

Current Context

Extreme weather continues to pummel the US, most recently with [flooding in Texas and Mississippi](#), but the biggest water story is the growing tension on the Colorado River. Just over two months ago, the federal government set August 16 as an ambitious and unexpected deadline for seven states to voluntarily submit a plan to substantially reduce water use in the Colorado River basin. The states failed reach agreement, so the Interior Department imposed [previously determined emergency drought-driven cuts](#) on Arizona, Nevada, and Mexico and warned of deeper cuts if states that divert Colorado River water failed to strike a new deal for vast water cuts. Reclamation has called on states to reduce water use by 2 million to 4 million acre feet, equal to 15 percent to 30 percent of the total water diverted. For context, two million acre-feet is about the annual allocation to the entire state of Colorado.

Many believe the stalemate will continue between Upper Basin (Colorado, New Mexico, Utah, and Wyoming) and Lower Basin states (Arizona, California, and Nevada), resulting in the Bureau of Reclamation making good on its warning to “[act unilaterally to protect the system](#),” as Commissioner Camille Calimlim Touton phrased it to Congress at a [Senate hearing in June](#). Interior says it has begun tallying potential reductions but has kept its plan confidential. Sweeping federal cuts would likely open floodgates of litigation, while sending states scrambling to find new water supplies or impose drastic water use restrictions.

Concern is also growing that the Supreme Court’s conservative majority will continue to strike down federal environmental rules. In early October, the court will take up *Sackett v. Environmental Protection Agency (EPA)*, which implicates “waters of the United States,” or WOTUS, which determines the scope of federal jurisdiction under the Clean Water Act. The case concerns a family’s long battle to build a house on their Idaho property without federal permits, and the high court’s decision could restrict the EPA’s ability to regulate isolated wetlands, tributaries, and ephemeral streams. The decision would follow *West Virginia vs. EPA*, a Supreme Court ruling from earlier this summer that opened the doors for legal challenges to federal agencies that impose environmental regulations without explicit congressional approval.

Federal Water Policy

Congressional Actions and Updates

Check out our new [bill tracker](#) to read about recently introduced legislation and to see whether congressional bills described in prior newsletters have progressed.

Advocates across the nation were stunned in July to see [Sen. Joe Manchin agree](#) to the biggest climate bill ever passed by Congress. But for the water community, the bigger surprise arrived days later, when it was revealed that [Sen. Krysten Sinema had insisted on \\$4 billion](#) in the Inflation Reduction Act (IRA) to address drought along the Colorado River. The Bureau of Reclamation (Reclamation), along with states, Tribes and public agencies, will determine the specifics of how the \$4 billion will be spent, but the funding can be used to pay farmers and others to voluntarily use less water and to restore ecosystems harmed by drought.

The [Inflation Reduction Act \(IRA\)\(HR 5376\)](#), also known as the \$740 billion budget reconciliation bill, was signed by President Biden on August 16. Congress calculates that it dedicates approximately \$370 billion to address climate change, including [\\$60 billion for environmental justice \(EJ\)](#). [Advocates contend this EJ number may be closer to \\$47 billion](#) and suggest it is unlikely to be sufficient to hit Justice40 goals. They have also [raised concerns that block grants and tax credits](#)—primary funding mechanisms of the IRA—can be difficult for disadvantaged communities to access. Either way, this represents a considerable commitment to climate justice, but it will be important to ensure funding mechanisms actually move the resources to the communities the law intends to serve.

The law also includes:

- \$18 billion in additional funding for US Department of Agriculture (USDA) agricultural conservation programs like the Environmental Quality Incentives Program (\$8.45 billion), the Regional Conservation Partnership Program (\$4.95 billion), and the Conservation Stewardship Program (\$3.25 billion);
- \$5 billion for forest management, planning, and restoration, including \$200 million for implementing the Watershed Condition Framework and Water Source Protection Authorities;
- \$2.6 billion for coastal resiliency through the National Oceanic and Atmospheric Administration (NOAA), available through September 2026;
- \$837.5 million in direct loans and grants for owners of public housing to improve energy or water efficiency and climate resilience through the Department of Housing and Urban Development (HUD);
- \$550 million in grants, contracts, or financial assistance for Bureau of Reclamation domestic water supply projects that have the “primary purpose” of servicing communities or households that lack reliable water access;
- Approximately \$500 million for habitat restoration, including fish recovery programs and National Park Service, Bureau of Land Management, and National Wildlife Refuge System ecosystem improvements; and
- \$220 million for Tribal climate resilience and adaptation programs.

A number of water infrastructure provisions that were included in the unsuccessful Build Back Better plan were dropped from the Inflation Reduction Act, including funding for lead service lines and emerging contaminants.

Also, [more than 650 advocacy groups](#) are lining up to oppose a side deal between Sen. Chuck Schumer and Sen. Joe Manchin that was privately negotiated to secure Sen. Manchin's vote for the IRA. According to a [draft summary](#) of the deal, the side deal legislation would limit state and Tribal authority to influence projects under the Clean Water Act, specify timelines for permitting reviews, and limit review time and scope under the National Environmental Policy Act.

