



# Western States Water

## Addressing Water Needs and Strategies for a Sustainable Future

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### **ADMINISTRATION/WATER RESOURCES**

#### **Presidential Memorandum**

On November 21, the Administration announced that the Secretaries of the Interior and Commerce had signed a Memorandum of Agreement (MOA) to ensure that the President's Memorandum on Promoting the Reliable Supply and Delivery of Water in the West is implemented "...as quickly and smoothly as possible." The MOA designated Paul Souza, Regional Director for the Pacific Southwest Region of the U.S. Fish and Wildlife Service, as the lead official in charge of managing the coordination of federal efforts on the Klamath Irrigation and Central Valley Project. Souza will also identify regulations hindering projects, and develop a proposed plan to suspend, revise, or rescind unnecessary regulations or procedures. Interior Secretary Ryan Zinke and Commerce Secretary Wilbur Ross expressed willingness to work together to reduce regulatory burdens on critical infrastructure projects. See WSW #2320; [www.usbr.gov/newsroom/](http://www.usbr.gov/newsroom/).

### **CONGRESS/WATER RIGHTS**

#### **House Majority Leader/Indian Reserved Water Rights**

On November 30, the Native American Rights Fund and Western States Water Council wrote House Majority Leader Kevin McCarthy "...to express our strong support for language to be included in any omnibus continuing resolution to address future funding for tribal water rights settlements through a two-year extension of dedicated revenues from the Reclamation Fund. Representing States and Tribes, we have a long history of working together to support the settlement of disputes that could otherwise lead to lengthy and unproductive litigation. Water in the West is often contentious, and competing claims to a limited resource create uncertainty that stands in the way of economic development in both tribal and non-tribal communities. The United States has developed many major water projects that compete for use of waters claimed by Indians and non-Indians and has a responsibility to assist in resolving such conflicts. The settlement of Native American water and land claims is a federal trust obligation of vital importance to Tribes and States."

"The Reclamation Fund is one authorized source of money to finance negotiated agreements through which

Tribes waive water right claims and tribal breach of trust claims that otherwise could result in court-ordered judgments against the United States. Funding settlements is an obligation of the United States analogous to paying judgments rendered against it, and failure to fund settlements could lead to new or renewed litigation and increase costs for federal taxpayers."

"We strongly support negotiated settlements of disputed Indian reserved water rights claims as the best solution to a critical problem that affects almost all Western States. We encourage you to support a strong fiscal commitment to these settlements. We also urge you to support extending the current authorization to use revenues accruing to the Reclamation Fund for the Bureau of Reclamation to undertake project construction related to settlements."

### **WATER RESOURCES**

#### **Corps/Infrastructure**

On November 27 and 29, the U.S. Army Corps of Engineers (Corps) held two national-level stakeholder webinars, in conjunction with internal meetings with its Division and District offices, to discuss several 2018 Corps initiatives to accelerate and improve water infrastructure projects. The President's February 12 Infrastructure Initiative sought to secure long-term reforms on how infrastructure projects are regulated, funded, delivered, and maintained. The Administration asked the agencies to pursue changes that do not require legislation. Since then, the Corps has worked on ways to (1) start and finish projects more quickly, (2) deliver projects more efficiently using alternative financing tools and new budgeting processes, and (3) streamline permit processes to eliminate duplicate reviews while still meeting statutory requirements and protecting the environment.

To that end, the Corps held several face-to-face sessions and webinars over the summer, reaching out to various stakeholders for feedback. The resounding response was that projects take too long, cost too much, and that states, local entities, and other project sponsors want to be more involved. There is a \$100B backlog of Corps projects, and federal project financing is insufficient and unpredictable.

