: EPA Answer		
3/7/24: Motion for Preliminary Injunction denied		
5/30/24: Plaintiffs States’ MSJ		
7/30/24: Intervenor Defendant States Cross MSJ		
8/8/24: Court set deadlines for MSJ responses by 9/30/24, and replies by 10/30/24		
2/11/25: Court stayed the case for 90 days		
7/16/25: stay extended 90 days		
<b>Related Cases</b>		
<b>Notes</b>		
<b>Case Name</b>	<b>Issues</b>	Delegation of CWA 404 and Tribal Lands

<i>Miccosukee Tribe v. EPA</i>	<p>The Miccosukee Tribe alleged that EPA's approval of Florida's CWA 404 permitting program (85 FR 83553) impermissibly disregarded and diminished the Miccosukee's Tribal Sovereignty by subjecting more than 200,000 acres of Indian lands to the State's regulatory jurisdiction. Tribal members have been prevented from obtaining permits to build homes on tribal lands in the Everglades. The complaint asserted that Miccosukee lands include more than the reservation lands, noting that the tribe holds interests in lands held by the federal government, Miccosukee reserved areas, perpetually leased lands, reserved rights lands, and fee simple lands. EPA's approval of Florida's proposal transferred CWA § 404 permitting authority over the Miccosukee Leased Lands, Reserved Rights, and Fee Simple Lands to the State of Florida unless such lands were subject to the ebb and flow of the tide. The complaint alleged that the state lacks legal authority to carry out the CWA 404 program on Indian lands, and in the absence of that authority, EPA's regulations (40 CFR 233.2(b)) specify that 404 permitting authority will remain with the Army Corps of Engineers. Rather than describe the waters within the state's jurisdiction and the waters retained by the Corps, Florida's description said that "State-assumed waters...are all waters of the United States that are not retained waters," provided inconsistent definitions of Corps-retained waters, and although Florida noted that "Indian country, as defined in 18 USC 1151, is not included in Florida's 404 program," failed to include other Indian lands. The Tribe sought five counts of relief under the APA, requesting that EPA's transfer of authority over certain waters be vacated.</p> <p>Florida intervened and countered in the MSJ reply (#43) that "the Tribe's boundless view of 'Indian lands' as much broader than 'Indian country'" is erroneous and unprecedented. "Florida's Section 404 Program remains subject to continuous permit-by-permit oversight by the federal government and allows for full involvement by the Tribe at every stage. As such, there is no legal or factual basis to claim 'sovereignty' injuries here. The Tribe's decision to selectively forego participating in the Section 404 program for two proposed permits [the Tribe expressly asked Florida to suspend the processing of the two applications, and Florida consented to that request] is entirely self-inflicted and inconsistent with the Tribe's own past involvement in state permit programs." Florida argued that Congress clearly did not intend the application process to include a canvass of the landscape on a parcel-by-parcel basis and get bogged down in contentious disputes over jurisdictional line-drawing. "As set forth in the FDEP-Corps MOA, any site-specific line-drawing determinations can be made as circumstances warrant, particularly since the precise boundaries of assumable waters are subject to change based on current conditions." Additionally, Florida expressly did not seek authority over Indian country (18 USC 1151). "If EPA correctly interpreted Indian lands synonymously with Indian country, Florida's program obviously does not cover Indian lands within the meaning of 40 CFR 233.11(h)." Florida also argued against the Tribe's assertion that state-tribe interactions injure tribal sovereignty and cannot be government-to-government relations, noting that states are also sovereign, and that the BIA has acknowledged: "While federally recognized tribes generally are not subordinate to states, they can have a government-to-government relationship with these other sovereigns, as well... [T]ribes frequently collaborate and cooperate with states through compacts or other agreements on matters of mutual concern such as environmental protection and law enforcement."</p>	
<b>Case Number</b>		
1:22-cv-22459		
<b>Court</b>		
U.S. District Court for the Southern District of Florida		
<b>Relevant Dates</b>	<p>8/4/22: Tribe filed complaint against EPA  9/7/22: Florida motion to intervene (granted)  7/27/23: Tribe's MSJ  9/27/23: EPA cross-MSJ  12/20/23: Florida Reply to cross-MSJ  12/27/23: Florida Reply to MSJ  3/18/24: Stay (pending outcome of CBD v. EPA, which vacated EPA's approval of Florida's CWA 404 assumption of authority)  9/13/25: Stay extended 90 days</p>	
<b>Related Cases</b>		
<b>Notes</b>		
<b>Case Name</b>	<b>Issues</b>	2023 WOTUS Rule (88 FR 3004) and Amended Rule (88 FR 61964)
<i>West Virginia et al. v. EPA</i>	<p>A coalition of 24 states, led by WV and including the ten western states of AK, KS, MT, NE, ND, OK, SD, UT, and WY, requested that the rule be vacated and remanded to the agencies for violations of the Clean Water Act (CWA), the Administrative Procedures Act (APA), and the U.S. Constitution, including the Commerce Clause and the Fifth and Tenth Amendments. The States asserted that the 2023 WOTUS rule mirrors or exceeds the 2015 WOTUS Rule (enjoined by this court for likely violating the CWA grant of authority to EPA and the Corps), and that it "improperly upsets the balance of State and federal powers in an area typically dominated by the States." Each State expressed its sovereign authority to govern, manage, and protect the waters within its borders, as cited in their respective state constitutions and statutes. For a lengthier summary of the complaint, see WSW #2546 Special Report.</p>	
<b>Case Number</b>		
3:23-cv-00032		
<b>Court</b>		
U.S. District Court in North Dakota		
<b>Relevant Dates</b>		

