



# Western States Water

## Addressing Water Needs and Strategies for a Sustainable Future

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### **ADMINISTRATION/CONGRESS** **FY2019 EPA-Interior Appropriations**

With no apparent end to the impasse between the President and Congress over funding for a border wall, appropriations for many government agencies, including the Environmental Protection Agency (EPA) and the Department of the Interior (DOI), are on hold with only essential personnel at work. On December 23, Senator Lisa Murkowski (R-Alaska), Chair of the Appropriations Subcommittee on Interior, Environment and Related Agencies, declared: "Shutting down the government, even partially, is no way to govern. It is disruptive, harmful, wasteful, and could leave hundreds of thousands of federal employees and contractors without paychecks over Christmas. This year we worked hard to return to regular order in the appropriations process, voting bills out of committee and the Senate with strong bipartisan support. The Appropriations Committee did its work, but the votes are clearly not present in the Senate to provide \$5 billion for the border wall and changing filibuster rules would only come back to haunt us in the future. We have to accept those realities and reopen the government as soon as possible. I remain committed to working with my colleagues on a solution to end this partial shutdown and fund the government."

Both chambers of Congress have approved, and the President has signed, five of the 12 appropriations bills for Fiscal Year 2019, including funding for Defense, Energy and Water, Labor-Health and Human Services-Education, the Legislative Branch, and Military Construction and Veterans Affairs, which together account for approximately 75% of the federal budget. The bills not yet enacted are for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies; Commerce, Justice, Science, and Related Agencies; Financial Services and General Government; Homeland Security; Interior, Environment, and Related Agencies; State, Foreign Operations, and Related Programs; and Transportation, Housing and Urban Development, and Related Agencies. An estimated 380,000 federal employees have been furloughed, another 420,000 will work without pay, but will likely be reimbursed in the future. [www.murkowski.senate.gov/press/release/12/23/2018/murkowski-statement-on-partial-government-shutdown](http://www.murkowski.senate.gov/press/release/12/23/2018/murkowski-statement-on-partial-government-shutdown)

### **National Oceanic and Atmospheric Administration** **/Department of Commerce**

In compliance with the restrictions of the Antideficiency Act, the Department of Commerce will maintain the following services and activities during a lapse in appropriations: (1) weather, water, and climate observing, prediction, forecast, warning and support; (2) law enforcement activities for the protection of marine fisheries; (3) fisheries management activities including quota monitoring, observer activities and regulatory actions to prevent overfishing; (4) water level data for ships entering U.S. ports, critical nautical chart updates and accurate position information; (5) maintenance, continuity and protection of certain research property and critical data records; (6) assignment of radio frequencies to federal agencies for critical national security and public safety purposes; and all the functions of the First Responder Network Authority (FirstNet). Among those services and activities not available during the partial government shutdown are: (1) most research activities at NOAA (excluding real-time regular models on research computers used for hurricane and FAA flight planning); (2) assistance and support to recipients of grant funding; and (3) technical oversight of non-mission essential contracts.

### **ADMINISTRATION/WATER QUALITY** **Corps of Engineers/EPA/Waters of the United States**

On December 28, the Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers (Corps) published notice in the Federal Register of a public hearing on a revised rule to redefine Waters of the United States (WOTUS), announced on December 11. The proposed rule has yet to be published in the Federal Register. The public hearing will be held in Kansas City, Kansas at the Reardon Convention Center on January 23, from 1:00-8:00 pm. Parties wishing to speak (3 minute limit) at the hearing are directed to please use the online registration form that is available at <https://www.epa.gov/wotus-rule/proposed-revised-definition-wotus-public-hearing>. The last day to pre-register will be January 17, 2019. On January 22, the agencies will post a general agenda for the hearing that will list pre-registered speakers in approximate order. The agencies may ask clarifying questions during the oral

presentations but will not respond to the presentations at that time. Written statements and supporting information submitted during the comment period will be considered with the same weight as oral comments and supporting information presented at the public hearing.

The agencies have submitted the proposed rule to the Office of the Federal Register, and it will be published separately. A 60-day comment period will follow. A complete set of documents related to the proposal will be available through the Federal eRulemaking portal: <http://www.regulations.gov>, Docket ID No. EPA-HQ-OW-2018-0149. The pre-publication version of the notice of proposed rule, the economic analysis for the proposed rule, and the resource and programmatic assessment for the proposed rule are available at <https://www.epa.gov/wotus-rule/step-two-revise>. The pre-publication version will be replaced with the official version once published.