The Corps Infrastructure Team developed a work plan and has undertaken specific steps to address concerns within their control: (1) enabling bundling and consolidation of unique procurement contracts; (2) changing what has to be sent to headquarters for review; and (3) delegating decision-making authority to the division level for Section 408 permissions, independent external peer reviews (IEPRs), and design and construction deficiencies under \$500,000. They are developing guidance on credit, reimbursement, and waivers of permit requirements for federally-authorized projects with non-federal sponsors. They reviewed 53 regulations for possible modification, repeal, or replacement. They are aligning Corps programs to provide a single point of contact and coordinated decisions. They completed guidance for state assumption of Section 404 authority and which waters are assumable. They are developing a public tracking system for the status of applications.

Although Congress has not yet appropriated funds for the Corps Water Infrastructure Finance and Innovation Act (WIFIA) loan program, the Corps signed a memorandum of understanding with EPA to share information and resources where possible. They have developed a credit subsidy model which tells them how far the Corps program can be leveraged, and what project criteria to target for the first round of WIFIA loans once the funds become available.

In September, the Corps issued a public-private partnership (P3) policy, and in December the Corps will publish a call for proposals for P3 pilot projects in the Federal Register. They are working on how to screen projects suitable for P3s, and how to deal with issues of revenue, risk transfer, and equity. The Corps will host P3 informational webinars on December 11 and 12, from 2:00 - 3:30 EST.

The Corps is also working to finalize a multi-year civil works budget approach. Rather than annually justify every project, they are looking at a five-year capital budget for Corps projects, and a "One Federal Investment Decision," where a decision to start a project is also considered a decision to finish the project. See <https://www.usace.army.mil/Missions/Civil-Works/infrastructure/>.

## **WATER RESOURCES** **WaDE/Water Data**

On November 28, the Internet of Water (IoW) announced that Peter Colohan will be its first Executive Director. Colohan previously served as the Director of Service Innovation and Partnership at the National Oceanic and Atmospheric Administration's (NOAA) Office of Water Prediction. Jerad Bales, an Advisory Board member for the IoW and Director of the Consortium of Universities for the Advancement of

Hydrologic Science, Inc. (CUAHSI), said: "Peter brings expertise in building coalitions, understands the landscape of water issues inside and out, and has worked extensively in the public sphere on water policy and to support open water data. CUAHSI looks forward to working with Peter to advance the Internet of Water."

The IoW project, started by Duke University's Nicholas Institute for Environmental Policy Solutions, seeks to improve the accessibility and interoperability of the nation's water data for decision-makers. Although public agencies are often collecting water data, that data may be difficult to find and lack uniform standards and meaningful metadata to reliably put the information to use in multiple applications. Their website notes: "If data are hard to discover or share across platforms, they will not be used to drive decisions, leading to uncertainty and inefficiency. As water resources become more constrained, greater precision will be needed to sustainably manage our water resources."

In November, the Gordon and Betty Moore Foundation awarded \$2M to the IoW Project. The Moore Foundation funding will also support the WSWC's Water and Data Exchange (WaDE) Program and CUAHSI, as they work with the IoW project to integrate and share data. Martin Doyle, Advisory Board Chair for the IoW, and Director of the Water Policy Program at the Nicholas Institute, said: "This funding is a game-changing opportunity to collectively address challenges in our water data infrastructure in order to ensure decision-makers have all the publicly available data needed to make real-time decisions and collectively address regional water challenges."

Sara Larsen, WaDE Senior Program Manager at WSWC said: "The Moore Foundation funding will greatly increase our program's momentum and scope, expanding the availability and interoperability of new datasets from our 18 western state partners and others. Our cooperative efforts will help us identify and prioritize high value datasets that support innovative applications and better decision-making. The work will be transferable among WSWC's member states, creating cascading benefits and advancing our capacity to know when, where, and how water is being used. Eventually, we will be able to identify and address regional trends impacting water demand in an era of increasingly uncertain supplies."

The IoW has also received funding from the Cynthia & George Mitchell Foundation; Kingfisher Foundation; Pisces Foundation; S.D. Bechtel, Jr. Foundation; Walton Family Foundation; and Water Funder Initiative.

The Cynthia & George Mitchell Foundation, Water Funder Initiative, and the Water Foundation are also separately providing financial support to the WSWC's WaDE Program.

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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.**