<div>2/16/23: Lawsuit filed</div> <div>4/12/23: Preliminary injunction (24 states)</div> <div>7/18//23: Case stayed</div> <div>9/1/23: Status report from Corps &amp; EPA re: amended WOTUS rule issued</div> <div>10/10/23: Stay lifted</div> <div>11/13/23: Amended Complaint</div> <div>12/12/23: Industry Motion to Intervene granted (Ag, Mining, Construction, etc)</div> <div>12/13/23: Answers filed</div> <div>2/26/24: States and Industry MSJs filed</div> <div>4/26/24: EPA, Corps MSJ filed</div> <div>6/25/24: various responses filed to MSJs</div> <div>7/26/24: EPA, Corps filed reply</div> <div>7/30/24: Federal defendants filed supplemental authority: Kentucky v. EPA (6th Circuit remand to allow amended complaints rather than sua sponte dismissal, #23-5343 and #23-5345)</div> <div>2/18/25: Court stayed the case</div> <div>8/25/25: next status report due 10/21/25</div>	<div>On April 12, 2023, the court issued a preliminary injunction staying the implementation of the 2023 Waters of the United States (WOTUS) Rule in 24 states (AK, AL, AR, FL, GA, IA, IN, KS, LA, MI, MO, MT, ND, NE, NH, OH, OK, SC, SD, TN, UT, VA, WV, and WY). The court found that the 2023 rule has unlimited boundaries and “raises a litany of other statutory and constitutional concerns.” The court noted that EPA has arguably acted beyond its statutory authority, noting problems with several categories of water, including: (1) interstate waters not connected to navigable waters; (2) impounded waters without any outlet or hydrologic connection to the tributary network; (3) an overly broad definition of tributary that includes dry waterways; (4) non-navigable intrastate waters previously considered isolated and not subject to CWA jurisdiction; and (5) a treatment of wetlands that is “plagued with uncertainty” and extends jurisdiction to remote wetlands that the U.S. Supreme Court has already excluded. For a lengthier summary of the preliminary injunction, see WSW # 2552 Special Report.</div>	
<div>Related Cases</div> <div>Texas v. EPA, #3:23-cv-17 (see below)</div> <div>Lewis v. United States, 88 F.4th 1073 (5th Cir. 2023)</div> <div>Glyn Envtl. Coal., Inc. v. Sea Island Acquisition, LLC, #2:19-cv-50, S.D. Georgia (2024) [appeal #24-10710 to 11th Cir.]</div> <div>White v. EPA, #2:24-cv-13, E.D. North Carolina (2024) [appeal #24-____ to 5th Circuit]</div> <div>EPA v. Ace Black Ranches, #1:24-cv-113, D. Idaho (2024)</div>		
<div>Notes</div>		
<div>Case Name</div> <div>Texas et al. v. EPA et al.</div> <div>Case Number</div> <div>3:23-cv-00017</div> <div>Court</div> <div>U.S. District Court for the Southern District of Texas</div> <div>Relevant Dates</div>	<div>Issues</div> <div>2023 WOTUS Rule (88 FR 3004) and Amended Rule (88 FR 61964)</div>	
	<div>The complaint requested that the 2023 WOTUS rule be vacated for violations of the Constitution, the CWA, and the APA. Texas alleged: “The Final Rule harms Plaintiffs by: (1) expanding federal regulation beyond that authorized in the CWA; (2) eroding the states’ authorities over their own waters; (3) increasing the states’ burdens and diminishing the states’ abilities to administer their own programs; and (4) undermining the states’ sovereignty to regulate their internal affairs as guaranteed by the Constitution.” Texas asserted that the CWA “only authorizes the Federal Agencies to regulate ‘navigable waters,’ defined as ‘waters of the United States’” and the new rule is a violation of the CWA and APA for asserting jurisdiction over lands and waters that fall outside the CWA and effectively removing any requirement of navigability. For a lengthier summary of the complaint, see WSW #2546 Special Report.</div>	

<p>1/18/23: Lawsuit filed  2/27/23: Idaho joined  3/19/23: Preliminary injunction (TX &amp; ID only)  7/10/23: Case stayed  9/1/23: Status report from Corps &amp; EPA re: amended WOTUS rule issued  2/2/24: Plaintiffs filed MSJ  4/2/24: EPA, Corps MSJ and opposition to Plaintiff's MSJ  6/17/24: TX and ID Reply  7/30/24: Federal defendants filed supplemental authority: Kentucky v. EPA (6th Circuit remand to allow amended complaints rather than sua sponte dismissal, #23-5343 and #23-5345)  2/4/25: Case stayed, status reports due every 60 days  4/7/25: EPA/Corps Status Report, noting the new guidance and the regulatory docket soliciting input to further clarify the WOTUS definitions, which may resolve the litigation or narrow the existing dispute (next status report 6/6/25)  8/5/25: Status report, stay to 10/6/25</p>	<p>On March 19, 2023, the court issued a preliminary injunction preventing the 2023 WOTUS Rule from taking effect in the States of Texas and Idaho. "[T]wo aspects of the 2023 Rule make the plaintiffs particularly likely to succeed on the merits – first, the Rule's significant-nexus test, and second, the Rule's categorical extension of federal jurisdiction over all interstate waters, regardless of navigability." The court found that Chevron deference does not apply due to the criminal penalties in the rule, and due to the significant constitutional and federalism questions raised by the agencies' interpretation of the CWA. The court held that the states had standing to challenge the rule to protect their quasi-sovereign interests in regulating their land and water. For a lengthier summary of the preliminary injunction, see WSW # 2549.</p> <p>In August 2023, the EPA announced amendments in response to the Supreme Court decision in Sackett v. EPA. In turn, Texas and Idaho amended their complaint to include the changes. On February 2, 2024, the plaintiffs filed an MSJ. They argued that the Amended 2023 Rule (88 FR 61964) is unconstitutionally vague in its definitions of "every jurisdictional category," including its definitions of Traditional Waters, Impoundments, Tributaries, Wetlands, and Other Jurisdictional State Waters. Additionally, the Relatively Permanent Standard is broader and vaguer than the standard described in Sackett and Rapanos. Plaintiffs also argued that the Amended 2023 Rule exceeds the CWA, is contrary to the States' sovereignty, violates due process afforded by the Constitution, and was adopted through unlawful procedure under ADA. They conclude: "It cannot be supported by the plain language of the Clean Water Act, it is inconsistent with Supreme Court precedent, it cannot be justified as a valid exercise of congressional authority under the Commerce Clause, it cannot be excused in the face of the Tenth Amendment, and it infringes on the due process rights afforded under the Fifth Amendment. And even if it were not substantially unlawful, it was adopted through unlawful procedure." See WSW #2596</p>	
<b>Related Cases</b>		
West Virginia v. EPA, #3:23-cv-32 (see above)		
<b>Notes</b>		
<b>Case Name</b>	<b>Issues</b>	Water rights adjudication (groundwater), SGMA 2014, federal water rights and groundwater
<i>Indian Wells Valley Water District v. All Persons Who Claim a Right to Extract Groundwater in the Indian Wells Valley Groundwater Basin, etc., et al.</i>	<p>On July 28, 2025, the Orange County, California Superior Court issued a proposed Statement of Decision in Phase 1 of the groundwater adjudication. The court quantified the U.S. Navy's federal reserved water right for Naval Air Weapons Station – China Lake at 2,008 acre-feet per year (AFY), with a priority date of 1947. China Lake is the Navy's largest land holding in the world, is located in the Mojave Desert, and the only source of potable water available for the military base is groundwater. The court declined to set the reserved water right priority date on the basis of a 1943 order from the Secretary of the Navy to establish the base. Although there were several steps taken toward purchasing land and withdrawing it from public use beginning in 1943, the court held that the formal Public Land Order 431 published in the Federal Register in 1947 was the date of the reservation from the public domain, and therefore established the priority date of the reserved water right. The court distinguished non-tribal reserved rights from cases involving Indian reservations, where courts look at treaties, executive orders, and statutes, and give a liberal interpretation favorable to the tribes. The court was careful to distinguish between reserved water rights that serve the primary purpose of the reservation. and water for secondary purposes that the Navy can obtain through the state like any other water right user. "All of</p>	
<b>Case Number</b>		
30-2021-01187275-CU-OR-CJC		
<b>Court</b>		
Orange County Superior Court, California		
<b>Relevant Dates</b>		

