



# WESTERN STATES WATER

## Addressing water needs and strategies for a sustainable future.

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### **ADMINISTRATION/WESTERN STATES Clean Water Act §401 Certification**

On February 17, the WSWC submitted comments on the proposed rule, "Updating the Water Quality Certification Regulations," urging the Environmental Protection Agency (EPA) to respect state primacy and cooperative federalism in implementing §401 of the Clean Water Act (CWA).

WSWC emphasized that §401 reflects Congress's intent to recognize states as primary authorities in protecting water quality within their borders, citing CWA §§101(b), 101(g), and 401. The Council underscored that states serve as co-regulators with the federal government. The final rule must support state certification processes and retain appropriate deference to the diversity of state frameworks. EPA should avoid revisions that increase administrative burdens or force unnecessary denials due to missing information.

WSWC supported a balanced approach to §401 that streamlines permitting for critical mineral, energy, infrastructure, and development projects while preserving §401's core function as a state-led water quality safeguard. WSWC encouraged EPA to work collaboratively with states to improve interagency coordination, reduce duplication, and support timely project completion without weakening water quality protections.

On the scope of certification, WSWC acknowledged the importance of clear statutory boundaries and cautioned against using §401 to regulate matters beyond water quality requirements. At the same time, the Council warned that the final rule should not unintentionally constrain states from addressing water quality impacts that are integral to a project's compliance with state standards.

EPA sought comment on whether "water quality requirements" should be limited to numeric water quality criteria. WSWC emphasized that state water quality standards include designated uses, narrative and numeric criteria, and antidegradation requirements. The Council stressed that states must retain flexibility to apply the full range of their standards. EPA should defer to state expertise and consultation in understanding the full range of water quality management practices implemented by states.

WSWC highlighted the importance of allowing states to modify certifications when new or changed

information arises during a project's lifecycle. The Council expressed concern that elements of the proposed rule could create a de facto federal veto over state modifications and urged EPA to consult closely with states in designing any modification process to ensure state authority is preserved.

### **Colorado River/Post-2026 Operations**

On February 14, the federal deadline for state consensus on the Colorado River passed without resolution. The Department of the Interior (DOI) announced it would move forward with the Post-2026 National Environmental Policy Act (NEPA) process to finalize operating guidelines for Colorado River reservoirs by October 1, 2026.

Secretary Doug Burgum said: "Negotiation efforts have been productive; we have listened to every state's perspective and have narrowed the discussion by identifying key elements and issues necessary for an agreement. We believe that a fair compromise with shared responsibility remains within reach. I want to thank the governors of the seven Basin States for their constructive engagement and commitment to collaboration. We remain dedicated to working with them and their representatives to identify shared solutions and reduce litigation risk. Additionally, we will continue consultations with Tribal Nations and coordinate with Mexico to ensure we are prepared for Water Year 2027."

The public comment period for the Post-2026 Operational Guidelines and Strategies for Lake Powell and Lake Mead – Draft Environmental Impact Statement (EIS) is open until March 2, 2026 (91 FR 2131). On the Draft EIS release, Acting Commissioner Scott Cameron said: "Given the importance of a consensus-based approach to operations for the stability of the system, Reclamation has not yet identified a preferred alternative. However, Reclamation anticipates that when an agreement is reached, it will incorporate elements or variations of these five alternatives and will be fully analyzed in the Final EIS enabling the sustainable and effective management of the Colorado River." <https://www.usbr.gov/newsroom/news-release/5263>

On February 11, Arizona Republican representatives including David Schweikert (R-AZ), Abraham J. Hamadeh (R-AZ), Paul A. Gosar (R-AZ), Juan Ciscomani (R-AZ), Andy Biggs (R-AZ), and Elijah Crane (R-AZ), wrote a letter to Burgum, requesting the Draft

EIS be withdrawn and revised. They voiced concerns that the plan would impose drastic reductions on Arizona's water supply and "disproportionately reduce Arizona's Colorado River allocation while leaving Upper Basin States largely unaffected."

