



Sound water policy starts with the states that manage water.

WESTERN STATES WATER

Chair - Earl Lewis; Executive Director - J.D. Strong; Editor - Elysse Ostlund Campbell

ADMINISTRATION / WATER DATA **USGS/Landsat Webinar**

On October 15, the WSWC hosted a webinar with the U.S. Geological Survey's (USGS) National Land Imaging Program on the current status of the Landsat program and plans for future missions.¹ The presenters were Tim Newman, Program Coordinator, and Iris Garthwaite, Senior Earth Observation Scientist.

Program Overview

Newman described Landsat as the world's longest continuously operated land remote sensing satellite series, dating back to Landsat 1 in July 1972. It is also the most widely used and cited land remote sensing dataset. A recent USGS study put Landsat's annual economic benefit at roughly \$25.6 billion. The full economic benefit report is available [here](#).

Newman emphasized what sets Landsat apart: it measures across the visible, near-infrared, shortwave infrared, and thermal infrared spectrum and images all sunlit land, about 20 million square miles per day. Its rigorous calibration ensures each pixel is in the right place and records the right value, so users can trust that changes seen over 50 years are real rather than sensor drift. Many commercial providers calibrate their own imagery against Landsat.

Landsat 8 launched in 2013 and is aging, and USGS is watching it closely. Newman said the program hopes Landsat 10 will launch before Landsat 8 fails. Landsat 9 recently marked five years in orbit.

From Landsat Next to Landsat 10

The mission previously known as Landsat Next called for a constellation of three smaller

"triplet" satellites launched together into a 653 kilometer orbit, lower than current Landsat satellites, providing a six-day revisit. The FY27 President's Budget Request scaled that plan down to a single government satellite, Landsat 10, paired with a shift toward commercial data. Congress has not yet resolved the issue and could continue to support the three-satellite approach. Newman said Congress will likely finish the FY27 budget after the midterms, and its plans for Landsat won't be clear until early next year.

Landsat 10 keeps the instrument design planned for Landsat Next, but in a single satellite, and is expected to launch around 2031. Compared to Landsats 8 and 9, it will collect 26 spectral bands instead of 11. Its bands for visible light and infrared reflected from the surface will have a resolution of 10 to 20 meters, compared to 15 to 30 meters today. Its thermal bands will have a resolution of 60 meters, compared to 100 meters today. It will have five thermal bands instead of two, plus a dedicated water vapor band for atmospheric correction.

The most apparent difference would be revisit time. On its own, Landsat 10 would revisit each location every 18 days. While Landsat 9 remains in operation, the pair would provide an uneven revisit of about two to ten days over most of the United States. Currently, Landsats 8 and 9 together provide an eight-day revisit period, and the original plan for the three Landsat Next satellites would have provided a six-day revisit period.

Commercialization Initiative

Newman said USGS has begun to pivot toward commercial data called for in the President's Budget, beginning with outreach to the commercial sector. "There is no single

replacement for Landsat commercially. It doesn't exist," he said. "The hope is, over the next several years, we'll start to bring different types of commercial data into our work processes."

In the near term, USGS will test whether commercial imagery can be combined with Landsat data to improve existing products, potentially providing more frequent observations for products such as Dynamic Surface Water Extent. Newman acknowledged that commercial systems do not currently provide Landsat's full capabilities.

The commercial effort is being developed in parallel with Landsat 10, but the Administration's longer-term strategy contemplates an eventual transition away from a government Landsat mission. Newman said that, hypothetically, if Landsat 10 launches in 2031 and operates for five years, the program could face reliance on commercial data by the mid-2030s. Whether commercial systems can ultimately meet Landsat's required quality and mission needs, he said, remains an open question.

Landsat and Evapotranspiration

Garthwaite gave an overview of Landsat applications for water management, beginning with evapotranspiration (ET). Landsat's thermal and optical sensors measure land surface temperature and vegetation cover, which together are used to estimate ET. Those estimates feed products such as OpenET, which provides free, field-scale ET data for the contiguous 48 states (etdata.org). A global version built on OpenET is in development.

Two case studies showed these tools in practice. [The Idaho Department of Water Resources](#) combines Landsat-based ET with irrigated acreage maps to estimate groundwater withdrawals and aquifer recharge. Gallo Winery used Landsat thermal data to match irrigation to vineyard-level water needs, cutting water use by 25 percent toward a 50 percent goal. That work helped lay the foundation for OpenET.

USGS also does much of the analysis for users through ready-to-use products such as Dynamic Surface Water Extent, Fractional Snow

Covered Area, and the annually updated National Land Cover Database (NLCD). Garthwaite provided a demonstration on downloading data through USGS EarthExplorer.

WSWC Support for Landsat

WSWC Director J.D. Strong underscored the importance of Landsat for western water management and WSWC's longstanding support for the program. Newman noted that WSWC and the Western Governors' Association (WGA) played an important role in securing the thermal infrared sensor for Landsat 8 after it was initially omitted from the mission. "We couldn't do it without this program," Strong said. "We look forward to putting as much muscle as we can from the Western states behind making sure that this invaluable program continues uninterrupted, and improved even, if it's possible to improve on it, into the future."

