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March 11, 2025

The Honorable Mike Collins  
Chairman  
Subcommittee on Water Resources  
and Environment  
Committee on Transportation  
and Infrastructure  
House of Representatives  
2165 Rayburn House Office Building  
Washington, DC 20515

The Honorable Frederica S. Wilson  
Ranking Member  
Subcommittee on Water Resources  
and Environment  
Committee on Transportation  
and Infrastructure  
House of Representatives  
2165 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Collins and Ranking Member Wilson:

In light of the Committee's March 11, 2025, hearing on water infrastructure financing, attached please find Western Governors' Association (WGA) policy resolutions 2024-07, Water Resource Management in the West, and 2024-09, Water Quality in the West.

In these resolutions, Western Governors highlight the importance of federal support for new water infrastructure projects and maintaining and improving aging water infrastructure. The Governors also emphasize the Clean Water Act State Revolving Fund as critical to assisting states in meeting federally mandated standards.

We hope you will take Western Governors' bipartisan policy into account as you consider how to increase the efficiency and effectiveness of the Water Infrastructure Finance and Innovation Act and the Clean Water Act.

Thank you for your consideration of this request. Please contact me if you have any questions or require further information.

Sincerely,



Jack Waldorf  
Executive Director

Attachments



## Policy Resolution 2024-07

### Water Resource Management in the West

#### A. BACKGROUND

Water is a crucial resource for communities, industries, habitats, agriculture, and western states. The scarce nature of water in much of the West makes it particularly important to our states. States are the primary authority for allocating, administering, and protecting water resources, and they are responsible for water supply planning and development within their boundaries. States have the ultimate say in the management of their water resources and are best suited to speak to the unique nature of western water law and hydrology. Many communities in the West anticipate challenges in meeting future water demands. Growth and development can only continue upon our recognition of continued state stewardship of our unique resources and corresponding responsibilities. Investment in new and aging water infrastructure creates jobs and a foundation for long-term economic growth in communities throughout the West. Western Governors recognize the strong partnership between states, tribes, and federal water management agencies and hope to continue the tradition of collaboration.

#### B. GOVERNORS' POLICY STATEMENT

1. **State Primacy in Water Management:** As the preeminent authority on water management within their boundaries, states have the right to develop, use, control and distribute the surface water and groundwater resources, acknowledging international treaties and interstate agreements and judicial decrees.

a. **Federal Recognition of State Authority:** The federal government has long recognized the right to use water as determined under the laws of the various states; Western Governors value their partnerships with federal agencies as they operate under this established legal framework.

While the Western Governors acknowledge the important role of federal laws such as the Clean Water Act (CWA), the Endangered Species Act (ESA), and the Safe Drinking Water Act (SDWA), nothing in any act of Congress or Executive Branch regulatory action should be construed as affecting, usurping, or intending to affect or usurp states' primacy over the allocation and administration of their water resources.

Authorization of federal water resources development legislation, proposed federal surplus water rulemakings, and/or storage reallocation studies should recognize natural flows and defer to the states' legal right to allocate, develop, use, control, and distribute such waters, including but not limited to state storage and use requirements.

b. **Managing State Waters:** States and federal agencies should coordinate efforts to avoid, to the extent possible, the listing of water-dependent species under the ESA. When ESA listings cannot be avoided, parties should promote the use of existing tools under state laws to conserve and recover species.