<p>6/16/21: IWVWD Cross-complaint, opening the adjudication</p> <p>9/7/21: California Department of Water Resources received notice of the adjudication</p> <p>10/13/21: form of Notice of Commencement of Groundwater Basin Adjudication approved</p> <p>12/16/21: Notices mailed to basin property owners</p> <p>3/17/23: Case Management Conference</p> <p>9/1/23: Status Conference (awaiting judicial assignment from the Judicial Council, followed by briefing on Court's authority to determine safe yield and impose a physical solution, as well as the issue of including de minimis users and McCarran jurisdiction)</p> <p>2/23/24: IWVWD Motion for order to divide the trial into phases, establish the basin boundary, set the phase 1 trial, and partially lift the discovery stay</p> <p>8/8/24: Order granting the motion to schedule the phase 2 trial (safe yeild) at the next status conference (10/2/24); interesting discussion on the intersection of SGMA, GSPs, and adjudications under the Streamlined Act (2015)</p> <p>4/28/2025: Phase 1 Trial on federal reserved water right claim scheduled</p> <p>7/28/25: Proposed Statement of Decision on Phase 1 trial</p>	<p>purpose of the reservation, and water for secondary purposes that the Navy can obtain through the state like any other water right user. All of the key historical documents point to the development and testing of weapons as the primary purpose of China Lake." The court rejected 20 AFY for off-base management of burros and horses as part of an agreement with BLM, as well as 200 AFY for endangered Tui Chub in the lake, as those are secondary purposes. The court also excluded treated wastewater obtained by agreement from the nearby town. While the court agreed that water for on-base housing could be encompassed by the reserved water right, off-base housing that is located off the reservation land was excluded. Notably, when determining the quantity of water needed to fulfill the primary purposes, the court looked at the full history of China Lake's water use since the date of the reservation, the reasonably anticipated future uses, long-term versus temporary uses, and its water conservation efforts since 1989. "[T]he time frame in which the reserved water right is adjudicated is critical. Thus, if quantification of China Lake's reserved right was determined in the 1940s during World War II, then that right likely would have taken into account the ongoing war effort, the need for new weapons, the ever-increasing size of the base and the lack of a viable off-base housing alternative.... Any determination at that time could not have contemplated base closings and consolidations that happened many decades later, nor could it account for the many water-conservation methods that have developed over the years. Likewise, if the reserved water right had been adjudicated in 1969 at the height of the Vietnam War, then the water use (nearly 8,000 AFY) the base's total population (nearly 20,000) and the available on-base housing (3,800+ residences/dorm spaces) undoubtedly would have dictated a different result from today. However, because this proceeding is occurring 50+ years after Vietnam and 80+ years after World War II, the previous historical use is of little value given the many significant changes that have occurred since those wars ended. In short, in determining China Lake's reserved water right, the Court starts with current water usage as a baseline, taking into account fluctuations that have occurred in the relevant past. And while the Court agrees that potential future expansion of China Lake's mission should be taken into account in calculating that water right, that expansion must meet the 'reasonably probably to occur' criterion." Various parties filed objections to the proposed decision.</p>	
<p><b>Related Cases</b></p> <p>Mojave Pistachios, LLC v. IWVWD</p> <p>Comprehensive adjudication of the Cuyama Valley Groundwater Basin, another basin in an overdraft condition. (9/2/21)</p> <p><b>Notes</b></p> <p>See: <a href="https://www.iwvwd.com/basin-adjudication/">https://www.iwvwd.com/basin-adjudication/</a></p>	<p>BACKGROUND: The original complaint was filed by Mojave Pistachios, LLC. The cross-complaint by the Indian Wells Valley Water District (IWVWD) seeks "a judgment to comprehensively determine and adjudicate all groundwater rights in the Basin and to provide a physical solution for the perpetual and continuous management of the Basin." IWVWD's website noted that water use in the basin has exceeded groundwater supply for years, resulting in an "overdraft" condition. IWVWD is a member of the Indian Wells Valley Groundwater Authority, formed pursuant to the Sustainable Groundwater Management Act (SGMA). The Authority developed and adopted a groundwater sustainability plan (GSP), and several lawsuits were filed alleging that the GSP actions to regulate water use and impose fees were unlawful and excessive, leading in part to the present adjudication.</p> <p>During a joint case management conference, one of the jurisdictional issues raised was whether the de minimus water users, and any overlying non-users, needed to be included in the proceeding in order for the Court to have jurisdiction over the United States as part of a comprehensive adjudication, both to ensure the US participation and to protect the due process rights of these others. On June 11 and 21,2024, the adjudication was separated into several phases. Phase 1 will address the federal government's reserved water rights claims to groundwater. Phase 2 will adjudicate the safe yeild and groundwater in storage. Phase 3 will determine the water rights claims of all other parties. Phase 4 will determine a physical solution.</p>	
<p><b>Case Name</b></p> <p><i>Center for Biological Diversity et al. v. Spellmon</i></p> <p><b>Case Number</b></p> <p>4:21-cv-00047</p> <p>1:22-cv-02586</p> <p><b>Court</b></p> <p>U.S. District Court for Montana</p> <p>U.S. Distirct Court for the District of Columbia</p> <p><b>Relevant Dates</b></p>	<p><b>Issues</b>      Nationwide Permits, ESA</p> <p>The complaint for declatory and injunctive relief stems from the Corps issuance of Nationwide Permit 12, a general permit for oil and gas pipeline projects purusant to CWA 404(e). The lawsuit alleges ESA and APA violations for failure to assess environmental effects, and to fulfill consultation responsibilities under ESA section 7 with the National Marine Fisheries Service and the FWS. The NWP 12 allows oil and gas pipelines to cross water repeatedly without limits to the number of wetlands a project might impact, ignoring the cumulative effects of large interstate pipelines.</p> <p>On August 18, 2022, the federal court in Montana determined that it was not the appropriate venue for the ESA claims, as the events giving rise to the claims did not occur in Montana, and the sole Montana plaintiff could not show Article III standing on the ESA claims. The case was trasferred to the District of Columbia for further proceedings.</p> <p>The federal defendants withdrew their request for court deference to the agency following Loper v. Raimundo, but argued that no deference was needed to uphold the agency action. Additionally, Loper held that courts could consider an agency's long-standing interpretation of a statute. "The Corps' issuance of NWP 12 reflects the best reading of CWA Section 404(e)'s minimal effects threshold because for linear pipeline</p>	