Late July saw movement on two routine pieces of legislation — the Water Resources Development Act (WRDA), which authorizes the US Army Corps of Engineers (Army Corps) activities for food control, navigation, and ecosystem restoration, and the National Defense Authorization Act (NDAA), which authorizes funding levels and provides authorities for the US military and other critical defense priorities. The Senate passed its version of WRDA ([HR 7776](#)), building on the House legislation passed [in June](#). The Senate bill would approve 30 projects around the country for navigation, storm risk management, and ecosystem restoration, including a massive Texas coastal protection plan to buffer the effects of hurricanes and protect ports. The House passed the NDAA ([HR 7900](#)) with some ferment around amendments. The bill includes an [amendment](#) with some bipartisan support to compel the EPA to develop comprehensive water quality criteria for all measurable PFAS chemicals, and Republicans defeated an amendment to establish an Office of Climate Resilience at the White House to improve federal coordination.

The House also passed a \$402 billion appropriations six bill spending package, or “minibus,” covering fiscal year 2023 funding for EPA and the Department of the Interior. It includes \$1.75 billion for the Clean Water State Revolving Fund and \$1.126 billion for the Drinking Water State Revolving Funds (SRFs).

Advocacy Highlights:

- American Rivers, PolicyLink, Clean Water Action, Rural Community Assistance Partnership, NRDC, Healing Our Waters, and the US Water Alliance joined with the National League of Cities, the National Association of Counties, the National Rural Water Association, and others to send a letter [alerting](#) both Senate and House appropriators that the SRF spending levels in the House bill fall significantly short of levels authorized in the bipartisan infrastructure law.
- Over 100 groups including Toxic-Free Future, Clean Cape Fear, Breast Cancer Prevention Partners, Consumer Reports, PfoaProject NY, Clean Water Action NJ, and Great Lakes PFAS Action Network sent a [letter](#) asking Congress to impose a national ban on forever chemicals (PFAS) in food packaging. Eleven states currently have bans. A Senate committee added the ban to pending legislation ([S 4348](#)) to bolster the Food and Drug Administration.

Administration Actions and Updates

The Biden-Harris Administration [released two reports](#) on the Lower Snake River detailing key action required for fish recovery and the feasibility of replacing energy produced by the Lower Snake dams. [The draft report](#), “Rebuilding Interior Columbia Basin Salmon and Steelhead,” by NOAA scientists found sweeping changes needed to restore salmon to fishable levels, including removal of dams on the Lower Snake River. [The report on replacement power](#), commissioned by the US Department of Energy’s Bonneville Power Administration, explained how a portfolio of clean energy resources could replace the output of the dams. A [draft report](#) released in June by Gov. Jay Inslee and Sen. Patty Murray of Washington State also highlighted the benefits of removing the dams for fish populations, while demonstrating the potential for replacing the services that the dams provide. Their final report, with recommendations for proposed actions, is expected in late August.

The White House Council on Environmental Quality (CEQ) [released](#) the vision, frames, and outcomes for its Environmental Justice Scorecard, which will track federal agency Justice40 efforts. The draft focuses on reducing burdens in communities, delivering benefits to communities, and centering justice in decision-making, and CEQ is seeking feedback through Sunday, October 3. Health and Human Services (HHS) also just launched an [Environmental Justice Index](#) to measure the cumulative impacts of environmental burdens on human health. The Index [ranks each census tract](#) on 36 environmental, social, and health factors.

At the beginning of August, FEMA [announced](#) \$1.16 billion in climate resilience grants through the Building Resilient Infrastructure and Communities (BRIC) and Flood Mitigation Assistance (FMA) programs. The programs support communities to reduce their vulnerability to hazards including flood, drought, and wildfire. State, local, Tribal and territorial governments submitted over \$4.7 billion in requests for funding this year, demonstrating the growing need for resilience investments across the country. While final funding is contingent on reviews and permits, BRIC allocations will most likely support projects in 53 states and territories, and 271 different communities, including 33 Tribes. Flood Mitigation Assistance projects will cover 19 states and 72 different communities. Next year, the BRIC program will double in size, making \$2.3 billion in grant funding available.

In August, the Department of the Interior issued a \$725 million [funding opportunity](#) under the Abandoned Mine Land grant program established by the bipartisan infrastructure law, with [final guidance](#) on how eligible states and Tribes can apply for the funding. The 22 eligible states and the Navajo Nation have until March 31, 2023, to submit their applications. That followed a July announcement of \$36 million in investments (also largely funding from the bipartisan infrastructure law) to safeguard local water supplies in the wake of record drought across the West. Twenty-seven projects in 12 states and in Puerto Rico will receive the funding to protect watersheds harmed by wildland fire, restore aquatic habitats and stream beds, and advance other restoration projects. The announcement follows a separate [\\$25.5 million investment](#) for

14 water efficiency projects across eight western states.