2. **Infrastructure Needs:** The need for new infrastructure, the need to address aging infrastructure for existing water and wastewater facilities, and the need for additional water projects cannot be ignored. Water storage and delivery, wastewater, and stormwater infrastructure investments are essential to our nation's continued insurance of public health and safety, economic prosperity, water quality and environmental protection, and they assist states in meeting federally mandated standards under the CWA, SDWA, and other federal statutes. Western Governors support efforts to maintain and improve existing infrastructure while seeking creative solutions to develop new infrastructure with limited resources. The National Dam Safety State Assistance Grant Program and the Rehabilitation of High Hazard Potential Dams (HHPD) Grant Program are important programs to address dam safety infrastructure to protect the public and water supplies.
- a. **Federal Support for Infrastructure Investment:** Congress should provide adequate support for the CWA and SDWA State Revolving Funds (SRF). Western Governors urge Congress to ensure that SRFs' authorized funding levels are fully appropriated and distributed to states under the program formula. Additional congressionally directed spending and community grants should not diminish resources otherwise made available to states. Further, Congress should support restoration and repair of aging water infrastructure and commit to aiding efforts to address the recurring drought conditions across the West. Congress should fully utilize the receipts accruing to the Reclamation Fund for their intended purpose in the continuing conservation, development, and wise use of western resources to meet western water-related needs, including the construction of Congressionally authorized Bureau of Reclamation rural water projects and facilities that are part of Congressionally authorized Indian water rights settlements.

Congress should authorize federal water resources development legislation on a regular schedule and appropriate sufficient funding from multiple sources so that all projects and studies authorized in such legislation can be completed in a timely manner.

Capital budgeting and asset management principles should be used to determine funding priorities based on long-term sustainability and not annual incremental spending choices. The principles should be accompanied by dedicated sources of funding with appropriate financing, cost-sharing, pricing, and cost recovery policies.

Congress should recognize the potential of greater private investment in water infrastructure, utilizing, where appropriate, such tools as loan guarantees, revolving funds, infrastructure banks and water trust funds.

Western Governors recognize and support the following federal programs:

- The Bureau of Reclamation's WaterSMART Program provides valuable support to states, tribal nations, water and irrigation districts, and local entities to invest in water conservation projects and modern water delivery infrastructure.
- The U.S. Department of Agriculture (USDA) has many voluntary programs that support agricultural producers and rural communities with water use efficiency, water management, flood prevention and recovery, water quality, and ecosystem

restoration. Congress and the Administration should continue to fund and support communities through these programs.

- The U.S. Army Corps of Engineers' Planning Assistance to the States (PAS or "Section 22") Program funds critical work in western states for comprehensive water resources planning.

- b. **Additional Investment Tools:** Federal and state policymakers should consider additional tools to promote investment in water infrastructure and reduce financing costs, including public-private partnerships, bond insurance, risk pooling, and credit enhancements.

Congress should remove state volume caps for private activity bonds used for water and wastewater projects, guarantee tax-exempt status for bonds issued by state or local agencies to finance water infrastructure, guarantee loans, and support and encourage the use of other financing tools.

- c. **Hydropower:** In consultation with affected states, Congress and the Administration should optimize federally owned or licensed hydropower resources by increasing turbine efficiency and investing in conduit hydropower in irrigation canals and wastewater systems consistent with existing water diversions. Congress and the Administration should also authorize and implement federally owned or licensed hydropower projects and programs through efficient permitting processes that: utilize new technology to improve renewable electric generation capacity, promote economic development, are consistent with the needs of native fisheries and riverine processes, safeguard and solidify states' permitting and certification authority, and protect indigenous peoples' rights.

- d. **Infrastructure Planning and Permitting:** Federal infrastructure planning and permitting guidelines, rules and regulations should be coordinated with state permitting processes, and sufficiently flexible to: (1) allow for timely decision-making in the design, financing and construction of needed infrastructure; (2) account for regional differences; (3) balance economic and environmental considerations; and (4) minimize the cost of compliance.

3. **Western States Require Innovative and Integrated Water Management:** 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 financial, environmental, and social values of water to citizens of western states today and in the future.