## **CONGRESS**

### **Farm Bill**

The Senate and House completed a conferenced version of the Farm Bill. On December 11, the Senate passed the Agriculture Improvement Act (H.R. 2) by a vote of 87-13. On December 12, the House passed the bill by a vote of 369-47. The President signed it into law on December 20.

The Senate's summary notes that the bill grows overall funding for conservation by leveraging private dollars; triples funding for regional conservation partnerships; streamlines requirements for farmers and local partners leading conservation projects; and targets investments in rural drinking water infrastructure.

Title II contains the conservation provisions, including the Conservation Reserve Program (CRP), the Environmental Quality Incentives Program (EQIP), the Conservation Stewardship Program (CSP), Agriculture Conservation Easement Program (ACEP), and the Regional Conservation Partnership Program (RCPP). The CRP is reauthorized through FY2023 (§2201), and the current acreage enrollment limit is increased from 24 million in FY2019 up to 27 million in FY2023. Funding for CRP provisions is increased from \$43M in FY2018 to \$62M per year from FY2019 to FY2023. EQIP is reauthorized through FY2023 (§2304), with annual incremental funding increases from \$1.75B in FY2019 to \$2.02B in FY2023. Funding for ACEP is increased from \$250M in FY2018 up to \$450M per year from FY2019 through FY2023. Funding for RCCP is increased from \$100M in FY2018 up to \$300M per year from FY2019 through FY2023.

Section 2301 terminates the existing CSP, though current contracts will continue until they expire, and certain one-year extensions are permitted. Section 2308

establishes a new CSP, authorized through FY2023, placing greater emphasis on environmental benefits of conservation efforts. Funding for the new CSP is authorized to start at \$700M in FY2019 and incrementally increase to \$1B in FY2023.

Title VI contains provisions on rural development, including grants, technical assistance, and training programs for rural water and wastewater systems. Section 6403 increases the maximum grant for eligible water, waste disposal, and wastewater facilities from \$100,000 to \$200,000, although authorization for annual appropriations is reduced from \$30M per year (FY2008-FY2018) down to \$15M per year (FY2019-FY2023). The rural water and wastewater circuit rider program funding was increased from \$20M in FY2018 up to \$25M per year from FY2019 through FY2023 (§6404). Section 6421 reauthorizes grants for NOAA weather radio transmitters through FY2023. See WSW #2309; [www.agriculture.senate.gov](http://www.agriculture.senate.gov).

### **Clean Water Act/Stormwater Infrastructure**

On December 19, the House passed the bipartisan Water Infrastructure Improvement Act (H.R. 7279) by a vote of 351-10. The bill codifies the Environmental Protection Agency's (EPA) 2012 integrated planning initiative, issued as the "Integrated Municipal Stormwater and Wastewater Planning Approach Framework." It allows the States or EPA to issue stormwater permits to non-compliant municipalities seeking to prioritize costly infrastructure projects and maximize their environmental and health benefits while gradually working toward compliance with the Clean Water Act (CWA) and EPA regulations.

The bill's sponsor, Rep. Bob Gibbs (R-OH), said: "Many of our nation's cities, towns, and municipalities are faced with EPA mandates, aging water infrastructure, and rising repair or construction costs. These problems, and the price to fix them, ultimately fall on residents. Integrated Planning can help bridge the gaps between these issues, encourage innovative solutions, and prevent undue financial burdens on ratepayers. Access to clean and affordable water utilities is important to everyone, and the municipalities tasked with delivering it should have every tool at their disposal." Co-sponsor Rep. Grace Napolitano (D-CA) said: "Our legislation will greatly assist communities nationwide by providing them with flexibility to address their MS4 storm water permits, while ensuring the protection of our nation's rivers, lakes, and streams.... No hard-working American families should be forced to go without water and wastewater services simply because their local rates are too high."

The Senate passed a similar bipartisan bill, the Water Infrastructure Flexibility Act (S. 692) on October 5, by unanimous consent. See WSW #2238.

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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.**