

## Current Context

November's United Nations climate talks in Egypt ended with an historic agreement to create a ['loss and damage' fund](#) to compensate poorer countries for destruction caused by a changing climate. Other provisions of the final agreements of the annual world climate meeting, known as COP27, included only vague language around limiting the burning of fossil fuels. Leaders from over 25 countries did, however, launch an "International Drought Resilience Alliance" focused on [sharing technology and expertise](#) related to drought and climate resilience through 2030.

Close on the heels of the climate talks, representatives from around the world gathered in Montreal in December for the [UN Biodiversity Conference \(COP15\)](#). Participants agreed to the Kunming-Montréal Global Biodiversity Framework to safeguard nature and halt and reverse biodiversity loss, putting nature on a path to recovery by 2050. After a big push by freshwater advocates from around the world, the framework recognized "inland waters" as a category distinct from terrestrial and marine environments.

Over the past 50 years, the US has warmed about [two-thirds faster](#) than the planet as a whole, destabilizing ecosystems and drinking water, exacerbating inequality, and contributing to flooding and sea-level rise, according to a [draft](#) of the Fifth National Climate Assessment, expected to be finalized next year. The draft found that since 1970, the continental US has experienced 2.5 degrees Fahrenheit of warming, well above the world average.

[Climate change enhanced winter weather](#) and aging infrastructure combined over the holidays and into the new year with devastating results, generating the need for expensive repairs from New York to California. [Extreme cold and winter storms](#) left 1.4 million US homes and businesses without power across in December and placed more than 200 million people under weather advisories. In one of the most dramatic examples of weather whiplash on record, a parade of storms or "atmospheric rivers" [pummeled California](#), generating flooding across the state in the midst of a record-setting drought. The immediate juxtaposition of those extremes has drawn national attention to [how we invest in infrastructure](#) and [manage water and land](#) to protect communities, enhance ecosystems, and maintain our economy.

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## Federal Water Policy

Please continue to reach out with feedback that helps us provide the most relevant, timely information.

### Supreme Court Actions and Updates

The US Supreme Court [heard arguments](#) in a case that could allow agency enforcement actions to move more quickly to federal court. During back-to-back oral arguments, justices [appeared sympathetic](#) to arguments challenging the constitutionality of in-house administrative law judges used to resolve disputes within the Federal Trade Commission (FTC) and Securities and Exchange Commission (SEC). Depending on how broadly they are written, rulings against the FTC and SEC have

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the potential to limit the enforcement power of other agencies with administrative law judges, such as the Environmental Protection Agency (EPA) and the Department of the Interior.

The Supreme Court will also [consider overturning](#) the Navajo Nation's newly declared right to take more water from the Colorado River. The high court is reviewing a decision by the 9th Circuit Court that interpreted an 1868 treaty giving the Nation a "permanent home" on their reservation as an implied right for more Colorado River than it is currently allocated. The Navajo Nation successfully highlighted the treaty in a breach of trust claim against the US and the Department of the Interior. The Biden Administration and Arizona asked the Supreme Court to review and overturn the decision, arguing that Colorado River water has been fully allocated.

### **Congressional Actions and Updates**

Congressional Republicans wasted no time after clinching a slim House majority in the November elections to preview investigations they intend to launch in the new session. Representative Morgan Griffith (R-VA), of the Energy and Commerce Subcommittee on Oversight, said he wants to comb through infrastructure projects to see whether "[they're following the law.](#)" Rep. Cathy McMorris Rodgers (R-WA), new leader of the House Energy and Commerce Committee, [wants to investigate](#) climate investments in the Inflation Reduction Act. And just before the election, Reps. Kevin Brady of Texas and Jason Smith of Missouri, new leader of the House Ways and Means Committee and the House Committee on Budget, [wrote to](#) Treasury Secretary Janet Yellen requesting all documentation for the American Rescue Plan Act (COVID relief legislation) calling it an "egregious waste of taxpayer dollars."

A new [omnibus spending bill](#) was signed into law by President Biden on December 30. The package provides an overall increase to non-defense discretionary spending of about 5.5 percent. It specifies just under \$1.7 trillion in discretionary funding, with \$858 billion going to the Pentagon and related programs and \$772.5 billion going to domestic agencies. The package includes a \$576 million increase for the Environmental Protection Agency (EPA), a \$574 million boost for the Department of the Interior, and a \$1.8 billion hike for the Department of Energy. The omnibus allocates nearly \$40 billion for [disaster recovery](#). Of those resources, the Army Corps will receive nearly \$1.5 billion for various flood and storm mitigation projects, EPA will receive \$1.67 billion to address the impacts of Hurricanes Ian and Fiona, as well as \$600 million to address water issues in Jackson, Mississippi, and the US Forest Service will receive just over \$2 billion for wildfire.