<p>5/3/21: Lawsuit filed  6/7/21: Montana intervened  8/31/21: Petroleum associations intervened  9/7/21: Answer from the Corps  6/9/22: Hearing on MSJs ("order will be submitted forthwith")</p> <p>8/18/22: Case transferred to District of Columbia  11/18/22: Supplemental Briefing on schedule submitted by the parties to the DC court  9/2023: Supplemental authorities filed  7/15/24: Supplemental authority: Loper Bright Enterprises v. Raimondo  8/27/24: Corps response to Loper</p> <p><b>Related Cases</b></p> <p>Northern Plains Resource Council et al. v. U.S. Army Corps of Engineers, No. 4:19-cv-00044 (D. Mont.), appeal vacated lower court decision (8/11/21) in part due to new NWP that renders some claims moot, and remanded to determine whether vacatur was appropriate, (9th Cir, #20-35412). On remand, claim four was dismissed as moot, and the other three claims were dismissed without prejudice (9/29/22)</p> <p><b>Notes</b></p>	<p>The Corps' issuance of NWP 12 reflects the best reading of CWA Section 404(e)'s minimal effects threshold because for linear pipeline projects, what 'constitutes separate and distant crossings can vary across the country because of differences in the distribution of waters and wetlands in the landscape, local hydrologic conditions, local geologic conditions, and other factors.' Thus, allowing Corps districts to determine when crossings are sufficiently 'separate and distant' from one another on a case-by-case basis, rather than establishing national thresholds, is the best reading of the statute." The Corps argued that this interpretation has been in place for 33 years.</p>	
<p><b>Case Name</b></p> <p><i>Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water Dist.</i></p> <p><b>Case Number</b></p> <p>5:20-cv-00174</p> <p>Agua Caliente II</p> <p><b>Court</b></p> <p>U.S. District Court for the Central District of California</p> <p><b>Relevant Dates</b></p> <p>1/24/2020: case filed  3/13/2020: Answers filed by Desert Water Agency and Coachella Valley Water District  6/22/2020: Defendants motion to bifurcate case  6/29/2020: Plaintiff's opposition to bifurcation  7/20/20: Motion denied; case management order modified to extend deadlines  10/6/20: Case stayed pending private mediation  6/20/25: Court stay pending Congressional approval of settlement</p> <p><b>Related Cases</b></p> <p>Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District, et al., 13-883</p> <p><b>Notes</b></p>	<p><b>Issues</b></p>	<p>Indian Reserved Water Rights</p> <p>On May 19, 2025, the non-federal parties agreed to a settlement agreement that would permanently settle the claims by Agua Caliente and the United States against CVWD and DWA in both Agua Caliente I and Agua Caliente II. Before the Settlement Agreement can become effective, however, Congress must approve it, and the United States must execute it. The case is stayed until then.</p> <p>BACKGROUND: At issue is whether the water district's assessment of fees (replenishment assessment charges, RAC) on the tribe's production of its federally reserved groundwater is preempted as a matter of federal law. The water district uses Colorado River water to recharge the aquifer. The RACs are imposed on water production in designated areas of benefit—including much of the Agua Caliente Reservation—to cover the costs of artificial recharge programs. The tribe argues that the RACs unlawfully interfere with its inherent and exclusive sovereign authority to regulate its water resource.</p>
<p><b>Case Name</b></p> <p><i>Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water District, et al.</i></p> <p><b>Case Number</b></p>	<p><b>Issues</b></p>	<p>Indian Reserved Water Rights</p> <p>On May 19, 2025, the non-federal parties agreed to a settlement agreement that would permanently settle the claims by Agua Caliente and the United States against CVWD and DWA in both Agua Caliente I and Agua Caliente II. Before the Settlement Agreement can become effective, however, Congress must approve it, and the United States must execute it. The case is stayed until then.</p>

5:13-cv-883	BACKGROUND: The Agua Caliente Band of Cahuilla Indians filed a lawsuit in May 2013, asking the Court to declare and quantify the existence of the tribe’s water rights as the senior rights in the Coachella Valley under federal law. In March 2015, the District Court ruled on summary judgment that the Agua Caliente Band of Cahuilla Indians has a reserved right to water, and groundwater is a water source available to fulfill that right. The Court denied the Tribe’s claim for aboriginal title to groundwater. The case was trifurcated, with phase II addressing whether the Tribe beneficially owns the “pore space” of the groundwater basin underlying the Reservation, and whether a tribal right to groundwater includes the right to receive water of a certain quality. Phase III will focus on the quantification of the Tribe’s right. (Note: The order of Phase II and Phase III appears to have been reversed. as litigation continued.)	
Agua Caliente I		
Court		
U.S. District Court for the Central District of California		
Relevant Dates		
5/2013: Agua Caliente filed suit	On March 7, 2017, the 9th Circuit upheld the California District Court’s summary judgment, holding that the United States implicitly reserved a right to water when it created the Agua Caliente Reservation, and that the Tribe’s reserved water right extends to the groundwater underlying the Reservation. The court expressed “no opinion on how much water falls within the scope of the Tribe’s federal groundwater right,” since that will be determined at a later phase of the case. However, even with water under state-law entitlements, “there can be no question that water [from the aquifer] in some amount was necessarily reserved to support the reservation created.” On July 5, 2017, the Defendant water agencies filed petitions for cert. On August 7, 2017, NV, AZ, AR, ID, NE, ND, SD, TX, WI, and WY filed an amicus curiae brief , arguing that the 9th Circuit’s expansion of the federal reserved water rights doctrine unsettles the scope of the states’ authority over groundwater resources, and that the decision is inconsistent with caution courts must exercise when altering the federal-state balance by interfering with state sovereign power, particularly when applying implied Congressional intent. It calls the decision an “indiscriminate application of the Winters doctrine to groundwater” that ignores the nuances of past court decisions and expressed Congressional intent. The Supreme Court denied the petition for cert on November 27, 2017.	
3/27/2015: Summary judgment re: groundwater available as part of reserved water right		
10/18/16: Oral arguments on interlocutory appeal, 9th Cir.		
3/7/17: 9th Circuit panel decision on Phase I reserved groundwater appeal from CA court		
6/5/17: Tribe’s Motion to Lift Stay granted; CA Dist. Ct. proceeding with Phase II		
7/5/17: Petition for Certiorari from DWA and CVWD		
8/7/17: Amicus brief in support of Petition for Cert, filed by NV, AZ, AR, ID, NE, ND, SD, TX, WI, WY		
11/27/17: S. Ct. denied Cert		
4/19/19: Dist. Ct. granted Defendants’ MSJ on Phase II		
8/14/19: Dist. Ct. denied motion to reconsider		
7/17/20: Agua Caliente filed its amended complaint		
7/31/20: Answers to amended complaint		
10/6/20: Case stayed pending private mediation		
6/20/25: Court stay pending Congressional approval of settlement	On April 19, 2019, the U.S. District Court for the Central District of California granted the defendants’ motions for summary judgment, which argued that the tribe does not have standing to assert its claims. The court agreed, noting that although there may be injury to the groundwater in the form of overdrafts and the practice of recharge with lower-quality Colorado River water, the tribe has not demonstrated injury to its ability to use water of a sufficient quality or quantity to fulfill the purposes of the reservation. Similarly, the court held that the tribe did not demonstrate that the defendants interfered with the tribe’s right to use the aquifer’s pore spaces to store its reserved water rights. On July 17, 2020, the tribe filed its amended complaint.The case was stayed for mediation.	
Related Cases		
9th Circuit #15-55896		
Agua Caliente Band of Cahuilla Indians v. Coachella Valley Water Dist., 5:20-cv-00174		
Notes		
For more information see: <a href="http://www.scotusblog.com/case-files/cases/coachella-valley-water-district-v-agua-caliente-band-cahuilla-indians/">http://www.scotusblog.com/case-files/cases/coachella-valley-water-district-v-agua-caliente-band-cahuilla-indians/</a> and <a href="https://www.narf.org/cases/agua-caliente-v-coachella/">https://www.narf.org/cases/agua-caliente-v-coachella/</a>		
Case Name	Issues	Hydraulic fracturing
California v. Bureau of Land Mgmt.	BACKGROUND: On December 28, 2017, the Bureau of Land Management (BLM) published its Federal Register notice of the final decision to rescind the stayed 2015 Hydraulic Fracturing Rule. BLM’s review of the Rule found that all 32 of the states with federal oil and gas leases have regulations to address hydraulic fracturing, and that companies are disclosing the chemical content of their hydraulic fracturing fluids using FracFocus or other state regulatory databases. Rescinding the 2015 Rule was also considered consistent with the Administration’s Executive Order 13771 to reduce the costs of regulatory compliance. On January 24, 2018, California and several environmental groups sought to vacate the rescission and reinstate all of the Hydraulic Fracturing Rule’s provisions. CA argues that hydraulic fracturing on federal and Indian lands, particularly those not subject to state jurisdiction, will impact surface water and groundwater resources, air pollution, and seismicity from the disposal of wastewater. Additionally, states do not have BLM’s stewardship standards and trust responsibilities over federal lands. ). California said that although new administrations are entitled to change policy positions, the APA requires a reasoned explanation for those changes, particularly addressing any inconsistencies with prior factual findings. California argues that state and tribal regulations fall short of the 2015 Rule requirements. “For example, at least six of the nine states where the majority of fracking on federal land occurs did not require the use of tanks instead of pits for containing injection waste fluids as the Fracking Rule does. Additionally, most of the nine states’ regulations on	
Case Number		
18-521		
20-16157		
Court		
U.S. District Court for the Northern District of California		
9th Circuit		
Relevant Dates		