ADMINISTRATION / WATER QUALITY EPA/Army Corps WOTUS SNPRM Comments

The WSWC submitted comments to EPA and the Army Corps of Engineers on the Supplemental Notice of Proposed Rulemaking (SNPRM) on the updated definition of "Waters of the United States" (WOTUS) (91 FR 57284; Docket ID: EPA-HQ-OW-2025-0322).² The letter reaffirmed the Council's comments on the November 2025 proposed rule (90 FR 52498) ([WSW #2689](#)), with added emphasis that a one-size-fits-all national approach to Clean Water Act (CWA) regulation does not recognize the specific conditions and needs of the West.³

The Council explained: "The West differs from the East both hydrologically and legally, and western states also differ from one another. Physical, hydrological, biological, and chemical differences between waters, both spatially and temporally, as well as considerable differences in legal doctrines that govern water in western states, mean that any federal effort to clarify CWA jurisdiction will inevitably impact each state differently.

"The WSWC urges the agencies to ensure that any final rule considers a regional approach to the definitions of terms such as 'relatively

permanent,' with regions building upon existing classification systems based on hydrology, geology, and climate. Any final rule should also balance definitional clarity with flexibility in implementation to address the unique landscapes, flow regimes, and legal frameworks in various regions of the Nation."

The Council deferred to its member states on the appropriate scope of "perennial," "relatively permanent," and "continuous surface connection," noting that states are best positioned to understand their own landscapes, flow regimes, and seasonality. The Council urged the agencies to give heightened consideration to comments from state regulatory authorities. WSWC also offered to support a meeting or series of meetings to consider a joint federal, state, and tribal effort to map traditionally navigable waters.

As in its earlier comments, WSWC called for an enduring, broadly supported definition that treats states as co-regulators, a clear process for resolving jurisdictional disputes, joint mapping of jurisdictional waters, and no reduction in state water pollution control grant funding as a result of WOTUS changes. The letter closed by urging the agencies to give substantial weight to the views of state co-regulators as they move toward a final rule.

CONGRESS / WATER RESOURCES

Senate ENR/Western Water Bills

On September 16, the Senate Energy and Natural Resources (ENR) Committee held a legislative hearing on several measures affecting western water infrastructure, hydropower, and aquifer mapping.⁴ Two weeks later, on September 30, the Committee marked up more than 20 pending bills and advanced a package of 16 by *en bloc* voice vote, including several of the water measures heard on September 16.

At the hearing, the Committee considered the Hydropower Licensing Affordability Act (S. 5048), which would amend the Federal Power Act to limit mandatory conditions during hydropower relicensing to mitigating a project's direct adverse effects. Senator Steve Daines (R-MT) argued that agencies have weaponized mandatory

conditions to impose massive costs on facilities like Montana's Thompson Falls Dam. Ranking Member Martin Heinrich (D-NM) cited opposition from tribal nations, who warn the bill could strip reservation land protections, threaten treaty fishing rights, and undermine water quality.

The Committee also heard the Dry-Redwater Regional Water Authorization Act (S. 4489), which would authorize a regional system under the Bureau of Reclamation's rural water program to deliver clean drinking water to more than 30,000 residents across eastern Montana and North Dakota.

Other measures addressed mapping and non-traditional water supplies. The Earth MRI Reauthorization Act (S. 4870) would reauthorize the U.S. Geological Survey's (USGS) Earth Mapping Resources Initiative, integrating data from the USGS 3D Hydrography Program (3DHP) to support groundwater and hazard management. The Desalination Reauthorization Act (S. 5352) would streamline deployment of drought-resilient technologies by using programmatic approvals for Bureau of Reclamation projects rather than project-by-project congressional authorizations.

USGS Associate Director Dr. Sarah Ryker testified that the Department of the Interior (DOI) does not support the Transboundary Aquifer Assessment Program (TAAP) Act (S. 4846), which would reauthorize the U.S.-Mexico Transboundary Aquifer Assessment Program, saying USGS needs to focus its limited resources on higher-priority operational responsibilities.

Despite DOI's objection, TAAP was among the bills the Committee advanced at the September 30 markup. The *en bloc* package also included the Desalination Reauthorization Act and the Earth MRI Reauthorization Act, along with three other measures: S. 1254, which amends the Aquifer Recharge Flexibility Act to clarify conveyance guidelines for underground aquifer storage; the Next-Generation Geothermal Research and Development Act (S. 4406), which directs the Department of Energy to expand R&D for advanced closed-loop and enhanced geothermal systems; and the Geo POWER Act (S. 4116), which establishes a milestone-based

demonstration program to reduce the risk of upfront geothermal drilling costs.

WESTERN GOVERNORS

California, Nevada, Texas / Data Centers

In late September, the governors of California, Nevada, and Texas issued legislative approvals, executive orders, and administrative directives aimed at enforcing transparency and protecting local utility grids and water supplies from the demands of large-scale data centers.

