



# Western States Water

## Addressing Water Needs and Strategies for a Sustainable Future

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### **ADMINISTRATION** **Water Reuse**

On February 27, the Environmental Protection Agency (EPA) announced the development of a Water Reuse Action Plan that will look at technological improvements, regulatory and policy analysis at all levels of government, financial incentives, performance requirements, access to water use and availability data, and public outreach and education opportunities. EPA will facilitate discussions among federal, state, and water sector stakeholders to develop a plan, and form partnerships to leverage the expertise of industry and governments to ensure the effective use of the nation's water resources. A draft of the plan is scheduled for release and public review in September at the Annual WaterReuse Symposium in San Diego. David Ross, EPA's Assistant Administrator for Water, said: "There is innovative work happening across the water sector to advance water reuse, and the EPA wants to accelerate that work through coordinated federal leadership."

The plan is part of a larger effort by the Administration to better coordinate with the Department of the Interior (DOI), the Department of Agriculture (USDA) and other federal partners to collaboratively address western water supply and other resource management challenges. Tim Petty, Assistant Secretary for Water and Science at DOI, said: "The Department of the Interior is excited about forging this partnership with EPA so that we can leverage each other's success and move forward on one path. Communities across the country are facing water shortages, and it is the role of the federal government to ensure that all have reliable access to the water needed to protect human health and maintain our robust economy." For more information, see [www.epa.gov/waterreuse/water-reuse-action-plan](http://www.epa.gov/waterreuse/water-reuse-action-plan).

### **CONGRESS**

#### **Senate/Environmental Protection Agency**

On February 28, the Senate approved the nomination of Andrew Wheeler as EPA Administrator by a 52-47 vote. Wheeler has served as EPA Deputy Administrator and as Acting Administrator since last July. He served as a Special Assistant in EPA's Pollution Prevention and Toxics Office under President H. W. Bush. He was a Principal at the Energy and

Environment Practice Group at FaegreBD Consulting, as well as Counsel at Faegre Baker Daniels law firm, where he practiced since 2009. Mr. Wheeler also served for six years as the Majority Staff Director and Chief Counsel, as well as the Minority Staff Director, of the Senate Committee on Environment and Public Works.

### **Western Land and Water Resources**

On February 26, the House passed the bipartisan Natural Resources Management Act (S.47) by a vote of 363-62. The bill is a package of over 100 public lands, natural resources, and water bills that were passed by the Senate or House during the 115<sup>th</sup> Congress. The bill was re-introduced by Senators Lisa Murkowski (R-AK) and Maria Cantwell (D-WA) at the beginning of the 116<sup>th</sup> Congress, reflecting the bi-partisan Senate-House agreement reached at the end of the last Congress. S.47 was placed on the Senate calendar and passed by a vote of 92-8 on February 12.

Title I contains several provisions for land exchanges and conveyances, wilderness designations and withdrawals, as well as management of public land and national forests. Title II covers national parks management, studies, boundary adjustments, new units, and re-designations. Title III reauthorizes the Land and Water Conservation Fund. Title VIII deals with water and power, including Reclamation title transfers, endangered fish recovery programs, and the Yakima River Basin Water Enhancement Project.

Section 1101 authorizes the Secretary of Agriculture to permit the town of Minturn, Colorado access to the Bolts Ditch and headgate for the purposes of water diversion and water use, and maintenance and repair of the ditch and headgate. The ditch was inadvertently included in the Holy Cross Wilderness Area in 1980, and the town of Minturn has water rights to fill Bolts Lake using the ditch. This access has been the subject of several past bills, as well as S.37 and H.R. 474, the Bolts Ditch Access and Use Act in the present Congress.

Section 1114 authorizes a wildfire technology modernization program for the Departments of Agriculture and the Interior (DOI). The program and related pilot projects will assess the expansion of unmanned aircraft systems; fire resource tracking

systems for firefighter use; support for joint fire decisions and protocols; the establishment of an "Interagency Wildland Fire Air Quality Response Program" for smoke projections; amending the requirements for the firefighter injuries database to clarify activities causing injuries and death. It also authorizes the agencies to work with the National Aeronautics and Space Administration (NASA) and National Oceanic and Atmospheric Administration (NOAA) to establish a Rapid Response Erosion Database, to incorporate spatial data relating to vegetation, soils, and elevation into a map that depicts changes in land cover and soil properties caused by wildland fires. The composite map would then be used to model the effectiveness of treatments in burned areas to prevent flooding, erosion, and landslides under a range of weather scenarios, and make recommendations for emergency stabilization treatments or modifications to drainage structures. The agencies are also authorized to work with NASA, NOAA, and with the National Energy Laboratories, to establish and maintain a forecast system for predicting the locations of future wildfires in fire-prone areas.