- a. **Water Transfers:** Western Governors recognize the potential benefits of market-based water transfers, meaning voluntary sales or leases of water rights. The Governors support water transfers that avoid or mitigate damages to agricultural economies and communities without causing injury to other water rights, water quality, and the environment.
  - b. **Energy Development:** Western Governors recommend increased coordination across the energy and water management communities and support ongoing work to assess interactions between energy generation and water availability in the Western Interconnection.
  - c. **Conservation:** Western Governors encourage adoption of strategies to sustain water resources and extend existing water supplies further through water conservation, water reuse and recycling, ground water recharge, desalination, reclamation of brackish waters, reservoir storage, and reductions in per capita water use. The Governors encourage the use of and research into promising domestic, municipal, industrial, produced, and agricultural water conservation strategies and technologies.
  - d. **Local Water Planning:** Western Governors encourage federal agencies and Congress to provide resources such as funding and technical support to states and local water planning groups.
  - e. **Forest Health and Soil Stewardship:** Governors support policies and practices that encourage healthy and resilient forests and soils to improve water availability, water quality, soil moisture, and reduce sediment runoff.
  - f. **Intergovernmental Collaboration and Conflict Resolution:** Western Governors support the settlement of interstate water disputes, Indian and Native Hawaiian water rights claims, and other federal water needs and claims, the settlement of which are in the best interest of western states. Congress and the administration should provide resources when requested to assist in the settlement of these issues.
  - g. **State-Federal Coordination:** Western Governors recognize the important role of federal agencies in water resource management in the western states. Governors appreciate the efforts of federal agencies to coordinate water-related activities, particularly through the Western States Water Council, and support the continuation of these key state-federal partnerships. Federal agencies and Congress should strive to improve state-federal coordination to benefit and not hinder our shared constituents.
4. **Cybersecurity:** WGA encourages federal agencies to work with states and provide assistance and guidance on cyber threats to critical water infrastructure. Flexibility should be provided to state plans to address their emerging cybersecurity threats.
  5. **Western States Need Reliable Water Resource Information:** Information and data on the status, trends and projections of water resource availability is essential to sound water management.
    - a. **Water Data:** Western Governors support federal programs dedicated to the improvement of data on water use, snowpack, streamflow, soil moisture, groundwater levels, evapotranspiration, and water-related forecasts, including the USDA Natural

Resources Conservation Service’s Snow Survey and Water Supply Forecasting Program; the National Oceanic and Atmospheric Administration’s weather and hydrology-related data collection, monitoring, and drought information programs, including the National Integrated Drought Information System; the U.S. Geological Survey’s Groundwater and Streamflow Information Program, and its five-year surveys of estimated use of water in the United States; and the National Aeronautics and Space Administration’s National Land Imaging (Landsat) Program. Western Governors further support federal efforts to coordinate water data gathering and information programs across multiple agencies.

- b. **Extreme Weather Events Planning:** Western Governors recognize the significant effects posed by extreme weather events and variability in water supplies. Western Governors urge Congress and the Administration to work closely with states and other resource managers to improve predictive and adaptive capabilities for extreme weather variability and related impacts. We urge the federal government to prioritize improving the sub-seasonal and seasonal precipitation forecasting capabilities that support water management decision-making.
- c. **Water Data Exchange:** The Western Governors’ Association and the Western States Water Council have worked together to create the Water Data Exchange, an online portal that enables states to share their water data with each other, federal agencies, and the public via a common platform. The Governors encourage the use of state water data in planning for both the public and private sectors.

**C. GOVERNORS’ MANAGEMENT DIRECTIVE**

- 1. The Governors direct WGA staff to work with Congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.
- 2. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

*This resolution will expire in June 2027. Western Governors enact new policy resolutions and amend existing resolutions on a semiannual basis. Please consult <http://www.westgov.org/resolutions> for the most current copy of a resolution and a list of all current WGA policy resolutions.*



## Policy Resolution 2024-09

### Water Quality in the West

#### A. BACKGROUND

Clean water is essential to strong economies, healthy ecosystems, and quality of life. In most of the West, water is a scarce resource that must be managed with sensitivity to social, environmental, and economic values and needs. The scarce nature of water makes even wastewater a valuable resource in the West and more flexibility is needed to determine how to best manage these varying resources. Because of their unique understanding of these needs, states are in the best position to manage and protect their water resources. The Clean Water Act (CWA) codifies the authority of states as co-regulators and recognizes the authority of states to allocate quantities of water. The Environmental Protection Agency (EPA) should uphold the state authority and co-regulator relationship when implementing the CWA and Safe Drinking Water Act (SDWA). States should be free to develop, implement, and enforce statutory requirements using an approach that makes sense in their specific jurisdiction, subject to the minimum requirements of the federal acts.