The massive legislation also included a range of additional water-related topics:

- \$2.7 billion for the Drinking Water and Clean Water State Revolving Funds (SRFs),
- \$682 million for EPA's geographic programs,
- \$50 million for EPA's Sewer Overflow & Stormwater Reuse Municipal Grant Program,
- \$50 million to implement the Colorado River Drought Contingency Plan,
- \$65 million for WaterSMART grants,
- \$38 million for drought response under the WaterSMART Program,
- \$134 million for WIIN Act storage projects,
- \$17 million for desalination and water purification research,
- \$12 million for WIIN Act Desalination and Water Purification projects,
- \$313 million for FEMA flood hazard mapping and risk analysis, and

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- \$34 million for NOAA National Coastal Resilience Fund.

In addition, lawmakers added more than 1000 “community project funding items”—more commonly known as [earmarks](#)—to the spending bill. More than 700 will reallocate funding from SRF programs. The Environmental Policy Innovation Center (EPIC) [estimates](#) that this will result in a net loss of \$388 million in funding to 27 states this year.

Congress was [looking for a way](#) to pass the bipartisan Recovering America’s Wildlife Act (RAWA, [HR 2773](#) and [S 2372](#)), which would provide \$1.3 billion per year to states and territories, and nearly \$100 million per year for Tribes, to support efforts to conserve, restore, and protect wildlife and habitat, but it failed to get tucked inside the omnibus spending bill.

With strong [support](#) from the White House, and [Congressional leadership](#), and despite the [reluctance](#) of top lawmakers on the defense authorization committee, there was significant potential for the National Defense Authorization Act (NDAA) or the omnibus spending bill to include the permitting legislation proposed by Senator Joe Manchin (R-WV). More than 750 frontline communities, environmental justice groups, and allied organizations sent a [letter](#) to then Speaker of the House Nancy Pelosi (D-CA) and Senate Majority Leader Charles Schumer (D-NY) voicing their opposition to the permitting rider. Progressive Democrats are also [going on offense](#) in preparation for the new Congress, issuing a [policy memo](#) for a permitting reform bill that prioritizes community input.

The 2022 [Water Resources Development Act](#) (WRDA) passed on December 15 as part of the NDAA, and included [key provisions](#) directing the Army Corps to incorporate climate change into project planning and design, as well as new environmental justice provisions to support rural, Tribal, and economically disadvantaged communities. The legislation also charged the Corps with establishing a national assessment and working group for managed aquifer recharge projects to address drought, water resiliency, and aquifer depletion, initiating a comprehensive study on western infrastructure, and creating a Western Water Cooperative Committee to improve coordination between the Corps and the states.

Earlier this year, the Senate passed the Disaster Resiliency Planning Act ([S 3510](#)) by unanimous consent. The bill from Senate Homeland Security and Governmental Affairs Chair Gary Peters (D-MI) and Sen. Rick Scott (R-FL) was signed by President Biden on December 5 and will require the White House Office of Management and Budget to issue guidance for agencies to “incorporate natural disaster resiliency into real property asset management and investment decisions.” The House also passed amendments to [S 3092](#), the FEMA Improvement, Reform and Efficiency (FIRE) Act, from Senator Alex Padilla (D-CA), to pre-deploy FEMA assets during times of high wildfire risk. A version of the bill passed the Senate in September, and the President signed it into law on December 20. Also in December, the President signed two bipartisan bills aimed at reducing PFAS exposure—the Preventing PFAS Runoff at Airports Act ([S 3662](#)) and the Protecting Firefighters from Adverse Substances (PFAS) Act ([S 231](#)), as well as the Saline Lake Ecosystems in the Great Basin States Program Act ([S 1466](#)), which requires the US Geological Survey to monitor and conserve saline bodies of water, including the Great Salt Lake in Utah and Lake Albert and Goose Lake in Oregon.

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Several bills that did not move in the 117th Congress are still worth tracking, as they may reappear in future sessions. Representative Rashida Tlaib (D-MI) [introduced](#) the [Cumulative Impacts Act of 2022](#) (HR 9218), which would require the EPA to deny permit applications to companies under the Clean Air Act and Clean Water Act unless permit applicants can demonstrate a reasonable certainty of no harm to the community or vulnerable groups. The bill builds on the Environmental Justice for All Act ([HR 2021](#)), which directs agencies to follow certain requirements concerning environmental justice, including preparing community impact reports that assess the potential impacts of their actions on environmental justice communities under certain circumstances. The House also passed the Disaster Survivors Fairness Act ([HR 8416](#)), which will make it easier to apply for disaster aid and increase help for people whose homes have been damaged or destroyed.