Section 1120 authorizes the Bureau of Land Management (BLM) to carry out the Red River gradient boundary survey in Texas and Oklahoma, along with an authorization to appropriate \$1M. The survey, which will include input from the two states and local tribes, will identify the boundary between federal and nonfederal lands along a 116-mile stretch of the Red River between the two states. As the river has changed course, adjacent landowners have improved and maintained the land and paid taxes. This survey was the subject of past bills, as well as S.41 and H.R. 346, the Red River Gradient Survey Act in the current Congress intended to end decades of confusion over BLM survey errors and clarify the boundary between Texas and Oklahoma.

Sections 8001-8007 authorize the Bureau of Reclamation to transfer federal water infrastructure projects (such as dams, ditches, pumping stations, and recreational facilities) to eligible states, tribes, or water users associations without requiring an Act of Congress. Several requirements must be met, including compliance with state and federal water and environmental laws, and notice to Congress with a 90-day period for Congress to object by passing a joint resolution. Projects excluded from title transfers are reserved works, recreation under a management agreement that contributes to capital repayment, and projects that generate hydropower marketed by a federal power marketing administration.

WSWC supports the careful evaluation of the transfer of federal water and power assets, with strong state involvement and protections for state water laws and water rights. Single-purpose projects may be appropriately transferred under an expedited review process. More complex projects with public and third-party interests protected under state and federal law, require careful analysis. (WSWC Position #402)

Section 8201 authorizes phase III of the Yakima River Basin Water Enhancement Project; and Section 8501 modifies the WaterSmart program to clarify limitations on the uses of conserved water as applicable to tribes with quantified water rights.

## **WATER RESOURCES**

### **Water Supply Outlook**

On February 28, the U.S. Department of Agriculture's Natural Resources Conservation Service reported record-breaking snow depths across the western mountains. Flagstaff, AZ broke a 100-year snowfall record, measurable snow fell in Las Vegas, NV and Tucson, AZ, and New Mexico experienced a "snow tornado." Heavy precipitation affected parts of northern California and Oregon, prompting Governors Gavin Newsom (D-CA) and Kate Brown (D-OR) to declare states of emergency for flooding.

Late winter storms have eased the severity of recent drought and bolstered high-elevation snowpack, improving spring and summer runoff prospects in various parts of the West. SNOTEL Network measurements indicate that much of the West is between 100%-150% of average precipitation based on a 30-year average. However, parts of Wyoming, northern Idaho, Washington, and Oregon are still experiencing below average precipitation. According to the California Department of Water Resources, the average water content of the Sierra Nevada snowpack increased from 17 inches at the beginning of February, to 30 inches by mid-February.

### **Water Week 2019 and National Water Policy Fly-In**

Water Week is March 31-April 6 and the National Water Policy Fly-In on April 3-4 in Washington, DC. Water Week is the only national policy event that draws together water professionals from across the country to advocate for the unique needs of drinking water and clean water utilities. For further information see: <https://www.waterweek.us/>.

On April 2-4, the Interstate Council on Water Policy (ICWP) and the National Water Supply Alliance (NWSA) will convene for the 2019 Washington DC Roundtable at the DoubleTree Crystal City. A room block has been reserved through March 5, at a rate of \$179/night plus tax for the nights of April 1-4. WSWC members are welcome to take advantage of this block. For further information see: <https://icwp.org/>.

The WSWC, ICWP, NWSA, and the National Water Resources Association (NWRA) are coordinating a Water Infrastructure Forum on April 3, at 1:00 pm at EPA Headquarters, to identify state, interstate, and federal areas of collaboration on projects and programs to existing state and federal authorities and leverage resources. Senior federal officials will be participating.

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