<p>1/24/18: Lawsuits filed  7/17/18: U.S. Motion to transfer case to Wyoming denied  10/9/18: BLM lodged administrative record with the court  1/22/20: Hearing on MSJs  3/27/20: BLM and WY's Cross MSJ's granted, CA's MSJ denied</p> <p>6/12/20: CA filed appeal, 9th Cir. #20-16157  10/21/20: Opening briefs  11/20/20: Answering brief  2/11/21: Reply briefs  2/19/21: Mediation confrence scheduled for March 1  3/19/21: Case administratively closed for mediation  8/28/25: Administrative closure extended to 9/19/25</p>	<p>tanks instead of pits for containing injection waste fluids, as the Fracking Rule does. Additionally, most of the nine states' regulations on monitoring and verifying the integrity of cement casing fell short of the Fracking Rule's requirements. The Fracking Rule contemplated concurrent state regulation of wells on federal lands and in no way prevented states from enacting stricter requirements. States or tribes could also apply for a variance from the requirements of the Fracking Rule." State requirements also differ "with regard to mechanical integrity testing, pressure monitoring during hydraulic fracturing operations, and post-fracturing disclosure requirements."</p> <p>The district court rejected CA's arguments. "The Court's task is not to decide whether the changes [BLM] seek[s] to make will result in better or worse environmental policy...[or] to decide whether it would find the rationales advanced by the agency compelling (or even persuasive) if it were reviewing the matter from scratch. Instead, the narrow APA question before the Court is whether the admitted policy change represented by the Repeal was so inadequately explained as to be arbitrary and capricious." The court added that it may not question BLM's choice to weigh socioeconomic concerns more heavily than the value of consistent federal regulations the 2015 rule may have provided. The court also rejected Wyoming's argument that BLM lacked authority to promulgate the rule. Aside from the fact that the 2015 rule wasn't before the court (only the repeal of the rule), the court said BLM never conceded that it lacked legal authority, only eliminated the need for further litigation over BLM's statutory authority by repealing the rule. The case is now on appeal before the 9th Circuit, and has been administratively closed for mediation.</p>	
<p><b>Related Cases</b></p> <p>Sierra Club et al. v. Zinke, No. 18-524 (consolidated)</p> <p><b>Notes</b></p>		
<p><b>Case Name</b></p> <p><i>Texas v. New Mexico and Colorado</i></p> <p><b>Case Number</b></p> <p>#22O141</p> <p><b>Court</b></p> <p>U.S. Supreme Court</p> <p><b>Relevant Dates</b></p>	<p><b>Issues</b></p>	<p>Rio Grande Compact</p> <p>On August 29, 2025, New Mexico, Texas, Colorado and the United States filed a package of settlement agreements with the Special Master and requested a dismissal of the case. Under the agreement, New Mexico is obligated to reduce depletions by 18,200 acre-feet per year (AFY) within ten years by permanently retiring groundwater rights, with a minimum of 9,100 AFY reductions within five years. New Mexico must provide annual reports detailing its progress toward meeting the depletion reduction obligation until it is fully satisfied. The agreement also establishes enforceable hydrologic conditions, which must be reflected in a Lower Rio Grande Water Management Plan (LRG Plan). The LRG Plan must include actions to (1) satisfy the depletion reduction obligation; (2) close the Lower Rio Grande Basin; (3) maintain an Upper Valley Diversion Ratio (UVDR3) above 0.79; (4) achieve stable or gaining aquifer levels when surface water releases from Caballo Reservoir are above 400,000 AF; and (5) actions to limit present and future depletions from domestic wells.</p>