### **Advocacy Highlights:**

- The Rural Community Assistance Partnership (RCAP) released its [policy priorities for the next Farm Bill](#) and a [summary](#), which asked lawmakers to prioritize USDA Rural Development programs, resources, and strategies.
- Hispanic Access Foundation released a report, [10 Ways Access to Nature Can Bolster Biodiversity, Communities, and Climate](#).
- In a [letter](#) to Representative Kevin McCarthy (R-CA), 18 conservative organizations said there is "no need for a select committee on climate change."

### **Administration Actions and Updates**

The White House commemorated the first-year anniversary of the Bipartisan Infrastructure Law (BIL) by releasing an [interactive map](#) and [state fact sheets](#) showing the breakdown of state-by-state funding to date. The Administration announced that over \$185 billion had been expended, for nearly 7,000 specific projects, reaching over 4,000 communities across all 50 states, DC, and US territories, and including \$9 billion to upgrade America's water infrastructure. In addition, the White House issued a new [guidebook](#) to the Inflation Reduction Act and [released](#) an updated version of [Climate and Economic Justice Screening Tool](#), which is intended to help direct at least 40 percent of the billions of federal climate-related spending to disadvantaged communities. It still [does not include race](#) as an explicit factor for fear that a race metric would make the tool vulnerable to legal challenges. The tool identifies over 27,000 disadvantaged communities.

At a two-day Tribal Nations Summit at the White House in November, President Biden unveiled a [list of new commitments](#) including the incorporation of [Indigenous knowledge](#) in research, decision-making, and funding related to climate change, as well as new best practices for integrating treaty and reserved rights into agency practices. The White House also released a [2022 progress report](#). The Biden-Harris Administration also pledged to strengthen Tribal rights like hunting and fishing outlined in existing treaties, establish [uniform standards](#) for federal agency Tribal consultation that go beyond a "check the box" exercise, and continue to expand Tribal "co-management and co-stewardship of federal lands and waters. In 2022, the Forest Service and the Department of the Interior signed over 20 new co-stewardship agreements with Tribes, and there are more than 60 additional agreements under various stages of review.

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President Biden also touted [the first program in American history](#) specifically designed to help relocate communities threatened by climate change. Interior [announced](#) it will give money to three Tribes in Alaska and two in Washington State to aid in their relocation from places threatened by the impacts of climate change. The program [will help](#) with the costs of moving and rebuilding as communities are threatened by permafrost melt, flooding, and erosion. The funding is part of \$130 million from the BIL to the Bureau of Indian Affairs, part of the Interior Department, to be spent over five years to help tribes [relocate](#).

EPA [announced](#) that violations of the Clean Water Act have [dropped by more than half](#) in the years following a 2018 compliance agreement that had 47 states agree to reduce noncompliance by 50 percent over five years. The initiative applied to about 46,000 facilities nationwide that are subject to regulation under the Clean Water Act. EPA also [released](#) its [fifth drinking water contaminant candidate list \(CCL 5\)](#), including a substantial expansion of PFAS chemicals that are known to persist in water, as well as new [guidance](#) for monitoring PFAS discharges in water systems. In addition, the agency announced the selection of 29 [Environmental Finance Centers](#) (EFCs) that will help communities across the country access federal funding for infrastructure and greenhouse gas reduction projects. The EFCs, which will receive up to \$150 million in grants over the next five years, include the Environmental Policy Innovation Center (EPIC), Rural Community Assistance Partnership (RCAP), Urban Sustainability Directors Network, Moonshot Missions, and the US Water Alliance, as well as a number of academic institutions. EPA [announced](#) plans to award \$100 million in grants for environmental justice through two new programs, with applications due in April. And, at the end of December, EPA and the Army Corps [issued](#) a final rule defining Waters of the United States (WOTUS). The new rule restores water protections that were in place prior to 2015 under the Clean Water Act, but may face [challenges](#) when the Supreme Court releases its decision on a related case (*Sackett v. EPA*) this year.

EPA's [Bipartisan Infrastructure Law Year One Anniversary Report](#) highlights how EPA is working with state, local, and Tribal partners to transform communities by moving [the largest appropriation the Agency has ever received](#). Of the \$14.1 billion made available to EPA in fiscal year 2022 through the BIL, the agency awarded \$4 billion to states, Tribes, territories, and the District of Columbia in capitalization grants under the state revolving funds. EPA detailed how it has initiated the first 20 state capitalization grants for lead service line identification and replacement, which are expected to fund roughly 300 projects, nearly half for disadvantaged communities.