The Arizona delegation's letter continued: "While a negotiated solution among the Basin States and Reclamation remains our preferred path forward, the DEIS contains significant legal and policy deficiencies that must be addressed. Most critically, it fails to meaningfully account for the Upper Basin States' delivery obligations under the Colorado River Compact, or Reclamation's authority and responsibility to manage federally owned Upper Basin reservoirs to ensure compliance with the Law of the River. Absent correction, these flaws are likely to invite litigation rather than consensus."

The Lower Basin States issued a joint statement on February 13, reiterating each state's reduction offer—Arizona's 27%, California's 10%, and Nevada's 17%. "Our stance remains firm and fair: all seven basin states must share in the responsibility of conservation. Our shared success hinges on compromise, and we have offered significant flexibility, allowing states without robust conservation programs time to gradually develop these programs in ways that work in each state." <https://www.gov.ca.gov/2026/02/13/>

The Upper Basin States said they have offered every tool available to them including upstream releases, voluntary conservation, and continued strict self-regulation. "Upper Basin water users live within the means of the River by adapting our uses every year based on available supplies. We continue pursuing a seven-state consensus..." <https://governoroffice.colorado.gov/governor/news/>

## **CONGRESS**

### **House Agriculture/Farm Bill 2026**

On February 13, House Committee on Agriculture Chairman Glenn "GT" Thompson (R-PA) released bill text for the Farm, Food, and National Security Act of 2026 (H.R.7567). He said: "A new farm bill is long overdue, and [H.R.7567] is an important step forward in providing certainty to our farmers, ranchers, and rural communities. This bill provides modern policies for modern challenges and is shaped by years of listening to the needs of farmers, ranchers, and rural Americans. The farm bill affects our entire country, regardless of whether you live on a farm, and I look forward to seeing my colleagues in Congress work together to get this critical legislation across the finish line." The Committee will begin markup of the bill on February 23.

The Conservation Title (II) would reauthorize the Farmable Wetlands Program (FWP) through 2031, and expand the Environmental Quality Incentives Program (EQIP) to include precision agriculture practices, and cover up to 90% of precision agriculture adoption costs. It would authorize technical and financial assistance to repair deteriorating watershed projects and increase

the federal cost-share for dam rehabilitation from 65% to 90%.

Title II would also expand and clarify the Emergency Watershed Program (EWP), allowing the Secretary to restore easement lands, maintain and improve restoration measures, and restore beyond immediate disaster damage. USDA would be required to conduct a national study on flood risks to agricultural land within two years. The bill would require the Secretary to identify a source water protection coordinator in each state to collaborate with community water systems when administering conservation programs.

The Rural Development Title (IV) would reauthorize and fund several rural water programs through 2031 including: (1) the Water, Waste Disposal, and Wastewater Facility Grants Program at \$15M per year; (2) the Rural Water and Wastewater Circuit Rider Program at \$25M per year; (3) the Emergency and Imminent Community Water Assistance Grant Program at \$50M per year; and (4) the Rural Decentralized Water Systems Program at \$20M per year. It would also allow the Secretary to provide zero or one percent interest loans, loan forgiveness, and refinancing for rural water, wastewater, or waste disposal systems facing economic hardships.

The Research, Extension, and Related Matters Title (VII) would expand the system of Centers of Excellence which conduct research, education, and extension activities. One of the eight minimum Centers of Excellence could be focused on "water quality and quantity efforts, including drought, water management, natural resource benefits, and the health and resilience of the water supply in the United States."

The Forestry title (VIII) would amend the Healthy Forests Restoration Act (P.L. 108-148) to prioritize watershed protection and restoration projects that protect municipal or agricultural water supplies and improve water quality, prioritizing projects that manage risks associated with drought, extreme weather, and flooding.