1/8/13: Texas filed its complaint	above 400,000 Acre Feet, and (3) actions to limit present and future depletions from domestic wells.
2/27/14: United States Motion to Intervene	--
3/20/17: Special Master Report received by the Supreme Court	On June 21, 2024, the Supreme Court of the United States, in a 5-4 opinion, denied approval of a settlement between Texas, New Mexico, and Colorado, noting that the federal government had its own distinct interests in holding New Mexico to its obligations under the Compact, as the Compact is “inextricably intertwined” with the United States’ operation of the Rio Grande Project. The Court said that the proposed settlement failed to prohibit New Mexico from interfering with the United States’ Project delivery of water to Texas water districts. It also failed to disallow New Mexico from allowing excessive pumping downstream of Elephant Butte Reservoir. The Court further argued that, by requiring the use of the projected data period from 1951 to 1978 (D2) the settlement would impose new metrics for measuring compliance which take New Mexico’s pumping during that period for granted. These provisions would preclude the United States from arguing that the Compact itself forecloses New Mexico’s current rates of groundwater pumping. The Court also responded to the dissenting opinion that the Court’s decision “defies 100 years of [the] Court’s water law jurisprudence,” saying: “Nothing in today’s decision affects either this Court’s state water law jurisprudence or the Federal Government’s general obligation to comply with state water law.”
8/4/17: Kansas amicus brief in support of Texas re: interstate compacts and impact of upstream groundwater diversions	--
1/8/18: S. Ct. oral arguments	BACKGROUND: The state of Texas filed a lawsuit in the United States Supreme Court against the states of New Mexico and Colorado alleging that New Mexico is violating the 1939 Rio Grande Compact, which governs the distribution of Rio Grande water among the three states. New Mexico denies this allegation. The United States filed a motion to intervene on the grounds that the case affects the Department of Interior’s management of the Reclamation’s Rio Grande Project, its calculation of diversion allocations, and its responsibility to deliver water to intended Project beneficiaries and to Mexico pursuant to Treaty. On January 9, 2023, the Special Master released the states-proposed Consent Decree (document 720). In his order (document 742), the Special Master said: “The States, but not the United States, now have reached a proposed settlement of their pending claims against one another. The proposed settlement differs in many ways from the parties’ litigation positions... Texas, however, asserts that it is satisfied the Decree achieves its primary goal: ensuring delivery to Texas of Texas’s share of Rio Grande water with well-defined methods to verify delivery and enforceable consequences for under- or over-delivery. New Mexico, similarly, asserts that it is satisfied the Decree achieves New Mexico’s primary goals: ensuring delivery in New Mexico of the appropriate share of Rio Grande water without unduly infringing upon New Mexico’s sovereignty to address water-related disputes between New Mexicans, between New Mexico and its citizens (including water districts), or between New Mexico and the United States. Colorado, whose interests are primarily upstream of the Elephant Butte Reservoir, agrees that the Decree is consistent with the Compact and adequately protects Colorado’s interests. Finally, the Decree does not amend the Compact. In fact, it expressly disavows any such amendment as well as any interference with the United States’ duties towards Mexico and towards native citizens’ tribes. To achieve these goals, the proposed Decree employs several mechanisms found elsewhere in the Rio Grande Compact and in many other interstate compacts. For example, the Decree calls for a gauge to measure flow near El Paso and imposes a delivery requirement on New Mexico at that gauge. The delivery requirement is based on formulas that use many inputs including the flow leaving Caballo Reservoir just downstream of Elephant Butte Reservoir. Recognizing the likelihood that actual deliveries will vary from formula-required deliveries, the Decree establishes deviation limits and calls for responsive actions in the event deliveries exceed or fall short of requirements. In part, responsive actions are left for New Mexico to select in its sovereign prerogative. Ultimately water transfers through the Rio Grande Project and adjustments to water escrow accounts are required if any state fails to remedy deviations adequately or in a timely fashion.”
3/5/18: S. Ct. decision to allow US to intervene	On July 24, 2023, the Special Master submitted his recommendation to the Supreme Court to approve the Consent Decree. On October 6, 2023, the U.S. filed exceptions on the grounds that it was not a party to the Consent Decree, that its claims have not been resolved, that the Consent Decree violates the Rio Grande Compact, and that it imposes obligations on the U.S. without its consent. On December 4, 2023, the States of Texas, New Mexico, and Colorado filed a joint reply to the United States exceptions. The States argued that they are able to resolve ambiguities in an interstate compact, and that the Supreme Court has historically honored such agreements between states. The States explained how the Consent Decree is consistent with the Rio Grande Compact, and argued that the Bureau of Reclamation acts as an agent of the Compact, not of the States. “The United States asserts, incorrectly, that Reclamation, and not the Compact, ‘dictate[s] the terms of the apportionment’ below the Reservoir. That radical position would stand the normal principles of compact apportionment on their head and vest the United States with freedom to determine how much water New Mexico and Texas receive. Because the Compact, not Reclamation, establishes the apportionment... Reclamation simply does not have discretion to adjust the amount of water to which each State is entitled. Any other result would undermine State sovereignty and allow the apportionment to change based on the unilateral actions of the United States – a non-signatory to the Compact.”
5/23/18: NM filed Answers and Counterclaims	
7/20/18: TX Answer	
7/23/18: U.S. Answer	
12/21/18: U.S. Motion for Judgment on the Pleadings	
12/26/18: Texas and New Mexico motions for partial judgment	
4/2/19: Hearing on motions before Special Master	
3/31/20: Status conference to discuss completion of discovery, to set hearing dates, to establish a trial date, and to discuss potential for settlement	
6/25/20: Mediator appointed	
11/5/20: Texas, U.S., and New Mexico's respective partial MSJs filed	
12/22/20: responses to partial MSJs filed	
3/9/21: Partial MSJ hearing	
5/21/21: Order granting and denying various MSJ issues	
8/19/21: Texas Motion for Continuance of Trial (COVID concerns)	
October - November 2021: First half of split trial	
3/1/22: Settlement negotiations continue; request for Fall 2022 second half of trial.	
6/24/22: Status conference: settlement agreed to in principle (drafting, approval, legislative and regulatory steps pending)	
9/21/22: Joint Status report: settlement discussions continue, proposed completion or trial by January 2023	
1/9/23: Proposed Consent Decree (settlement agreement) unsealed	
7/24/23: Special Master's Recommendation to the Supreme Court to approve the Consent Decree	
10/6/23: United States Exception to the Special Master's Recommendation	
12/4/23: TX, NM, CO joint reply to the Exceptions	
12/11/23: 22 states filed an amicus brief (including AK, AZ, ID, KS, MT, NE, OR, SD, UT, WY)	
3/20/24: Oral argument	
6/21/24: S. Ct. opinion, denying the settlement	
8/29/25: TX, NM, CO, Reclamation settlement package submitted to the Special Master	
<b>Related Cases</b>	
<b>Notes</b>	

For more information, see  
<https://www.ca8.uscourts.gov/texas-v-new-mexico-and-colorado-no-141-original> and  
<https://www.scotusblog.com/case-files/cases/texas-v-new-mexico-and-colorado/>

On December 11, 2023, 22 other states filed an amicus brief in support of TX, NM, and CO. The brief argued that the ability to form interstate compacts is a key component of state sovereignty, enabling them to address issues that cross jurisdictional boundaries, including the ability to equitably apportion and manage interstate waters. “As parties to interstate water compacts, Amici States expect certainty from their agreements and to be able to manage their state waters in accordance with such agreements. If a dispute arises regarding an interstate water compact, the state parties to the compact have the authority to resolve these disputes among themselves. State sovereignty and principles of federalism prevent undue interference from the United States when the United States is not a party to the compact.” The Amici States argued: “Even in those instances where there is a federal water project associated with an project does not create a role for the United States in the enforcement or interpretation of the compact or in the division and governance of water between the States. Federal law requires that the United States comply with state law relating to the control, appropriation, and distribution of water in federal water projects. See 43 U.S. § 383 [Section 8 of the Reclamation Act]; see also 43 U.S.C. § 666 [McCarran Amendment]. Federal water project authorizations do not supersede compact terms negotiated by States and cannot impose new terms and conditions that were not agreed to by the compacting parties. This Court should reject the United States’ argument that it may enforce against state parties its own interpretation of interstate water compacts to which it is not a party and refuse the United States’ attempt to expand its role in the interpretation and enforcement of such compacts.” The Amici States noted that the Bureau of Reclamation could still resolve its concerns by going back to the states: “That does not mean, however, that the United States is without recourse. If the United States has a claim regarding water appropriated to it in relation to a federal water project, the United States, like all other water right holders, may turn to state courts to protect project water rights.... In line with these principles, laws authorizing federal water projects that involve compact water recognize that such projects are subsidiary to interstate compacts and must operate within the compact framework.”