#### B. GOVERNORS' POLICY STATEMENT

##### Clean Water Act (CWA)

1. **State Authority and Implementation of CWA:** States have jurisdiction over water resource allocation decisions and are responsible for how to balance state water resource needs within CWA objectives. New regulations, rulemaking, and guidance should recognize this state authority.
  - a) **CWA Jurisdiction:** Western Governors urge EPA and the U.S. Army Corps of Engineers to engage the states as sovereigns and co-regulators in the development of any rule, regulation, policy, or guidance addressing the definition of “waters of the United States” as that term applies to the jurisdictional scope of the CWA. Specifically, federal agencies should engage with states – through Governors or their designees – with early, meaningful, substantive, and ongoing consultation that adequately supports state authority. Such consultation should begin in the initial stages of development before irreversible momentum precludes effective state participation.
  - b) **Total Maximum Daily Loads (TMDLs)/Adaptive Management:** States should have the flexibility to adopt water quality standards and set total maximum daily loads (TMDLs) that are tailored to the specific characteristics of western water bodies, including variances for unique state and local conditions.
  - c) **Anti-degradation:** CWA Section 303 gives states the primary responsibility to establish water quality standards (WQS) subject to EPA oversight. Given the states’ primary role in establishing WQS, EPA should directly involve the states in the rulemaking process for any proposed changes to its existing regulations. Before imposing new antidegradation policies or implementation requirements, EPA should document the

need for new requirements and strive to ensure that new requirements do not interfere with sound existing practices.

- d) **Groundwater:** States have primary authority over the protection of groundwater and exclusive authority over the management and allocation of groundwater resources within their borders. The regulatory reach of the CWA does not extend to the management and protection of groundwater resources unless the activity in question is the functional equivalent of a direct discharge from a point source. In addressing pollution to groundwater resources, the federal government must recognize and respect state authority, work in collaboration with states, and operate within the designated scope of federal statutory authorities. EPA should engage with states with early, meaningful, substantive, and ongoing consultation on any regulatory processes focused on groundwater resources or the development and application of the meaning of “functional equivalent.”
2. **Permitting:** Actions taken by EPA in its CWA permitting processes should not impinge upon state authority over water management or the states’ responsibility to implement CWA provisions.
- a) **State Water Quality Certification:** Section 401 of the CWA requires applicants for a federal Section 404 license and other permitting and actions to secure state certification that potential discharges from their activities will not violate state water quality standards. Section 401 embodies cooperative federalism. States’ mandatory conditioning authority should be retained in the CWA.
  - b) **General Permits:** Reauthorization of the CWA must reconcile the continuing administrative need for general permits with their site-specific permitting requirements under the CWA. EPA should promulgate rules and guidance that better support the use of general permits where it is more effective to permit groups of dischargers rather than individual dischargers.
  - c) **Water Transfers Rule:** Western Governors support EPA’s current Water Transfers Rule, which exempts water transfers between waters of the United States from the CWA National Pollutant Discharge Elimination System (NPDES) permitting requirements when such transfers do not involve the addition of any pollutants. States possess adequate authority to address the water quality issues associated with such transfers. Western Governors believe that transporting water through constructed conveyances to supply beneficial uses should not trigger duplicative NPDES permit requirements.
  - d) **Pesticides:** Western Governors generally support the primary role of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) in regulating agriculture and public health related pesticide applications to waters of the U.S. and will seek state-based solutions that complement rather than duplicate FIFRA in improving, where possible, environmental resources.
3. **Nonpoint Source Pollution:** Nonpoint source pollution requires state watershed-oriented water quality management plans; federal agencies should collaborate with states to carry out the objectives of these plans. The CWA should not supersede other ongoing federal, state, and local nonpoint source programs. Federal water policies must recognize that state programs enhanced by federal efforts could provide a firm foundation for a national