The Crop Insurance title (XI) would establish a pilot program in the North Plains and Panhandle Groundwater Conservation Districts of Texas to determine if planting crops after the final plant date reduces irrigation usage from the Ogallala Aquifer.

The Miscellaneous Provisions title (XIII) would extend funding and authorization to improve the United States Drought Monitor. It would also require a report on available assistance to agricultural producers in the State of Texas that have suffered economic losses due to the failure of Mexico to deliver water.

## **WATER RESOURCES/WESTERN STATES**

### **Wyoming/North Platte Curtailment**

On February 5, the Wyoming State Engineer issued a priority administration order, requiring junior water rights holders on the North Platte River and its

tributaries to cease diverting water “until such time as the administration is lifted, but no later than May 1, 2026.” The order explained that low snowpack, multiple years of drought, and low reservoir storage carryover indicate that February storage and runoff will not be enough to meet the 1,100,000 acre-foot threshold for full North Platte Project ownership supply.

The order said: “The immediate effects of the priority administration would mainly affect those junior priority water rights held by some municipalities and industries and storage reservoirs that may divert or store water. Letters have been sent to the municipalities and industries that may be affected by these administration activities. The letters inform the entities to review their water rights portfolio and determine if the water demand of their community will exceed their reliable water supply for the upcoming year. Alternatively, water may be obtained through temporary agreements or contracts from available storage, temporary change of use agreement, transfer or exchange agreement, or other supplies available under Wyoming law and approved by the Wyoming State Engineer’s Office.”

In an email to news organization WyoFile, State Engineer Bryan Gebhart indicated that nearly all of the 18 municipalities and five major industrial water users that were contacted have secured “replacement water options or mitigation strategies to address impacts on junior water rights.” [WyoFile, 2026](#)

## **MEETINGS**

### **NAWI In-Person Workshop**

On March 26, 2026, the National Alliance for Water Innovation (NAWI) will hold a one-day in-person workshop, titled “Advancing Water Treatment Science to Support Regional Water and Energy Management.” Participants will discuss the technology frontier of desalination and water reuse, the state of science for the energy-water nexus, regional water planning, and the implications for regional water supplies and energy demands. Leading innovators and practitioners in the field of advanced water treatment system design, municipal and industrial water use, and regional water systems planning. NAWI will also showcase some of the most important technical breakthroughs in its 5-year, \$110M applied research program, and valuable new software tools for accurately modeling the performance and cost of advanced water treatment systems. The meeting will be held at Hyatt House Tempe/Phoenix/University, 601 E. Sixth Street, Tempe, AZ 85281. Please register in advance. Cancellations before March 9th will receive a full refund.

### **WSWC Spring (209th) Meetings and Washington, D.C., Roundtable**

The WSWC Spring (209th) Meetings and Washington, D.C., Roundtable, jointly hosted by the Interstate Council on Water Policy (ICWP), will be held from April 21-24, 2026. Agendas are now available on the event website.

#### **Joint ICWP-WSWC Roundtable, April 22**

This is an in-person meeting with a registration fee. Please see ICWP’s website for more details and registration. <https://icwp.org/news/2026-washington-dc-roundtable-2/>

#### **WSWC Organizational Meeting, April 23**

This meeting will be held in person with virtual accommodations. There is no registration fee. Please register in advance at <https://westernstateswater.org/events/2026-wswc-spring-209th-meetings-and-washington-roundtable>

#### **Schedule of Meetings**

Monday – Travel Day

Tuesday – WSWC Congressional Visits

Wednesday – Joint ICWP-WSWC Roundtable and evening reception

Thursday – WSWC Organizational Meeting

Friday – WSWC-WestFAST Principals Meeting (EPA Headquarters from 9:00 AM - 11:00 AM)

#### **Venue**

All ICWP/WSWC meetings on Wednesday and Thursday will be held at the Xylem Reservoir Center for Water Solutions located at 301 Water Street SE, Washington, DC 20003.

The WESTERN STATES WATER COUNCIL is a government entity of representatives appointed by the Governors of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.