Drought is top of mind at a number of agencies, and Assistant Secretary of the Army for Civil Works Mike Connor released a [memo](#) directing the Army Corps to address the drought crisis. “As the nation’s engineer, I believe the Corps is uniquely positioned to play an important role in helping states and local communities become more resilient and adapt to the significant changes in hydrology brought on by climate change,” Connor said.

The Department of Agriculture (USDA) [launched](#) a new five-year \$1 billion program to support at-risk communities in planning for and mitigating wildfire risks. Applications are [open](#) now for community wildfire defense grants of up to \$250,000 and match requirements can be waived for underserved communities. USDA and EPA launched a partnership to provide wastewater infrastructure to rural communities. The [Closing the Wastewater Access Gap](#) program will start in 11 pilot communities across the country in Alabama, Arizona, Kentucky, Mississippi, New Mexico, North Carolina, and West Virginia.

EPA issued [guidance](#) to help communities and water utilities locate and inventory underground lead service lines by 2024. The guidance includes best practices, case studies, and templates communities can use. The agency also announced the availability of up to \$50 million in grant funding to establish the [Environmental Justice Thriving Communities Technical Assistance Centers program](#). EPA is partnering with the Department of Energy (DOE) to provide funding for 5–10 centers across the nation supporting underserved communities, including rural and remote communities, with technical assistance, training, and capacity-building support, including grant writing, navigating federal grant systems, and translation. This opportunity is available to public and private universities and colleges, public and private nonprofit institutions, and inter-Tribal consortia. Applications are due on October 4, 2022. It aims to complement the Department of Transportation’s [Thriving Communities Program](#).

The Fish and Wildlife Service (FWS) in July formally [reversed](#) a Trump Administration rule that made it easier to shrink critical habitat under the Endangered Species Act. FWS also launched an effort to [set uniform rules](#) for conservation banks. Under conservation banking, land users who need to mitigate environmental impacts purchase “impact credits” from entities that protect land and species. FWS is [seeking information](#) on what level of detail the new rules should include and what challenges to establishing conservation banks might be eased. Currently, 173 FWS-approved conservation banks cover approximately 260,000 acres of habitat for 57 endangered or threatened species.

Last, but not least, the Department of Health and Human Services [reports](#) that the COVID-relief funded Low-Income Household Water Assistance Program (LIHWAP) has benefitted 162,000 households nationwide. As of the end of March, 42 state LIHWAP

programs have launched, as well as 62 Tribal LIHWAP programs.

Advocacy Highlights:

- More than 75 organizations [wrote](#) the White House Council on Environmental Quality recommending improvements to the new Climate and Economic Justice Screening Tool that helps implement Justice40.
- A [report](#) from DigDeep revealed that the water access gap costs the national economy over \$8.5 billion annually and shows that every \$1 invested in water access yields a nearly \$5 return.
- Headwaters Economics published [analysis](#) of the new BRIC allocations, noting that states on the East and West coasts are the largest benefactors, securing 80% of the BRIC funds for FY2021.
- River Network added two new categories to its State Policy Hub on [environmental justice](#) and [Clean Water Act \(CWA\) coverage and protection](#). The database explains policy language and describes how advocates have achieved policy changes and successful implementation.
- EPIC released a new report, *Impact Investing Opportunities to Advance Water, Health and Equity*. Read a summary [here](#) and the full report [here](#).
- The [2022 US Infrastructure Snapshot](#) from the Carbon Disclosure Project (CDP) highlighted infrastructure projects in need of funding.
- Local Infrastructure Hub Advantage [launched](#) to connect communities with resources and advice on federal infrastructure funding. Enrollment is open through August 31 for grant “[Bootcamp](#)” programs focused on BRIC and FMA.
- Community Task Force for Water Equity published [recommendations](#) for developing a nationwide water assistance program for disadvantaged communities.
- NRDC and National Consumer Law Center released a new [Water Affordability Advocacy Toolkit](#)

Further Reading

Find some notable news stories and commentary below.

Associated Press: [Western states could settle feud over beleaguered Rio Grande](#)

Associated Press: [Yellowstone floods reveal forecasting flaws in warming world](#)

Circle of Blue: [Big Water Pipelines, an Old Pursuit, Still Alluring in Drying West](#)

E&E: [Governor signs \\$1.2B water plan as Ariz. faces cutbacks](#)

E&E: [House Republicans launch push to overhaul NEPA](#)

Greenwire: [Biden’s other green promise](#)

Greenwire: [More water, electricity: Navajo Nation OKs \\$1B in spending](#)

Greenwire: [Louisiana officials stall flood funds over abortion](#)

Grist: [Pipe dreams: Why far-fetched Western water projects won’t go away](#)

Los Angeles Times: [Shut out from talks on Colorado River crisis, tribes want inclusion and ‘transformation’](#)

My High Plains: [Texas continues to dry up, breaking drought records](#)

New York Times: [Forever Chemicals No More? PFAS Are Destroyed with New Technique](#)

Slate: [Can FEMA Survive Climate Change?](#)

Sacramento Bee: [After decades of failure, California dusts off controversial Delta tunnel water project](#)

World Economic Forum: [Black communities in the US will be hardest hit by floods caused by climate change, say scientists](#)