nonpoint source policy that maintains the non-regulatory and voluntary nature of the program. In general, the use of point source solutions to control nonpoint source pollution is also ill-advised.

a) **Forest Roads:** Stormwater runoff from forest roads has been managed as a nonpoint source of pollution under EPA regulation and state law since enactment of the CWA. Western Governors support solutions that are consistent with the long-established treatment of forest roads as nonpoint sources, provided that forest roads are treated equally across ownership within each state.

4. **Nutrient Pollution:** Nitrogen and phosphorus (nutrient) pollution is a significant cause of water quality impairment across the nation, and continued cooperation between states and EPA is needed. This impairment is a serious concern across western states and additional resources to make investments in wastewater treatment infrastructure are needed as part of a strategy to address it. Further, research and development into technologies that allow states to better address nutrient pollution is needed.

States should be allowed sufficient flexibility to utilize their own incentives and authorities to establish standards and control strategies to address nutrient pollution, rather than being forced to abide by one-size-fits-all federal numeric criteria. Successful tools currently in use by states include best management practices, nutrient trading, controlling other water quality parameters, and other innovative approaches.

5. **CWA Reauthorization:** Western Governors support reauthorization of the CWA, provided that it recognizes the unique hydrology and legal framework in western states. Further, any CWA reauthorization should include a new statement of purpose to encourage the reuse of treated wastewater to reduce water pollution and efficiently manage water resources.
6. **Good Samaritan Legislation:** Congress should enact a program to protect volunteering remediating parties who conduct authorized remediation of abandoned hardrock mines from becoming legally responsible under the CWA and/or the Comprehensive Environmental Response, Compensation, and Liability Act for any continuing discharges after completion of a remediation project, provided that the remediating party – or “Good Samaritan” – does not otherwise have liability for that abandoned mine or inactive mine site.
7. **Stormwater Pollution:** In the West, stormwater discharges to ephemeral streams in arid regions pose substantially different environmental risks than do the same discharges to perennial surface waters. Western Governors emphasize the importance of state expertise in water management, including management of ephemeral streams. The federal government must recognize and respect state authority and work in collaboration with state agencies to support tailored approaches that reflect the unique management needs of ephemeral streams.
8. **State-Tribal Coordination:** Western Governors endorse government-to-government cooperation among the states, tribal nations, and EPA in support of effective and consistent CWA implementation. While retaining the ability of the Governors to take a leadership role in coordination with the tribal nations, EPA should promote effective consultation, coordination, and dispute resolution among the governments, with emphasis on lands where tribal nations have treatment-as-state status under Section 518 of the CWA. Federal

regulations intended to protect tribal reserved rights should respect states' authority to promulgate water quality standards within their boundaries; recognize that rights must be adjudicated through appropriate legal processes, not through promulgation of water quality standards; and 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. Furthermore, Western Governors oppose shifting federal trustee responsibilities to the states by imposing the burden of determining the nature and extent of tribal reserved rights over to states.