In California, Governor Gavin Newsom (D-CA) signed a legislative package establishing statutory transparency requirements for resource consumption and grid integration at large commercial data centers. As the state balances its climate mandates with tech sector expansion, the measures give state and local officials greater oversight of data centers' water use, electricity demand, and local land-use impacts.⁵

In Nevada, responding to a surge in facility proposals in both the northern and southern parts of the state, Governor Joe Lombardo (R-NV) issued an executive order establishing a state coordinating framework to evaluate data center development against local capacity limits. The order requires commercial data centers to bear their own power costs and protect local water resources rather than shifting financial or supply burdens onto municipal ratepayers. It also bars data centers from receiving tax relief on local school support taxes.⁶

In Texas, Governor Greg Abbott (R-TX) directed the Texas Water Development Board (TWDB) to enforce mandatory water use reporting and establish penalties for non-compliant data centers. Facilities that fail to submit required intake, consumption, and forecasting data will face permit disqualification, loss of eligibility for state water permits or renewals, and potential referral to county or district attorneys. The TWDB will audit data center water sources, consumption, and efficiency technologies in coordination with the Public Utility Commission of Texas (PUCT) and the Electric Reliability Council of Texas (ERCOT), closing reporting gaps in the State Water Plan.⁷

California/Delta Levees

Governor Newsom vetoed state Senate Bill 872, which had passed the California Legislature unanimously with broad backing from water agencies, agricultural interests, and environmental groups. The bill proposed \$150 million annually for Delta levee repairs and \$150 million annually for canal subsidence repairs along the State Water Project.

Supporters criticized the veto, citing ongoing degradation of critical water conveyance infrastructure. Newsom pointed to existing budget allocations for levee and aqueduct repairs and took a cautious stance on setting rules for unappropriated funds during tight fiscal conditions.⁸

LITIGATION / WATER QUALITY

Fifth Circuit/Methylene Chloride/TSCA

On September 15, the U.S. Court of Appeals for the Fifth Circuit vacated and remanded EPA's risk management rule for methylene chloride (MC) under the Toxic Substances Control Act (TSCA). The court found that EPA committed errors of law and lacked substantial evidence for its unreasonable-risk determination, while denying the Sierra Club's petition.⁹

EPA's May 2024 final rule (89 Fed. Reg. 39,254, codified at 40 C.F.R. Part 751) imposed a near-total ban on MC, a solvent widely used in industrial processing, adhesives, paint stripping, and battery manufacturing. Following a 2020 risk evaluation and a revised 2022 risk determination, EPA prohibited 40 of 53 evaluated conditions of use and placed strict workplace exposure limits on the remaining 13.

Industry manufacturers and trade associations directly petitioned the Fifth Circuit for review of the final rule in *East Fork Enterprises v. EPA* (No. 24-60227), arguing EPA exceeded its statutory authority. Environmental groups led by the Sierra Club filed a separate petition (No. 24-60256), later consolidated with *East Fork*, arguing the rule was under-protective because EPA excluded drinking water and air exposure pathways around manufacturing facilities from its risk evaluation.

Granting the industry petition, the panel held that EPA lacked authority to issue a “whole chemical” risk determination rather than evaluating individual conditions of use, unlawfully ignored personal protective equipment required by OSHA, failed to rely on the “best available science,” and failed to properly weigh economic feasibility and available substitutes. Applying *Loper Bright*, the court said “unreasonable risk” is a legal baseline construed by judges and that TSCA is not a “zero-risk statute.”

The court rejected the Sierra Club’s argument that EPA had to assess water and ambient air releases affecting fenceline communities near chemical plants. It held that TSCA does not compel EPA to evaluate every potential water exposure pathway where data or models are insufficiently developed. EPA may focus TSCA evaluations on primary occupational hazards and leave water contamination and discharge risks to other federal statutes, such as the Clean Air Act and Safe Drinking Water Act.

WEBINARS AND MEETINGS

October 21 – DOE continues its Industrial Water Reuse Webinar Series with *Where Do I Fall in Water Use? Leveraging DOE Tools to Quantify Plant Water Use*, a demonstration of its Plant Water Profiler. [More information here.](#)

October 21–23 – The Western States Water Council holds its Fall (211th) Meetings at the Hilton Garden Inn in Las Cruces, New Mexico. [More information here.](#)

October 23 – Registration deadline for the 2026 OpenET Applications Conference, **November 17–18** in Salt Lake City, Utah. Agencies, researchers, and water users will share how satellite-based evapotranspiration data is applied to water rights administration, consumptive use accounting, groundwater management, and drought and conservation programs. [Register here.](#)

October 26 – The Association of State Drinking Water Administrators (ASDWA) and the Cyber Readiness Institute host a Cybersecurity Awareness Month webinar showcasing the free Cyber Readiness Program for Water Utilities. [More information here.](#)

October 29 – WestFAST Webinar: *Overview of Selected Federal Funding Programs Available to States*. Representatives from Reclamation, BLM, the Forest Service, FEMA, and others will give high-level overviews of authorized funding programs of interest to state water agencies, including eligible activities, typical application timelines, and more. [Register here.](#)

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.