## Tab P – Western Water Cooperative Committee



# WWCC Kick-Off

On September 4, the Army Corps of Engineers (USACE) hosted a preliminary meeting of the Western Water Cooperative Committee (WWCC) to discuss some organizational logistics and administrative details. The WWCC was authorized by Congress in the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 (H.R. 7776) (P.L. 117-263). Division H contained the 2022 Water Resources Development Act (WRDA), and §8158 directs the Army Corps of Engineers to establish the WWCC and meet at least once a year in one of the Western States. The purpose of the WWCC is “to ensure that Corps of Engineers flood control projects in Western States are operated consistent with congressional directives by identifying opportunities to avoid or minimize conflicts between the operation of Corps of Engineers projects and water rights and water laws in such States.” This includes both USACE-owned flood control projects as well as reservoir projects constructed or operated by other federal, non-Federal, or private agencies that are subject to USACE flood control and navigation regulations and operational guidance under §7 of the 1944 Flood Control Act. A list of both kinds of projects is available in Engineer Regulation (ER) 1110-2-240, Appendices C and D. (See [https://www.publications.usace.army.mil/portals/76/publications/engineerregulations/er\\_1110-2-240.pdf](https://www.publications.usace.army.mil/portals/76/publications/engineerregulations/er_1110-2-240.pdf))

The membership of the Cooperative Committee includes: (1) the Assistant Secretary of the Army for Civil Works or a designee, currently filled by designee Lee Forsgren, Principal Deputy Assistant Secretary of the Army (Civil Works); (2) the Chief of Engineers or a designee, currently filled by designee Ryan Fisher, Acting Deputy to the Deputy Commanding General for Civil and Emergency Operations; (3) two representatives from each Western State appointed by the governor and the attorney general, and (4) one employee from each of the impacted regional offices of the Bureau of Indian Affairs (BIA). Of the Western State representatives, all of the governor appointments have been sent to USACE, with four recent appointees

pending affirmation from the Secretary of Defense (New Mexico, South Dakota, Texas, and Washington.) For the attorney general representatives, three appointees are pending affirmation (Nevada, Oregon, and Utah), and two representatives have not yet been appointed (South Dakota and Texas). BIA regional representative appointments are in progress.

The first formal meeting is tentatively scheduled for December 1-5 in Bismarck, North Dakota. The duration of the meeting will depend in part on the topics WWCC members wish to discuss during the meeting. WWCC members are invited and encouraged to submit their topics to the WWCC Chair, Chris Brown, and copy the WSWC Deputy Director, Michelle Bushman, no later than September 17, 2025.

Other administrative points on the call included the roles of the USACE designated federal officer, Sean Smith, and alternate federal officer, Virginia Rynk; the need for timely information from all representatives for travel orders to ensure reimbursement of travel costs to the December meeting; and the importance of having a quorum present in person at the meeting (which will be a majority of approved members). The WWCC will develop recommendations to ensure flood control projects align with congressional directives, with a focus on minimizing conflicts with water rights and laws.

The USACE has created a WWCC website:

<https://www.usace.army.mil/Missions/Civil-Works/Project-Planning/Legislative-Links/WRDA-2022/Western-Water-Cooperative-Committee/>

Additional information is also available at the WSWC website:

<https://westernstateswater.org/topical-resources/western-water-cooperative-committee/>

### Select a topic for related resources

Administration Appropriations Arizona BOR California Clean Water Act Colorado Colorado River Congress Corps DOI Drought EPA Forecasting Groundwater house Indian Water Rights Infrastructure Kansas Litigation Meeting Meetings NASA New Mexico NOAA Organizations People PFAS Senate SRFs USDA USGS utah WaDE Water Data Water Quality Water Resources Water Rights WaterSMART water supply Western Governors WestFAST Wildfires WOTUS WRDA

[Select Page](#)

# Western Water Cooperative Committee

The 117th Congress authorized the Western Water Cooperative Committee through §8158 of the 2022 Water Resources Development Act, contained in Division H of the James M. Inhofe National Defense Authorization Act for Fiscal Year 2023 ([H.R. 7776](#)) ([P.L. 117-263](#))

## [Water Resources Development Act of 2022 Section 8158](#)

The Western States are defined in the statute to include: States of Alaska, Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

### Background

The Conference of Western Attorneys General (CWAG) and Western States Water Council (WSWC), together with the Western Governors Association (WGA) supported the bipartisan effort of North Dakota Senator Kevin Cramer and Oregon Senator Jeff Merkley to create the Western Water Cooperative Committee to provide a forum for discussions between the Corps and Western States regarding their respective roles under the 1944 Flood Control Act and the 1958 Water Supply Act, with express Congressional recognition of the primacy of state law over the allocation and use of waters within a state's territorial boundaries.

The Corps owns and operates significant infrastructure in the west and has numerous federal priorities it considers. The Corps' interpretations and implementation of its priorities often conflict with the States' water management laws and policies. We are hopeful that the Committee will strengthen a spirit of cooperative federalism and practical problem-solving as water management continues to be critical to western states. Ideally, the Committee would provide an opportunity to: (1) facilitate ongoing state-federal communication; and (2) ensure that Corps policies and management of

flood control projects are consistent with Congressional intent to defer to Western States on matters of water allocation.

### Corps WWCC Websites

WWCC upcoming and past meetings: <https://www.usace.army.mil/Missions/Civil-Works/Project-Planning/Legislative-Links/WRDA-2022/Western-Water-Cooperative-Committee/>

FACA Committee information:

<https://www.facadatabase.gov/FACA/s/FACACCommittee/a10SJ000003Uy9tYAC/com044882>

The nationwide list of Corps and non-Corps (1944 FCA Sec. 7) projects is included in Engineer Regulation (ER) 1110-2-240, Appendices C and D:

[https://www.publications.usace.army.mil/portals/76/publications/engineerregulations/er\\_1110-2-240.pdf](https://www.publications.usace.army.mil/portals/76/publications/engineerregulations/er_1110-2-240.pdf)

### Meetings

March 17, 2023 – [WSWC-CWAG Briefing on the Corps Western Water Cooperative Committee](#)

September 4, 2025 – [Western Water Cooperative Committee kick-off meeting](#)

### Western State Appointed Members

The membership of the Cooperative Committee includes the Assistant Secretary of the Army for Civil Works, the Chief of Engineers, **two representatives from each Western State appointed by the governor and the attorney general**, and one employee from each of the impacted regional offices of the Bureau of Indian Affairs.