### **Safe Drinking Water Act (SDWA)**

9. **Federal Assistance in Meeting SDWA Standards:** Western Governors believe that the SDWA and its standards for drinking water contaminants have been instrumental in ensuring safe drinking water supplies for the nation. It is essential that the federal government, through EPA, provide adequate support to the states and water systems to meet federal requirements. Assistance is particularly needed to find sustainable solutions for small and rural systems, which often lack the resources needed to comply with federal treatment standards.
10. **Drinking Water Standards:** Naturally occurring contaminants often occur in the West. Western Governors support EPA technical assistance and research to improve both the efficiency and affordability of treatment technologies for these contaminants. In any drinking water standards that the EPA may revise or propose for these and other contaminants, including disinfection byproducts, EPA should consider the disproportionate effect that such standards may have on western states and give special consideration to feasible technology based on the resources and needs of smaller water systems.
11. **Risk Assessments:** Analysis of the costs of treatment for drinking water contaminants should carefully determine the total costs of capital improvements, operation, and maintenance when determining feasible technology that can be applied by small systems. These costs should at least (at a minimum) be balanced against the anticipated human health benefits before implementing or revising drinking water standards, while recognizing that states may choose to set more health protective standards.
12. **Emerging Contaminants/Pharmaceuticals:** The possible health and environmental effects of emerging contaminants, including per- and polyfluoroalkyl substances (PFAS), cyanotoxins produced by harmful algal blooms, and pharmaceuticals, are of concern to Western Governors. Although some states have existing authorities to address possible risks associated with emerging contaminants and pharmaceuticals, there is a need for continued investment in scientific research and resources to address these contaminants.

### **Compliance with Federal Water Quality and Drinking Water Requirements**

13. **Cybersecurity:** WGA encourages federal agencies to work with states and provide assistance and guidance on cyber threats to critical water infrastructure. Flexibility should be provided to state plans to address their emerging cybersecurity threats.
14. **State Revolving Funds:** Western Governors support EPA's Clean Water State Revolving Fund (SRF) and Drinking Water SRF as important tools that help states and local communities address related water infrastructure needs and comply with federal water quality and drinking water requirements. Western Governors also urge Congress and the

Administration to ensure that the SRF Programs are adequately funded and provide greater flexibility and fewer restrictions on state SRF management. Western Governors urge Congress to ensure that SRFs authorized funding levels are fully appropriated and distributed to states under the program formula. Additional congressionally directed spending and community grants should not diminish resources otherwise made available to states.

15. **Restoring and Maintaining Lakes and Healthy Watersheds:** Historically, the Section 314 Clean Lakes Program and the Section 319 Nonpoint Source Management Program provided states with critical tools to restore and maintain water quality in lakes and watersheds. Western Governors urge the Administration and Congress to support these programs. Such support should not come at the expense of other federal watershed protection programs.
16. **EPA Support and Technical Assistance:** The federal government, through EPA, should provide states and local entities with adequate support and technical assistance to help them comply with federal water quality and drinking water requirements. EPA should also collaborate with and allow states to identify and establish priority areas, timelines, and focus on programs that provide the largest public health and environmental benefits.
17. **EPA Grant Funding for Primary Service – Rural Water and Wastewater Programs:** Some rural communities still lack basic water, wastewater, and sanitary services needed to assure safe, secure sources of water for drinking and other domestic needs. Adequate federal support, including but not limited to the U.S. Department of Agriculture’s Rural Utilities Service programs and EPA’s SRF, are necessary to supplement state resources.

#### **Water Quality Monitoring and Data Collection**

18. **Water Data Needs:** Western water management is highly dependent upon the availability of data regarding both the quality and quantity of surface and ground waters. Western Governors urge the federal government to support and develop programs that can be utilized by states for water resource management and protection and to provide assistance to states in developing innovative monitoring and assessment methods, including making use of biological assessments, sensors and remote sensing, as well as demonstrating the value to the states of the national probabilistic aquatic resource surveys.

#### **C. GOVERNORS’ MANAGEMENT DIRECTIVE**

1. The Governors direct WGA staff to work with Congressional committees of jurisdiction, the Executive Branch, and other entities, where appropriate, to achieve the objectives of this resolution.
2. Furthermore, the Governors direct WGA staff to consult with the Staff Advisory Council regarding its efforts to realize the objectives of this resolution and to keep the Governors apprised of its progress in this regard.

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