Interior [announced](#) \$91 million in grants in the first round of a \$1 billion program to bolster the Biden-Harris Administration's conservation pledge known as "America the Beautiful," which aims to conserve 30 percent of the nation's lands and waters in a natural state over the next decade. The awards, administered by the National Fish and Wildlife Foundation, will go to 55 projects across the nation. The [projects](#) selected for the first round of grants include programs to remove or replace 250 miles of fencing that blocks wildlife migration corridors, address barriers to fish passage, and improve management of more than 26 million acres of lands. NOAA also announced \$105M in grants for [36 fish passage projects](#), including [13 led by Tribes](#), and the Forest Service [announced](#) a five-year, \$40 million agreement with the conservation group Trout Unlimited to [improve watersheds](#) on national forests and grasslands that contain key habitat for trout and salmon. The agreement, from the BIL's five-year National Watershed and Aquatic Restoration Initiative, includes cleaning up abandoned mines, removing barriers to fish passage and other stream habitat improvements.

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The US Department of Housing and Urban Development (HUD) [announced](#) a rule change allowing homeowners with mortgages insured by the Federal Housing Administration (FHA) to purchase flood insurance from private insurers instead of the federal government. Business groups [said the new rules](#) could make insurance cheaper for lower-income homebuyers. The decision—which overturns a rule requiring homes in flood zones to be insured by the federal government’s National Flood Insurance Program (NFIP)—arrives as the NFIP has hiked insurance premiums to better reflect each property’s flood risk. A recent HUD report found that roughly 31,500 homeowners with FHA-insured mortgages lacked proper flood insurance, which can expose taxpayers to billions of dollars in liability if flooding causes homeowners to default.

The Office of Community Services in the Department of Health and Human Services updated the Low Income Household Water Assistance Program (LIHWAP) [dashboard](#) with information through the end of September 2022, and published a [snapshot](#) of the program thus far. Over 13,000 water and wastewater service providers are participating in the program, and they have served approximately 400,000 households and prevented 269,000 disconnections.

The Department of Justice [sued](#) Jackson, Mississippi, for violating federal safe drinking water rules and filed a [proposed stipulated order](#) asking the court to [appoint an temporary third-party manager](#) to maintain the water system and make sure it complies with federal and state regulations.

The annual Colorado River Water Users Association meeting took place in Las Vegas in December, following a summer in which the basin states failed to comply with a challenge from the Bureau of Reclamation to reduce demand by 2 to 4 million acre-feet. Reclamation Commissioner Camille Touton reissued that challenge with a February deadline, warning the states that the alternative was to face mandatory cuts established by the Department of the Interior. The recent wet weather and substantial snowpack are not expected to make any substantial difference to the immediate crisis.

***Advocacy Highlights:***

- River Network released a [State Revolving Funds Advocacy Toolkit](#).
  - Urban Institute released a [Justice40 Policy and Practice Playbook](#) with recommendations for federal policymakers and agencies.
  - National Wildlife Federation launched a new [Nature-based Solutions Funding Database](#) to help connect community planners and other stakeholders identify sources of federal funding for infrastructure projects that incorporate natural elements. The site allows users to search and sort the more than 70 types of federal grants that fund nature-based solutions using factors like eligible recipients, project purpose, and required match. It also provides information about key agency contacts and application cycles.
  - EPIC published a reported a report listing best practices and recommendations for replacing lead pipes. [From the Ground Up: A Guide to Replacing the Nation's Lead Pipes Over the Next Decade](#) is designed for municipalities, utilities, and policymakers.
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## Further Reading

Find some notable news stories and commentary below.

**Associated Press:** [When destitute small towns mean dangerous tap water](#)

**Bloomberg:** [Clean Water Access Depends on Regulatory Change](#)

**Circle of Blue:** [Slow to Start, Federal Water Bill Assistance Ramps Up](#)

**Greenwire:** [‘Buy America’ dispute boils over in the water sector](#)

**Greenwire:** [FERC clears way for nation's largest dam removal](#)

**Greenwire:** [Inside agencies, 'it changes everything' when Congress flips](#)

**Greenwire:** [EPA civil rights claims escalate, activists see a turning point](#)

**Greenwire:** [Climate, water advocates ‘dream big’ after Dems sweep Mich.](#)

**Greenwire:** [Feds eye ‘critical’ coming months for Colorado River plans](#)

**Greenwire:** [Arizona restricts farming to protect groundwater supply](#)

**Greenwire:** [Warning about aquifer’s decline sets up big fight in Kansas](#)

**Greenwire:** [‘Buy America’ dispute boils over in the water sector](#)

**Grist:** [The Cochise County Groundwater Wars](#)

**Guardian:** [New York passes \\$4.2bn environmental bond act on midterm ballot](#)

**Los Angeles Times:** [Los Angeles DWP to end water and power shutoffs for low-income customers who can’t pay](#)