[December 2023 Roster](#)

[October 2024 Roster](#)

[September 2025 Roster](#)

### Correspondence

[WSWC Support Letter Western Water Cooperative Committee \(May 2022\)](#)

[CWAG Letter re WRDA 2022 Corps Water Committee \(May 2022\)](#)



- [WGA Letter re WRDA \(June 2022\)](#)
- [CWAG Letter Corps Western Water Cooperative Committee \(July 2022\)](#)
- [CWAG-WSWC Comment Letter on WRDA Implementation \(March 2023\)](#)
- [CWAG-WSWC Letter to Assistant Secretary Connor with initial appointments \(May 2023\)](#)
- [WSWC Email Correspondence with the Corps \(Aug-Dec 2023\)](#)
- [WSWC Email Correspondence with the Western States \(Feb-Sep 2023\)](#)
- [Corps Email Correspondence confirming WWCC appointed members \(July 2024\)](#)
- [Corps Email Correspondence with WWCC appointed members re FACA steps \(October 2024\)](#)

Select a topic for related resources

- [Administration](#)
- [Appropriations](#)
- [Arizona](#)
- [BOR](#)
- [California](#)
- [Clean Water Act](#)
- [Colorado](#)
- [Colorado River](#)
- [Congress](#)
- [Corps](#)
- [DOI](#)
- [Drought](#)
- [EPA](#)
- [Forecasting](#)
- [Groundwater](#)
- [house](#)
- [Indian Water Rights](#)
- [Infrastructure](#)
- [Kansas](#)
- [Litigation](#)
- [Meeting](#)
- [Meetings](#)
- [NASA](#)
- [New Mexico](#)
- [NOAA](#)
- [Organizations](#)
- [People](#)
- [PFAS](#)
- [Senate](#)
- [SRFs](#)
- [USDA](#)
- [USGS](#)
- [utah](#)
- [WaDE](#)
- [Water Data](#)
- [Water Quality](#)
- [Water Resources](#)
- [Water Rights](#)
- [WaterSMART](#)
- [water supply](#)
- [Western Governors](#)
- [WestFAST](#)
- [Wildfires](#)
- [WOTUS](#)
- [WRDA](#)

Archive

Select Month

▼

Designed by the Western States Water Council

Western Water Cooperative Committee September 2025			Appointed By
State	Member Name	Position	G = Governor AG = Attorney General
Alaska	Jessie Zimmerman	Natural Resources Manager	G
Alaska	Jennifer Currie	Chief Assistant Attorney General	AG
Arizona	Tom Buschatzke	Director of the Department of Water Resources	G
Arizona	Vanessa Hickman	Division Chief	AG
California	Eric Katz	Supervising Deputy Attorney General	AG
California	Erik Ekdahl	Deputy Director, State Water Board Division of Water Rights	G
Colorado	Scott Steinbrecher	Deputy Attorney General	AG
Colorado	Lauren Ris	Director of the Colorado Water Conservation Board	G
Idaho	Mathew Weaver	Director, Idaho Department of Water Resources	G
Idaho	Scott Campbell	Chief of the Energy and Natural Resources Division	AG
Kansas	Earl Lewis	Chief Engineer	G
Kansas	Jay Rodriguez	Assistant Attorney General	AG
Montana	Michael Russell	Assistant Attorney General	AG
Montana	Anna Pakenham-Stevenson	Administrator, Water Resources Division	G
Nebraska	Jesse Bradley	Deputy Director of the Department of Natural Resources	G
Nebraska	Justin Lavene	Bureau Chief, Agriculture, Environment and Natural Resources	AG
Nevada	Pending DOD Affirmation		AG
Nevada	Adam Sullivan	State Engineer	G
New Mexico	Pending DOD Affirmation		G
New Mexico	Bill Grantham	Assistant Attorney General	AG
North Dakota	Reice Haase	Director of Water Resources	G
North Dakota	Matthew Sagsveen	Natural Resources and Native American Affairs Division Director	AG
Oklahoma	Julie Cunningham	Executive Director of the Oklahoma Water Resources Board	G
Oklahoma	Jennifer Lewis	Deputy Attorney General	AG
Oregon	Alyssa Mucken	Senior Water Advisor - Oregon Water Resources Department	G
Oregon	Pending DOD Affirmation		AG
South Dakota	Pending DOD Affirmation		G
South Dakota	TBD		AG
Texas	TBD		G
Texas	Pending DOD Affirmation		AG
Utah	Teresa Wilhelmsen	State Engineer and Director of the Division of Water Rights	G
Utah	Pending DOD Affirmation		AG
Washington	Stephen North	Assistant Attorney General	AG
Washington	Pending DOD Affirmation		G
Wyoming	Chris Brown	Senior Assistant Attorney General	AG
Wyoming	Brandon Gebhart	State Engineer	G

## **Western Water Cooperative Committee**

Bismark, North Dakota

December 2-4, 2025 (tentative)

Proposed Agenda Items

### **Nebraska**

1. USACE operations related to Compacts (example Republican River Compact)
2. USACE operations related interstate water operations (example MRRIC/ESA issues)
3. USACE operations of jointly managed facilities with USBR (Example Harlan County Reservoir in Nebraska which is shared with Kansas)
4. USACE operations of temporary flood pool reregulation (Example Glendo Reservoir)
5. Recommend only a 2-day meeting

### **North Dakota**

- Honoring State Sovereignty:
  - Specific to ND: SL permits, signage, and permitting for spraying weeds
- Water Supply:
  - Storage vs Natural Flow
- Transparency of Information
  - Economic Analysis policy does not have consistent application and does not use modern economic standards
    - BCR calculation combines economic analysis and financial analysis
    - Does not allow for models to look at multiple years of losses.
    - Requires report of average annual BCR which requires inclusion of financial costs that don't belong in economic efficiency analysis
    - BCR should focus on entire project and not an individual midpoint year
  - Corps has not provided ND with data used to determine risk assessment
- Funds to maintain Corps infrastructure
  - Section 33 of WRDA 1988 funds need to be appropriated to ND for maintenance, rehabilitation, and study of current status of bank erosion structures constructed in the Garrison Reach.
- ND Specific Comments:
  - ND Irrigation Districts need to be eligible for project pumping power
  - Recreation
    - Closure of Government Bay Boat Ramp
  - Missouri River AOP Comments:
    - Water Conservation measures
    - Unregulated Flow
    - Sov. Lands Permits
    - Snake Creek Embankment
  - Baldhill Dam AOP Comments:

- Recognition of complexities of management with LAWA and GDCD re: RRWSP
  - DWR agrees with current AOP regarding draw down and drought management
- General Communications
  - Lack of easy sign up newsletters, news releases, and updates
  - Multiple outdated RSS feeds
  - ND must go to multiple different sites to try and find information rather than having it sent to us via sign-up. There is no consistency to how we will find out information such as new rules, policies, or initiatives from the Corps.